

*These notes relate to the Ethical Standards in Public Life etc. (Scotland)
Act 2000 (asp 7) which received Royal Assent on 24 July 2000*

ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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The Act

Part 1

Codes of Conduct Etc.

Section 1 Code of conduct for councillors

4. This section requires Scottish Ministers to issue a code of conduct for councillors, known as the “councillors’ code”. The code will set out principles and rules for councillors’ conduct; it will also set out rules on the treatment of councillors’ interests. Ministers will be able to invite representatives of local government to draft this code. The code must be laid before and approved by the Scottish Parliament before it is issued. It will take effect from a date to be fixed by Ministers. Ministers will be able to subsequently revise the code, and will be able to invite representatives of local government to assist with this. Any revised code would also need to be approved by the Scottish Parliament before it is issued.

Section 2 Model code of conduct for members of devolved public bodies

5. This section requires Scottish Ministers to issue a model code, to be known as the “members’ model code” for members of relevant devolved public bodies (as listed in schedule 3).
6. The members’ model code will set out the principles and rules for members’ conduct and will also set out rules on the treatment of members’ interests. The model code must be laid before and approved by the Scottish Parliament before it is issued. Ministers will be able to subsequently revise the model code and, if they do so, any revised model code will also need to be approved by the Scottish Parliament before it is issued. The model code may provide for both mandatory and optional provisions.

Section 3 Codes of conduct for members of devolved public bodies

7. This section requires each devolved public body, as listed in schedule 3, to draw up a “draft members’ code” for its own members and to submit it to Scottish Ministers within such time limit as Ministers specify, being not less than three months after the making of an order by the Scottish Ministers.
8. The draft members’ code will incorporate those mandatory provisions of the members’ model code which apply to that public body. The draft members’ code may also include optional provisions from the model code and other provisions that are consistent with it.

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9. Ministers may approve a draft members' code, with or without modification, or may substitute a code of their own devising. If a body fails to submit a draft code within the due time, Ministers may devise a code themselves.
10. Once such a code has been approved, substituted or devised it should be referred to as a "members' code".
11. Once approved, a members' code will come into effect on a date fixed by Ministers and they will notify the relevant public body of that date. Subsection (9) explains references to the members' code in the remainder of the Act - when used in relation to a devolved public body, the phrase means the code applicable to that body.

Section 4 Revisal etc of members' codes

12. This section provides for the revisal of members' codes.
13. A public body may submit or may be required by Scottish Ministers within such time as they direct to submit, a draft revisal or re-issue of the members' code. Subsection (2) provides that Ministers may approve the revisal or re-issue, with or without modification; or substitute a revisal or re-issue of their own devising; or themselves revise or re-issue the members' code if the body has failed to submit a revisal or re-issue after being required to do so by Ministers.
14. If it appears to Ministers that a members' code is not, or is no longer, consistent with the members' model code they may require that body to submit a revise or re-issue of the code.
15. If it appears to Ministers that the members' code is not, or is no longer, consistent with the members' model code and they consider that it is expedient in the public interest, they may revise or re-issue the members code without having previously required that public body to submit a draft revisal or re-issue.
16. Any revisal or re-issue of a members' code shall come into effect on a date fixed by Ministers and they will notify the relevant public body of that date.

Section 5 Duties of councils and devolved public bodies

17. This section places a duty on every council and those devolved public bodies covered by this Act to promote the observance of high standards of conduct by their members and assist them to observe the code that pertains to them. This should be done in accordance with any guidance issued by the Standards Commission for Scotland.

Section 6 Issue of guidance by the Standards Commission

This section places a general duty on the Commission to issue guidance to councils and devolved public bodies stating how it will interact with them and how they will be expected to act in relation to the Commission. The Commission is required to consult with such associations of local authorities as may have an interest and with any other person it thinks fit prior to issuing any guidance.

Section 7 Register of interests

18. This section imposes a duty on councils and devolved public bodies covered by this Bill to maintain and allow the public access to a register of their councillors' or members' interests. This duty has to be exercised in line with regulations made by Ministers and, guidance issued by the Standards Commission. Regulations made by the Scottish Ministers under this section are subject to negative resolution procedure.