



Legislative Assembly for the
Australian Capital Territory

Standing Committee on the Integrity
Commission and Statutory Office
Holders

Submission Cover Sheet

Inquiry into the effectiveness of transparency arrangements for Members of the Legislative Assembly

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Mr Ed Cocks MLA
Chair
Standing Committee on the Integrity Commission and Statutory Office Holders
ACT Legislative Assembly

By email: LACommitteeIntegrity@act.gov.au

Dear Chair

Transparency arrangements for members

Thank you for the invitation to make a submission relating to transparency arrangements for senators.

The primary transparency measure for senators is the Register of Senators' Interests, established by order of the Senate on 17 March 1994, and amended on occasion (see Attachment A for the full terms of the order). All senators are required to provide a statement of registrable interests to the Registrar of Senators' Interests within 28 days of the first meeting of a new Senate or, for senators appointed to casual vacancies, within 28 days of making and subscribing the oath or affirmation of allegiance. These statements must also include registrable interests, of which they are aware, of the senator's spouse or partner and any dependent children. If there are any changes to a senator's interests following the provision of their initial statement of interests they must be declared to the Registrar within 35 days of the change arising.

The list of matters to be included in a senator's statement are listed in the continuing order, and include a variety of interests where 'a conflict of interest with a senator's public duties could foreseeably arise or be seen to arise'. The Register of Senators' Interests (along with supporting documentation) is available [online](#), with statements published by the Registrar as soon as possible after receipt. The register is also tabled in the Senate. Updates to the Register, notifying changes to interests, are published online as soon as possible after receipt, and collated into a physical volume for tabling every six months. The part of the Register dealing with spouses or partners and dependent children is not published online or tabled. After a person ceases to be a senator their statement of interests is removed from the online Register, noting that previously tabled volumes remain publicly accessible online.

A Committee of Senators' Interests is appointed under standing order 22A (see Attachment B) to oversee the Register of Senators' Interests and to make recommendations relating to the register's maintenance and content. The Clerk of the Senate appoints a senior Senate officer as the Registrar of Senators' Interests, who also serves as secretary of the committee.

The 1994 adoption of the order surrounding senators' interests was the culmination of many years of consideration and inquiry. A Joint Committee on Pecuniary Interests of Members of Parliament reported in September 1975, while a non-parliamentary Committee of Inquiry Concerning Public Duty and Private Interest was established in 1978. The Senate Standing Orders Committee (now the Procedure Committee) reported in 1986 indicating disagreement among committee members as to the efficacy of a register of interests. A motion concerning the registration of senators' interests was moved and debated in 1987 but was unresolved before the double dissolution election of that year. An additional motion was considered in 1992 but it was not until 17 March 1994 that the Senate agreed to the order that still stands.¹ Records of these various deliberations are available online.²

The Senate has agreed to a number of amendments to the original 1994 order. These amendments have increased the financial threshold for registrable interests and extended the timeframe for a senator to make a declaration of interest.³

There is no distinction between executive and non-executive senators in relation to the Register of Senators' Interests. Executive senators may have obligations under the ministerial code of conduct in addition to those required by the Senate.

In addition to the requirement to register personal gifts, a separate order agreed by the Senate in 1997 requires senators to register official gifts to the Senate with the Registrar of Senators' Interests. Finally, the Independent Parliamentary Expenses Authority ([IPEA](#)) monitors and reports on parliamentarians' expenses, while the Attorney-General's Department ([AGD](#)) maintains a lobbyist register. IPEA and AGD would be best placed to provide information on the operation of these transparency measures.

I would be happy to provide any further information that may assist the committee.

Yours sincerely,

Richard Pye
Clerk of the Senate

¹ [Odgers' Australian Senate Practice](#) (16th edition), pp. 179–181.

² Joint Committee on Pecuniary Interests of Members of Parliament, [Report on declaration of interests](#) (30 September 1975); Committee of Inquiry Concerning Public Duty and Private Interest, [Report of the committee of inquiry](#) (July 1979); Senate Standing Orders Committee, [Third report](#) (1 May 1986); *Senate Hansard*, [17 March 1987](#), [4 May 1992](#), [19 May 1993](#), [25 May 1993](#), [19 August 1993](#), [30 August 1993](#), [16 March 1994](#), [17 March 1994](#).

³ Committee of Senators' Interests, [Report 2 of 1995](#) (June 1995), [Report 2 of 2002](#) (June 2002), [Report 2 of 2006](#) (April 2006); *Senate Hansard*, [21 June 1995](#), [11 September 2003](#), [15 September 2003](#), [10 August 2006](#).

Attachment A – Resolutions relating to senators' interests

1 Registration

(1) Within:

- (a) 28 days after the first meeting of the Senate after 1 July first occurring after a general election; and
- (b) 28 days after the first meeting of the Senate after a simultaneous dissolution of the Senate and the House of Representatives; and
- (c) 28 days after making and subscribing an oath or affirmation of allegiance as a senator for a Territory or appointed or chosen to fill a vacancy in the Senate;

each senator shall provide to the Registrar of Senators' Interests a statement of:

- (a) the senator's registrable interests; and
- (b) the registrable interests of which the senator is aware:
 - (i) of the senator's spouse or partner, and
 - (ii) of any children who are wholly or mainly dependent on the senator for support;

in accordance with this resolution and in a form determined by the Committee of Senators' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 35 days of that alteration occurring.

(2) Any senator who:

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 35 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.

