

Interests of Members of the Scottish Parliament Act 2006

2006 asp 12

CONTENTS

Section

Register of Interests of Members of the Scottish Parliament

- 1 The register
- 2 Registrable interests
- 3 Initial registration of registrable interests
- 4 Written statement
- 5 Registration of registrable interests acquired after date of return
- 6 Late registrations
- 7 Voluntary registration
- 8 Deletion of interests from the register
- 9 Other amendments to the register
- 10 Old entries
- 11 Publication of the register etc.

Declaration of interests and prohibition of paid advocacy etc.

- 12 Declarable interests
- 13 Declaration of interests
- 14 Prohibition of paid advocacy etc.

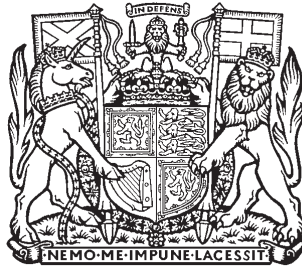
Sanctions

- 15 Preventing or restricting participation in proceedings of the Parliament
- 16 Exclusion from proceedings of the Parliament
- 17 Offences

Supplementary

- 18 Scottish Law Officers
 - 19 Interpretation
 - 20 Revocation and saving
 - 21 Short title and commencement
-

Schedule—Registrable financial interests



Interests of Members of the Scottish Parliament Act 2006

2006 asp 12

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 8th June 2006 and received Royal Assent on 13th July 2006

An Act of the Scottish Parliament to make provision (including provision for the purposes of section 39 of the Scotland Act 1998) about the registration and declaration of interests of members of the Scottish Parliament and the prohibition of advocacy by such members in return for payment or benefit in kind; and for connected purposes.

Register of Interests of Members of the Scottish Parliament

1 The register

- (1) There shall be a Register of Interests of Members of the Scottish Parliament (in this Act referred to as “the register”).
- (2) The register shall be kept by the Clerk at the office of the Clerk.
- (3) In the register, there shall be an entry for each member which shall contain—
 - (a) the information required by or under this Act; and
 - (b) any other matter which the Parliament may determine should be included in each entry.
- (4) The register shall be kept in such form (which need not be in documentary form) as the Clerk considers appropriate but, if it is kept otherwise than in documentary form, it shall be in such form that, when printed or displayed, it shows what the register contains.

2 Registrable interests

- (1) In this Act, a “registrable interest” means a registrable financial interest.
- (2) The schedule sets out the circumstances in which a member has, or had, a registrable financial interest.
- (3) A financial interest is defined for the purposes of paragraph (a) of section 39(2) of the 1998 Act as a registrable financial interest.

3 Initial registration of registrable interests

- (1) Each member shall register—

- (a) any registrable interest which that member had on the date on which that member was returned; and
 - (b) any registrable interest which that member had before that date but which that member no longer had on that date, if that interest meets the prejudice test,
- or declare that the member had no such interest.
- (2) An interest meets the prejudice test if, after taking into account all the circumstances, that interest is reasonably considered to prejudice, or to give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament.
 - (3) A member shall comply with subsection (1) by lodging with the Clerk, not later than the relevant date, a written statement or, as the case may be, a written declaration.
 - (4) The relevant date for the purposes of subsection (3) is the date which is 30 days after the date on which the member has taken the oath of allegiance or made a solemn affirmation in accordance with section 84(1) of the 1998 Act.

4 Written statement

- (1) A written statement shall be in such form as the Parliament may determine.
- (2) A written statement shall contain such information about the interest or relating to it as the Parliament may determine.
- (3) The Parliament may make different determinations under subsections (1) and (2) for different kinds of interests.
- (4) The member may also include in the written statement such other information relating to the interest as the member wishes to disclose in the register.
- (5) Within 30 days after a member has lodged with the Clerk a written statement in accordance with section 3, 5, 6 or 7, the Clerk shall—
 - (a) register that statement in the entry relating to the member in the register together with the date on which the statement was lodged; and
 - (b) send a copy of that entry to the member.

