



# Interests of Members of the Scottish Parliament Act 2006

2006 asp 12

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**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** **S**

- (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.

#### **Commencement Information**

- II** This provision comes into force in accordance with s. 21(4)

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

## 2 Registrable interests **S**

- (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.

### Commencement Information

**I2** This provision comes into force in accordance with s. 21(4)

## 3 Initial registration of registrable interests **S**

- (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.

### Commencement Information

**I3** This provision comes into force in accordance with s. 21(4)

## 4 Written statement **S**

- (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—

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- (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.

**Commencement Information**

**I4** S. 4(1)(2) in force for specified purposes at 14.7.2006, see s. 21(3); s. 4 otherwise comes into force in accordance with s. 21(4)

**5 Registration of registrable interests acquired after date of return** **S**

- (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.

**Commencement Information**

**I5** This provision comes into force in accordance with s. 21(4)

**6 Late registrations** **S**

- (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.

**Commencement Information**

**I6** This provision comes into force in accordance with s. 21(4)

**7 Voluntary registration** **S**

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.

**Commencement Information**

**I7** This provision comes into force in accordance with s. 21(4)

**8 Deletion of interests from the register** **S**

- (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

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- (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.

#### Commencement Information

**18** This provision comes into force in accordance with s. 21(4)

## 9 Other amendments to the register **S**

- (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.

#### Commencement Information

**19** This provision comes into force in accordance with s. 21(4)

*Status: Point in time view as at 23/03/2011.*

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## 10 Old entries **S**

- (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.

### Commencement Information

**I10** This provision comes into force in accordance with s. 21(4)

## 11 Publication of the register etc. **S**

- (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.

### Commencement Information

**I11** [S. 11\(1\)](#) in force for specified purposes at 14.7.2006, see [s. 21\(3\)](#); [s. 11](#) otherwise comes into force in accordance with s. 21(4)

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

## 12 Declarable interests **S**

- (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.

### Commencement Information

**I12** This provision comes into force in accordance with s. 21(4)

*Status: Point in time view as at 23/03/2011.**Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)***13 Declaration of interests** **S**

- (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.

**Commencement Information**

**I13** S. 13(2) in force for specified purposes at 14.7.2006, see s. 21(3); s. 13 otherwise comes into force in accordance with s. 21(4)

**14 Prohibition of paid advocacy etc.** **S**

- (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.

**Commencement Information**

**I14** This provision comes into force in accordance with s. 21(4)

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

## Sanctions

### 15 Preventing or restricting participation in proceedings of the Parliament **S**

- (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.

#### Commencement Information

**I15** This provision comes into force in accordance with s. 21(4)

### 16 Exclusion from proceedings of the Parliament **S**

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.

#### Commencement Information

**I16** This provision comes into force in accordance with s. 21(4)

### 17 Offences **S**

- (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.

*Status: Point in time view as at 23/03/2011.*

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- (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.

**Commencement Information**

**I17** This provision comes into force in accordance with s. 21(4)

*Supplementary*

**18 Scottish Law Officers** **S**

- (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.

**Commencement Information**

**I18** This provision comes into force in accordance with s. 21(4)

**19 Interpretation** **S**

- (1) In this Act—
 

<sup>F1</sup> .....

“the 1998 Act” means the Scotland Act 1998 (c. 46);



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*Status: Point in time view as at 23/03/2011.*

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“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 [<sup>F2</sup>as defined in section 1(1) of the Companies Act 2006]<sup>F2</sup>;

“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 [<sup>F3</sup>the Companies Acts (see section 1162 of the Companies Act 2006)]<sup>F3</sup>;

“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 [<sup>F3</sup>the Companies Acts (see section 1162 of the Companies Act 2006)]<sup>F3</sup>; and

“undertaking”, except in paragraph 2(f) of the schedule, has the same meaning as in [<sup>F4</sup>the Companies Acts (see section 1161(1) of the Companies Act 2006)]<sup>F4</sup>.

*Status: Point in time view as at 23/03/2011.*

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- (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.

