

Legislative Assembly for the Australian Capital Territory

Register of Member's Interests

**Report by the Standing Committee on
Administration and Procedure
August 1998**

RESOLUTION OF APPOINTMENT

On 9 March 1995, the Legislative Assembly for the Australian Capital Territory adopted standing order 16 which established the Standing Committee on Administration and Procedure. This standing order was amended on 4 May 1995 to provide the following terms of reference:

16. (1) A Standing Committee on Administration and Procedure shall be appointed at the commencement of each Assembly to:
- (a) inquire into and report on, as appropriate:
 - (i) the Assembly's annual estimates of expenditure;
 - (ii) the practices and procedure of the Assembly; and
 - (iii) the standing orders of the Assembly;
 - (b) advise the Speaker on:
 - (i) Members' entitlements including facilities and services;
 - (ii) the operation of the transcription service (*Hansard*);
 - (iii) the availability to the public of Assembly documents;
 - (iv) the operation of the Assembly library; and
 - (c) arrange the order of private Members' business and Assembly business;

Membership

The Speaker (Presiding Member)
Mr S Corbell, MLA
Mr H Hird, MLA
Mr T Kaine, MLA
Mr P Osborne, MLA
Ms K Tucker, MLA

Secretary:	Mr M McRae
Deputy Secretary	Ms M Weeks

BACKGROUND

1. On 7 April 1992, the Legislative Assembly passed the following resolution:

That -

- (1) within 28 days of the making and subscribing of an oath or affirmation as a Member of the Legislative Assembly for the Australian Capital Territory each Member of the Legislative Assembly shall provide to the Speaker of the Legislative Assembly a declaration of the private interests of themselves and their immediate family in the form as presented to the Assembly this day and shall notify any alteration of those interests to the Speaker within 28 days of that alteration occurring;
 - (2) such declaration be made available to any person on request subject to the Member concerned being advised by the Speaker of the name of the person to whom the information is made available and the reasons why it has been requested, in each case; and
 - (3) that this resolution have effect from the commencement of the Second Assembly and continue in force unless and until amended or repealed by this or a subsequent Assembly.
2. The resolution was similar to the motion, as amended, which was passed by the Assembly on 24 May 1989. The amendment which had been moved and agreed to related to access to the register of a Member's interests being subject to the Member being notified of the name of the person seeking to view the register and the reason that the person had provided in requesting to do so. The then Chief Minister in moving the motion presented a form on which Members were to make their declaration of registrable interests, together with a set of explanatory notes to assist Members in completing the forms. The form was "similar to that required for members of the Commonwealth Parliament."¹ The register, together with an additional declaration which was to be required of Ministers, was regarded as important in setting "the very highest standard of personal honesty and accountability."² and public access was regarded as a necessity that would be "In keeping with the commitment to openness of government"³. The Ministerial declarations are not under the consideration of the Committee.

CURRENT PRACTICE

3. Since 1989 when the motion was first passed by the Assembly a number of practices have developed in relation to the maintenance of the register of interests. Although Members are required to provide the declaration to the Speaker, the register is kept in the B-Class safe which is located in the Clerk's Office. As the resolution is silent on

¹ Debates of the Legislative Assembly for the Australian Capital Territory, Weekly Hansard, 24 May 1989, p 116

² Op cit, p. 115

³ Op cit, p.116

the issue of disposal of the outdated declarations of interest, those maintained in the safe extend over the four Assemblies, with some exceptions. These exceptions relate to those Members who in updating their register did not return the previous declarations. Secondly, some Members who continue as Members of the Assembly after an election met the requirements of the resolution by updating and signing off again on their declaration for the previous Assembly. Clearly, there is no standard requirements concerning the maintenance of outdated declarations of interests.

4. The continued storage of outdated declarations of Members interests raises questions in terms of access to those documents. The terms of the resolution passed in April 1992 are such that it could be implied that any person could request to view an outdated declaration and that, subject to the provision requiring the Member concerned being notified, that the request should be granted. However, if the Member who was the subject of the request had ceased to be a Member of the Assembly, then by virtue of the use of the words “Member concerned” in the resolution it is implied that the request could not be granted (as the requirement to inform the Member could not be met).

WORK OF THE COMMITTEE

5. The Committee considered the 1992 resolution at two deliberative meetings, on 10 June 1998 and again on 30 July 1998. It was concerned that it could be interpreted in different ways and considered whether an outdated register should be made available to any person on request.
6. The Committee discussed a number of options within the parameters set by the Assembly by the 1992 resolution. Should outdated registers should be destroyed and only the most current made available on request? Secondly, is there a possible need to scrutinise a particular Member’s declaration that was current at the time a particular decision was made. Should the registers be kept for a set period and then destroyed? Concern was also expressed over privacy issues and there was a view that these concerns heightened when a Member ceases to hold a seat in the Assembly. The Committee therefore concluded that it should recommend to the Assembly that the 1992 resolution relating to the declaration of Members’ interests should be amended to provide that the declaration of a particular Member’s interests should be destroyed when that Member vacates his or her seat and is not re-elected at the next general election.
7. In line with the original commitment to set “the very highest standard of personal honesty and accountability”⁴, the Committee believes that there is a need for the declaration of a Member’s interests to continue to be available while ever that Member continues to serve as a Member of the Assembly. Outdated copies of the declaration for every Member still serving in the Assembly should be made available

⁴ Op cit, p. 115

on request subject to the present proviso and that the resolution of 1992 relating to the declaration of Members interests should be amended accordingly.

RECOMMENDATION

The Committee recommends that the 1992 resolution of concerning the declaration of private interests of Members be amended by :

(1) Inserting the following new paragraph:

(1A) Under the general direction of the Speaker, the Clerk shall store the declarations of private interests made by each Member in a secure manner and shall include all declarations made by each Member. When a Member vacates his or her seat and is not re-elected at the next general election for the Assembly, the Clerk shall destroy all declarations made by that Member in his custody.”.

(2) Omit from paragraph (2) “such declaration”, substitute “ any declaration stored by the Clerk”.

Greg Cornwell
Presiding Member

19 August 1998