5 Registration of registrable interests acquired after date of return

- (1) This section applies where a member acquires a registrable interest after the date on which the member was returned.
- (2) Within 30 days after the date on which the member acquired that interest, that member shall register that interest by lodging a written statement with the Clerk.

6 Late registrations

- (1) This section applies where a member becomes aware that a registrable interest which ought to have been registered by that member in accordance with section 3 or 5 has not been so registered.
- (2) Within 7 days of becoming so aware, the member shall register that interest by lodging a written statement with the Clerk.

7 Voluntary registration

A member may at any time register an interest which a member is not required to register by lodging a written statement with the Clerk.

8 Deletion of interests from the register

- (1) In this Act, a “ceased interest” means—
 - (a) an interest which is registered but which, if it had not been registered, would not now require to be registered; and
 - (b) an interest which is registered under section 7 but which the member no longer wishes to be registered.
- (2) Where a member has a ceased interest, that member may lodge with the Clerk a written notice which identifies the interest in question, states that it is a ceased interest and gives the date on which it became a ceased interest.
- (3) Within 30 days after a member has lodged a written notice in accordance with this section, the Clerk shall—
 - (a) amend the entry relating to that member in the register by recording in it that the interest is a ceased interest, the date mentioned in subsection (2), and the date on which the amendment was made in the register; and
 - (b) send a copy of the amended entry to that member.
- (4) Not less than 12 months after the date on which the notice was lodged, the Clerk shall—
 - (a) amend the entry relating to that member in the register by deleting that interest and any information relating to it; and
 - (b) send a copy of the amended entry to that member.

9 Other amendments to the register

- (1) A member may at any time amend the entry relating to that member by lodging with the Clerk a written notice of the proposed amendment.
- (2) Within 30 days after a member has lodged a written notice in accordance with this section, the Clerk shall—
 - (a) amend the entry relating to that member in the register by making the proposed amendment and recording the date on which the notice was lodged; and
 - (b) send a copy of the amended entry to that member.
- (3) The Clerk may at any time amend an entry relating to a member in the register to correct any clerical or typographical error and shall send a copy of the amended entry to that member.
- (4) Any amendment made in pursuance of this section may only amend the information about or relating to an interest which is registered but no amendment can be made which would delete, without replacing (with or without any variation) any of the information referred to in section 4(2).
- (5) When a member ceases to be a member, the Clerk shall amend the entry relating to that member in the register by deleting it from the register.

10 Old entries

- (1) When the Clerk amends an entry relating to a member in the register, the Clerk shall keep a copy of the old entries for a period of 5 years from the date of making the last amendment.
- (2) Section 1(4) shall apply to the keeping of the old entries as it applies to the keeping of the register.
- (3) In this section, “the old entries” mean the original entry and any subsequent amended entry in the state in which it was before it was amended.

11 Publication of the register etc.

- (1) The Clerk shall publish the register at such intervals and in such manner as the Parliament may determine.
- (2) The Clerk shall keep a copy of the register and of any old entries available for public inspection in such form and in such manner as the Clerk considers appropriate.
- (3) The copy of the register and of any old entries shall be available for public inspection at the office of the Clerk on the days and at the times when that office is open.

*Declaration of interests and prohibition of paid advocacy etc.***12 Declarable interests**

- (1) In this Act, a “declarable interest” means a declarable financial interest.
- (2) A member has a declarable financial interest in any matter if that member has, or had, a registrable financial interest in that matter which is registered in the entry relating to that member.
- (3) A member has a financial interest for the purposes of paragraph (b) of section 39(2) of the 1998 Act if that member has a declarable financial interest.

13 Declaration of interests

- (1) Any member who has a declarable interest in any matter shall declare that interest before taking part in any proceedings of the Parliament relating to that matter.
- (2) For the purposes of subsection (1), a member shall declare an interest by making, in such circumstances as the Parliament may determine, either an oral or, as the case may be, a written declaration of that interest.