#### Textual Amendments

- F1** S. 19(1) : definition of "the 1985 Act" omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#) , art. 2(1) , [Sch. 1 para. 262\(2\)](#) (with art. 10 )
- F2** S. 19(1) : words in definition of "company" substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#) , art. 2(1) , [Sch. 1 para. 262\(3\)](#) (with art. 10 )
- F3** S. 19(1) : words in definitions of "parent undertaking" and "subsidiary undertaking" substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#) , art. 2(1) , [Sch. 1 para. 262\(4\)](#) (with art. 10 )
- F4** S. 19(1) : words in definition of "undertaking" substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#) , art. 2(1) , [Sch. 1 para. 262\(5\)](#) (with art. 10 )

#### Commencement Information

- I19** S. 19 in force for specified purposes at 14.7.2006, see s. 21(3); s. 19 otherwise comes into force in accordance with s. 21(4)

## 20 Revocation and saving **S**

- (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.

#### Commencement Information

- I20** This provision comes into force in accordance with s. 21(4)

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

## **21 Short title and commencement** **S**

- (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.

### **Commencement Information**

**I21** [S. 21](#) in force for specified purposes at 14.7.2006, see [s. 21\(3\)](#); [s. 21](#) otherwise comes into force in accordance with [s. 21\(4\)](#)

*Status: Point in time view as at 23/03/2011.*

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## SCHEDULE S

*(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.

#### **Commencement Information**

**I22** This provision comes into force in accordance with s. 21(4)

#### *Remuneration [<sup>F5</sup>and related undertaking]*

#### **Textual Amendments**

**F5** Words in Sch. para. 2 cross-heading inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(1)

- 2 [<sup>F6</sup>(A1) Where the circumstances are as described in sub-paragraph (1) or (1A).]
- (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 <sup>F7</sup>....
- [<sup>F8</sup>(1A) 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) 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 [<sup>F9</sup>or of Convener, deputy Convener or member of a Committee of the Parliament].
- [<sup>F10</sup>(3) Sub-paragraph (1) does not apply where the remuneration received from a person on a single, or on more than one, occasion during the current parliamentary session consists solely of expenses unless those expenses amount, or amount in aggregate, to more than the specified limit.

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

(4) The exception in sub-paragraph (3) applies even although the remuneration received from that person on another occasion, or on other occasions, during that session does not consist solely of expenses.

(5) In this paragraph—

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

“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 sub-paragraph (1)(d); and

“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.]

#### Textual Amendments

- F6** Sch. para. 2(A1) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(3)
- F7** Words in Sch. para. 2(1)(f) deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(4)
- F8** Sch. para. 2(1A) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(5)
- F9** Words in Sch. para. 2(2) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(6)
- F10** Sch. para. 2(3)-(5) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 1(7)

#### Commencement Information

- I23** This provision comes into force in accordance with s. 21(4)

#### *Related undertaking*

**F113** .....

#### Textual Amendments

- F11** Sch. para. 3 deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 2

#### *Election expenses*

**F124** .....

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

### Textual Amendments

- F12** Sch. para. 4 deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 2

### *Sponsorship*

**F13**5 .....

### Textual Amendments

- F13** Sch. para. 5 deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 2

### *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—
- <sup>F14</sup>(a) in the case where the gift was received from a person on a single occasion, the value of that gift, at the date on which it was received, exceeds the specified limit; or
  - (b) in the case where gifts were received from that person on more than one occasion during the current parliamentary session, the aggregate value of those gifts, at the dates on which they were received, exceeds the specified limit and, in either case,
  - (c) that gift or those gifts meet] the prejudice test.
- (2) Sub-paragraph (1) does not apply to
- <sup>F15</sup>(a) 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—
    - <sup>F16</sup>(i) the organiser of that conference; or
    - <sup>F17</sup>(ii) one of the other parties attending that meeting,
 as the case may be<sup>F18</sup>;
  - (b) any support (of any kind) provided by the services of a volunteer which are provided in that volunteer's own time and free of charge; or
  - (c) a donation (of any kind) which is intended by the donor to be used for the purpose of meeting—
    - (i) any campaign expenditure incurred in connection with the member's campaign for election to a party office;
    - (ii) the election expenses of the member in relation to the election at which that member was returned as a member of the Scottish Parliament; or
    - (iii) the election expenses of the member in relation to any UK parliamentary election at which that member stands as a candidate, ]

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but this exemption ceases to apply if the donation is not used for its intended purpose by the expiry of the 35th day after the election result is declared.