(17 March 1994 J.1421, amended 15 September 2003 J.2365, 10 August 2006 J.2457)

2 Registrable interests of spouses or partners and dependants

Statements of the registrable interests of a senator's spouse or partner or of any dependent children submitted in accordance with paragraph (1) shall be maintained in a separate part of the register and shall remain confidential to the Committee of Senators' Interests except where the committee considers that a conflict of interest arises, at which time the committee may table the declaration.

(17 March 1994 J.1421)

3 Registrable interests

The statement of a senator's registrable interests to be provided by a senator shall include the registrable interests of which the senator is aware of the senator's spouse or partner and of any children who are wholly or mainly dependent on the senator for support, and shall cover the following matters:

- (a) shareholdings in public and private companies (including holding companies)

- indicating the name of the company or companies;
- (b) family and business trusts and nominee companies:
 - (i) in which a beneficial interest is held, indicating the name of the trust and the nature of its operation and beneficial interest, and
 - (ii) in which the senator, the senator's spouse or partner, or a child who is wholly or mainly dependent on the senator for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the senator, the senator's spouse or partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust;
 - (c) real estate, including the location (suburb or area only) and the purpose for which it is owned;
 - (d) registered directorships of companies;
 - (e) partnerships, indicating the nature of the interests and the activities of the partnership;
 - (f) liabilities, indicating the nature of the liability and the creditor concerned;
 - (g) the nature of any bonds, debentures and like investments;
 - (h) saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned;
 - (i) the nature of any other assets (excluding household and personal effects) each valued at more than \$7 500;
 - (j) the nature of any other substantial sources of income;
 - (k) gifts valued at more than \$750 received from official sources (such sources being an Australian or foreign national, state, provincial or local government or a person holding an office in such a government) or at \$300 or more where received from other than official sources, provided that a gift received by a senator, the senator's spouse or partner or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the senator judges that an appearance of conflict of interest may be seen to exist;
 - (l) any sponsored travel or hospitality received where the value of the sponsorship or hospitality exceeds \$300;
 - (m) being an officeholder of or financial contributor donating \$300 or more in any single calendar year to any organisation; and
 - (n) any other interests where a conflict of interest with a senator's public duties could foreseeably arise or be seen to arise.

(17 March 1994 J.421, amended 21 June 1995 J.3473, 15 September 2003 J.2365)

4 Register and Registrar of Senators' Interests

- (1) At the commencement of each Parliament, and at other times as necessary, the President shall appoint an officer of the Department of the Senate as the Registrar of Senators' Interests and that officer shall also be secretary of the Committee of Senators' Interests.
- (2) The Registrar of Senators' Interests shall, in accordance with procedures determined by the Committee of Senators' Interests, maintain a Register of Senators' Interests in a form to be determined by that committee from time to time.
- (3) As soon as possible after the receipt of statement of registrable interests in

accordance with resolution 1(1), the chair of the Committee of Senators' Interests shall table in the Senate a copy of the completed Register of Senators' Interests and shall also table every 6 months any notification by a senator of alteration of those interests.

- (4) The Register of Senators' Interests shall be available for inspection by any person under conditions to be laid down by the Committee of Senators' Interests from time to time.
- (5) That part of the Register of Senators' Interests relating to spouses or partners and dependent children shall remain confidential to the Committee of Senators' Interests as provided for in paragraph 2.

(17 March 1994 J.1421, amended 15 September 2003 J.2365)

5 Interpretation

For the purposes of paragraphs 1 to 4 of this resolution "partner" means a person who is living with another person in a bona fide domestic relationship.

(17 March 1994 J.1421, amended 22 November 1999 J.2008)

NOTE: The resolutions adopted on 17 March 1994 included a resolution relating to the declaration of interests in debate and other proceedings. That resolution was amended on 13 May 1998 J.3753, and subsequently omitted on 15 September 2003 J.2365.

Attachment B – Senate standing order 22A

22A Senators' Interests

- (1) A Committee of Senators' Interests shall be appointed at the commencement of each Parliament:
 - (a) to inquire into and report upon the arrangements made for the compilation, maintenance and accessibility of a Register of Senators' Interests;
 - (b) to consider any proposals made by senators and others as to the form and content of the register;
 - (c) to consider any submissions made in relation to the registering or declaring of interests;
 - (d) to consider what classes of person, if any, other than senators ought to be required to register and declare their interests; and
 - (e) to make recommendations upon these and any other matters which are relevant.
- (2)
 - (a) The membership of the committee shall as closely as possible reflect the composition of the Senate and, until modified by a subsequent resolution, shall consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate and 1 nominated by any minority groups or independent senators.
 - (b) The nominations of the minority groups or independent senators shall be determined by agreement between the minority groups and independent senators, and, in the absence of agreement duly notified to the President, the question of the representation on the committee shall be determined by the Senate.
- (3) The committee shall elect as its chair one of its members nominated by the Leader of the Opposition in the Senate.
- (4) The quorum of the committee shall be 3 members.
- (5) The chair may from time to time appoint a member of the committee to be deputy chair, and the member so appointed shall act as chair of the committee when there is no chair or the chair is not present at a meeting of the committee.
- (6) Where votes on a question before the committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.
- (7) The committee shall have power to send for persons or documents, but shall not exercise that power, nor undertake an investigation of the private interests of any person, except in accordance with a decision agreed to by not less than 3 members of the committee other than the chair.
- (8) The committee shall have power to confer with a similar committee of the House of Representatives.
- (9) The committee shall, as soon as practicable after 31 December in each year, prepare and table in the Senate a report on its operations during that year, and shall also have power to report from time to time.

(adopted 17 March 1994, amended 24 August 1994)