14 Prohibition of paid advocacy etc.

- (1) A member shall not by any means, in consideration of any payment or benefit in kind—
 - (a) advocate or initiate any cause or matter on behalf of any person; or
 - (b) urge any other member to advocate or initiate any cause or matter on behalf of any person.
- (2) For the purposes of subsection (1)—
 - (a) “any means” shall be construed as the doing of anything by a member in the capacity of a member, whether or not in any proceedings of the Parliament; and
 - (b) “any payment or benefit in kind” means any payment or benefit in kind—

- (i) which the member receives and which may reasonably be considered, after taking into account all the circumstances, to result in some benefit to that member, other than a vote for that member in any election to the Parliament; or
 - (ii) which the member's spouse, civil partner or cohabitant receives and which may reasonably be considered, after taking into account all the circumstances, to be provided in connection with the Parliamentary duties of the member and to result in some benefit to that member.
- (3) Subsection (1) shall not prevent a member receiving assistance in connection with any of the following matters—
- (a) the preparation of a Member's Bill or of any amendment to a Bill, or any other matter relating to a Bill (whether before, during or after its passage in the Parliament and before it is submitted for Royal Assent); or
 - (b) a debate upon subordinate legislation (whether before or after its making); or
 - (c) a legislative consent motion.

Sanctions

15 Preventing or restricting participation in proceedings of the Parliament

- (1) If a member—
- (a) has, or had, a registrable interest in any matter and has failed to register it in accordance with section 3, 5 or 6; or
 - (b) has a declarable interest in any matter and has failed to declare that interest in accordance with section 13,
- the Parliament may, in such manner as it considers appropriate in the particular case, prevent or restrict that member from participating in any proceedings of the Parliament relating to that matter.
- (2) For the purposes of subsection (1)(a), a member has failed to register a registrable interest in the register if—
- (a) that member has not lodged with the Clerk a written statement as required by section 3, 5 or 6, as the case may be; or
 - (b) after having lodged such a statement with the Clerk, the member has lodged with the Clerk a written notice under section 8 indicating that the interest is a ceased interest when it is not.

16 Exclusion from proceedings of the Parliament

Where a member fails to comply with, or contravenes, any of the provisions made by or under section 3, 5, 6, 13, 14 or 15, the Parliament may, in such manner as it may determine, exclude that member from proceedings in the Parliament for such period as it may consider appropriate.

17 Offences

- (1) In subsection (6)(a) of section 39 of the 1998 Act, the reference to any provision made in pursuance of subsection (2) or (3) of that section is a reference to any provision made by or under any of the following sections of this Act—

- (a) section 3, 5 or 6 so far as it relates to a registrable financial interest;
 - (b) section 13 so far as it relates to a declarable financial interest;
 - (c) section 15 so far as it relates to a registrable financial interest or declarable financial interest; and
 - (d) section 16 so far as it relates to a failure to comply with, or a contravention of, any such provision.
- (2) In subsection (6)(b) of section 39 of the 1998 Act, the reference to any provision made in pursuance of subsection (4) of that section is a reference to any provision made by or under either of the following sections of this Act—
- (a) section 14; and
 - (b) section 16 so far as it relates to a failure to comply with, or a contravention of, any such provision.

Supplementary

18 Scottish Law Officers

- (1) The following modifications of this Act shall apply in relation to a Scottish Law Officer who is not a member of the Parliament.
- (2) Any reference in this Act to the date on which a member was returned shall be construed, in relation to such a Scottish Law Officer, as—
- (a) in the case where there is a general election and a person who was a Scottish Law Officer before that election continues in the same office after that election, the date of the poll at that election; or
 - (b) in any other case, the date when that Scottish Law Officer was appointed to that office,
- and any reference in this Act to “being returned as a member” shall be construed accordingly.
- (3) For the purposes of subsection (2)(a), a Scottish Law Officer shall be regarded as continuing in office after an election if no other person is appointed to that office within 28 days after the date of the poll at that election.
- (4) Section 3(4) shall not apply and, for the purposes of section 3(3), the relevant date, in relation to such a Scottish Law Officer, is the date which is 60 days after the date mentioned in subsection (2)(a) or the date which is 30 days after the date mentioned in subsection (2)(b), according to whichever applies.
- (5) Section 9(5) shall not apply but the Clerk shall delete the entry relating to such a Scottish Law Officer, on the date when that person either ceases to be appointed to, or ceases to be deemed to continue in, that office.