(3) For the purposes of [F19] this paragraph—

“candidate” has the same meaning as in section 118A, as read with section 90ZA(5) of the Representation of the People Act 1983 (c.1) ;

“campaign expenditure” includes expenditure incurred, whether before or after the member’s candidacy for election to the party office is announced or after the date on which the result of that election is declared, which can reasonably be described as being for the purposes of that campaign;]

“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[F20];

“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;

“election expenses”, in relation to a member, has the same meaning for the purposes of—

(i) sub-paragraph (2)(c) (ii) 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; and

(ii) sub-paragraph (2)(c)(iii) as “election expenses” has in section 90ZA of the Representation of the People Act 1983 (c.1) ;

“party office” means an office in a registered political party with which that member is connected;

“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; and

“specified limit” means 1% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.]

#### Textual Amendments

- F14** Words in Sch. para. 6(1) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(2)
- F15** Words in Sch. para. 6(2) renumbered as Sch. para. 6(2)(a) (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(3)(a)
- F16** Sch. para. 6(2)(a) renumbered as Sch. para. 6(2)(a)(i) (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(3)(b)
- F17** Sch. para. 6(2)(b) renumbered as Sch. para. 6(2)(a)(ii) (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(3)(c)

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*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

- F18** Sch. para. 6(2)(b)(c) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(3)(d)
- F19** Words in Sch. para. 6(3) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(4)(a)
- F20** Words in Sch. para. 6(3) substituted for full stop (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#), Annex para. 3(4)(b)

**Commencement Information**

- I24** This provision comes into force in accordance with s. 21(4)

*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.

**Commencement Information**

- I25** This provision comes into force in accordance with s. 21(4)

*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 [<sup>F21</sup>the specified limit]; or
  - [<sup>F22</sup>(b) any income is received from the heritable property during the twelve months prior to the relevant date.]
- (3) Sub-paragraph (1) applies to heritable property which a member owns or holds, or has owned or held—
- (a) solely in [<sup>F23</sup>the member's] 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.



*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

- (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.
- [<sup>F24</sup>(8) In this paragraph—
- “current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned; and
  - “specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.]

#### Textual Amendments

- F21** Words in Sch. para. 8(2)(a) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 4(2)
- F22** Sch. para. 8(2)(b) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 4(3)
- F23** Words in Sch. para. 8(3)(a) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 4(4)
- F24** Sch. para. 8(8) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 4(5)

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*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

### Commencement Information

**I26** Sch. para. 8(2)(b) in force for specified purposes at 14.7.2006, see s. 21(3); Sch. para. 8 otherwise comes into force in accordance with s. 21(4)

### *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, [<sup>F25</sup>the specified limit].
- (3) Sub-paragraph (1) applies <sup>F26</sup> ... to an interest in shares, whether that interest is, or was, held by a member (or a relevant person)—
- (a) solely in [<sup>F27</sup>the name of the member (or relevant person)];
  - (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—
- [<sup>F28</sup>“current parliamentary session” means the parliamentary session which begins immediately after, or in which, the member is returned;]
- <sup>F29</sup> ... an “interest in shares ” means an interest in shares comprised in the share capital of a company or other body; <sup>F29</sup> ...
- “relevant person ” is a person who is subject to the control or direction of a member in respect of an interest in shares [<sup>F30</sup> ;

*Status: Point in time view as at 23/03/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006. (See end of Document for details)*

“specified limit” means 50% of a member’s salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.]

#### **Textual Amendments**

- F25** Words in Sch. para. 9(2)(b) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(2)
- F26** Word in Sch. para. 9(3) deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(3)
- F27** Words in Sch. para. 9(3)(a) substituted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(4)
- F28** Words in Sch. para. 9(8) inserted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(5)(a)
- F29** Words in Sch. para. 9(8) deleted (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(5)(b)
- F30** Words in Sch. para. 9(8) substituted for full stop (23.3.2011 being the day after the date of the first dissolution of the Scottish Parliament following the making of this S.S.I.) by virtue of [Interests of Members of the Scottish Parliament Act 2006 \(Modifications to the Schedule\) Resolution 2011 \(S.S.I. 2011/40\)](#) , Annex para. 5(5)(c)

#### **Commencement Information**

- I27** This provision comes into force in accordance with s. 21(4)

#### *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

#### **Commencement Information**

- I28** This provision comes into force in accordance with s. 21(4)

**Status:**

Point in time view as at 23/03/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006.