19 Interpretation

- (1) In this Act—
- “the 1985 Act” means the Companies Act 1985 (c.6);
 - “the 1998 Act” means the Scotland Act 1998 (c.46);
 - “the 1999 Order” means the Scotland Act 1998 (Transitory and Transitional Provisions) (Members’ Interests) Order 1999 (S.I. 1999/1350);

“ceased interest” shall be construed in accordance with section 8(1);

“civil partner” in relation to a member does not include a former civil partner or a civil partner who is living separately and apart from the member where the separation is likely to be permanent;

“the Clerk” means the Clerk of the Parliament;

“cohabitant” means either member of a couple consisting of—

- (a) a man and a woman who are living together as if they were husband and wife; or
- (b) two persons of the same sex who are living together as if they were civil partners;

“company” means a company within the meaning of the 1985 Act;

“declarable interest” shall be construed in accordance with section 12(1);

“declarable financial interest” shall be construed in accordance with section 12(2);

“financial interest” includes benefits in kind;

“heritable property” includes any right or interest in heritable property whether in Scotland or elsewhere;

“member” means a member of the Scottish Parliament and, subject to section 18, includes a Scottish Law Officer where that officer is not a member of the Parliament;

“member’s salary” means the gross annual salary of a member as a member;

“old entries” shall be construed in accordance with section 10(3);

“parent undertaking” has the same meaning as in section 258 of the 1985 Act;

“parliamentary session” means the period from the date of the first meeting of the Parliament following a general election until the Parliament is dissolved;

“prejudice test” shall be construed in accordance with section 3(2);

“the register” means the Register of Interests of Members of the Scottish Parliament established under section 1(1) and associated words shall be construed accordingly;

“registrable interest” shall be construed in accordance with section 2(1);

“registrable financial interest” shall be construed in accordance with section 2(2) and the schedule;

“remuneration” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind;

“Scottish Law Officer” means the Lord Advocate or the Solicitor General for Scotland;

“shares” includes stock;

“spouse” in relation to a member does not include a former spouse or a spouse who is living separately and apart from the member where the separation is likely to be permanent;

“subsidiary undertaking” has the same meaning as in section 258 of the 1985 Act; and

“undertaking”, except in paragraph 2(f) of the schedule, has the same meaning as in section 259 of the 1985 Act.

- (2) Any reference in this Act to—
 - (a) an interest meeting the prejudice test shall be construed in accordance with section 3(2); or
 - (b) lodging a written statement with the Clerk shall be construed in accordance with section 4.
- (3) For the purposes of this Act, a member has registered an interest in the register if—
 - (a) that member has lodged with the Clerk a written statement in accordance with section 3, 5, 6 or 7, irrespective of whether or not the Clerk has registered that statement; and
 - (b) that member has not lodged with the Clerk a written notice under section 8 indicating that the interest is a ceased interest,

and any reference in this Act to an interest being registered shall be construed accordingly.

20 Revocation and saving

- (1) The day when this section comes into force is the day appointed for the purposes of Article 10 of the 1999 Order.
- (2) The Clerk shall keep a copy of the register kept under the 1999 Order for a period of 5 years from the day when this section comes into force.
- (3) Section 1(4) shall apply to the keeping of the register under subsection (2) as it applies to the keeping of the register under section 1.

21 Short title and commencement

- (1) This Act may be cited as the Interests of Members of the Scottish Parliament Act 2006.
- (2) This Act comes into force in accordance with subsections (3) and (4).
- (3) The following provisions of this Act come into force on the day after Royal Assent but only for the purpose of enabling the Parliament to make determinations to come into force when the remaining provisions of this Act come into force in accordance with subsection (4)—
 - (a) sections 4(1) and (2);
 - (b) section 11(1);
 - (c) section 13(2);
 - (d) section 19;
 - (e) this section; and
 - (f) the schedule, paragraph 8(2)(b).
- (4) The provisions of this Act, to the extent that they are not already in force by virtue of subsection (3), come into force on the day after the date of the first dissolution of the Parliament following the date of Royal Assent.

SCHEDULE
(introduced by section 2(2))

REGISTRABLE FINANCIAL INTERESTS

Registrable financial interests

- 1 A member has, or had, a registrable financial interest in the circumstances set out in the following paragraphs.

Remuneration

- 2 (1) Where a member receives, or has received, remuneration by virtue of—
- (a) being employed;
 - (b) being self-employed;
 - (c) being the holder of an office;
 - (d) being a director of an undertaking;
 - (e) being a partner in a firm; or
 - (f) undertaking a trade, profession or vocation or any other work.
- (2) A member does not fall within sub-paragraph (1) solely by virtue of being, or of having been, a member, a member of the Scottish Executive or a junior Scottish Minister or holding or having held the office of Presiding Officer, deputy Presiding Officer or member of the Parliamentary corporation.

Related undertaking

- 3 (1) Where a member is, or was—
- (a) a director in a related undertaking; or
 - (b) a partner in a firm,
- but does, or did, not receive remuneration by virtue of being such a director or partner.
- (2) For the purposes of sub-paragraph (1)(a), a related undertaking is a parent or subsidiary undertaking of an undertaking of which the member is a director and receives remuneration as a director as mentioned in paragraph 2(1)(d).

Election expenses

- 4 (1) Where contributions towards the election expenses of a member in relation to the election at which the member was returned as a member included a donation or donations by a person, the aggregate of which exceeded 25% of those election expenses.
- (2) For the purposes of sub-paragraph (1)—
- (a) “election expenses”, in relation to a member, shall have the same meaning as “election expenses” has in relation to a candidate in the order under section 12 of the 1998 Act which is in force for the purposes of the election at which the member was returned;
 - (b) “person” includes a body of persons, corporate or unincorporate, but does not include a registered political party with which the member is connected; and

- (c) “registered political party” means a political party registered under Part II of the Political Parties, Elections and Referendums Act 2000 (c.41) and a member is connected with a registered political party if the member was returned at the election after contesting it as a candidate (whether for return as a constituency member or as a regional member) of that party.

Sponsorship

- 5 (1) Where a member is, or was, sponsored by any person.
- (2) For the purposes of sub-paragraph (1), a member is, or was, sponsored if the member receives, or has received, any financial or material support as a member (other than services provided by a volunteer) from the same person on more than one occasion which, over a parliamentary session, amounts, in aggregate, to more than the specified limit.
- (3) In sub-paragraph (2), the “specified limit” means 1 per cent of a member’s salary (rounded down to the nearest £10) at the beginning of the parliamentary session in question.

Gifts

- 6 (1) Where a member or a company in which the member has a controlling interest or a partnership of which the member is a partner, receives, or has received, a gift of heritable or moveable property or a gift of a benefit in kind and—
- (a) the value of the gift, at the date on which it was received, exceeds 1 per cent of a member’s salary on that date (rounded down to the nearest £10); and
- (b) that gift meets the prejudice test.
- (2) Sub-paragraph (1) does not apply to the costs of travel and subsistence in connection with the member’s attendance at a conference or meeting where those costs are borne in whole or in part by—
- (a) the organiser of that conference; or
- (b) one of the other parties attending that meeting,
- as the case may be.
- (3) For the purposes of sub-paragraph (1), “controlling interest” means, in relation to a company, shares carrying in the aggregate more than half of the voting rights exercisable at general meetings of the company.

Overseas visits

- 7 (1) Where a member makes, or has made, a visit outside the United Kingdom and that visit meets the prejudice test.
- (2) Sub-paragraph (1) does not apply to a visit, the travel and other costs of which—
- (a) are wholly met—
- (i) by the member;
- (ii) by the member’s spouse, civil partner or cohabitant;
- (iii) by the member’s mother, father, son or daughter;

- (iv) by the Parliamentary corporation; or
- (v) out of the Scottish Consolidated Fund; or
- (b) were approved prior to the visit by the Parliamentary corporation.

Heritable property

- 8 (1) Where a member owns or holds, or has owned or held, any heritable property and sub-paragraph (2) applies.
- (2) This sub-paragraph applies where either—
- (a) the market value of the heritable property, at the relevant date, exceeds 50 per cent of a member's salary on that date (rounded down to the nearest £10); or
 - (b) the gross income from the heritable property for the period of twelve months prior to the relevant date is greater than such amount as the Parliament may determine.
- (3) Sub-paragraph (1) applies to heritable property which a member owns or holds, or has owned or held—
- (a) solely in his or her own name;
 - (b) jointly with any other person or body; or
 - (c) as a trustee, whether or not jointly with other trustees, where the member has an interest as a beneficiary of the trust.
- (4) Sub-paragraph (1) does not apply to heritable property—
- (a) which is used as a residential home by the member or the member's spouse, civil partner or cohabitant;
 - (b) which was used as a residential home by the member or the member's spouse, civil partner or cohabitant but which, for a period of not more than 12 months, is or was unoccupied and for sale; or
 - (c) which forms part of the assets of a partnership and any income from that partnership is, or forms part of, the remuneration registered under paragraph 2 of this schedule.
- (5) Where a member has ceased to own or hold any heritable property before the date on which the member was returned as a member, the relevant date is the date when the heritable property ceased to be so owned or held.
- (6) Where a member owned or held any heritable property at the date on which the member was returned as a member, the relevant date is—
- (a) that date; and
 - (b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.
- (7) Where a member becomes the owner of or acquires any heritable property after the date on which that member was returned as a member, the relevant date is—
- (a) the date on which the member became the owner of or acquired that heritable property; and
 - (b) the 5th April immediately following that date and in each succeeding year, where the heritable property continues to be so owned or held on that 5th April.

Interest in shares

- 9 (1) Where a member has, or had, an interest in shares, whether that interest is, or was, held by the member or by a relevant person, and sub-paragraph (2) applies.
- (2) This sub-paragraph applies where either—
- (a) the nominal value of the shares at the relevant date is, or was, greater than 1% of the total nominal value of the issued share capital of the company or other body; or
 - (b) the market value of the shares at the relevant date exceeds, or exceeded, 50 per cent of a member's salary on that date (rounded down to the nearest £10).
- (3) Sub-paragraph (1) applies apply to an interest in shares, whether that interest is, or was, held by a member (or a relevant person)—
- (a) solely in his or her own name;
 - (b) jointly with any other person or body; or
 - (c) as a trustee, whether or not jointly with other trustees where the member has an interest as a beneficiary of the trust.
- (4) Sub-paragraph (1) does not apply to an interest in shares which forms part of the assets of a partnership and any income from that partnership is, or forms part of, remuneration registered under paragraph 2 of this schedule.
- (5) Where a member has ceased to have an interest in shares before the date on which the member was returned as a member, the relevant date is the date when the interest in such shares ceased to be so held.
- (6) Where a member had an interest in shares at the date on which the member was returned as a member, the relevant date is—
- (a) that date; and
 - (b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.
- (7) Where a member acquires an interest in shares after the date on which the member was returned as a member, the relevant date is—
- (a) the date on which the interest in shares was acquired; and
 - (b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.
- (8) In this paragraph—
- (a) an “interest in shares” means an interest in shares comprised in the share capital of a company or other body; and
 - (b) “relevant person” is a person who is subject to the control or direction of a member in respect of an interest in shares.

Modification

- 10 (1) The Parliament may, by resolution, make any modifications of this schedule which the Parliament considers necessary or expedient.

- (2) Immediately after any such resolution is passed, the Clerk shall send a copy of it to the Queen's Printer for Scotland; and Articles 5, 7(1), 8 and 9 of the Scotland Act 1998 (Transitional and Transitory Provisions) (Statutory Instruments) Order 1999 (SI 1999/1096) shall apply to it as if it were a Scottish statutory instrument.