



# Interests of Members of the Scottish Parliament Act 2006

2006 asp 12

## *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) [<sup>F1</sup>and (5)] 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.

#### **Textual Amendments**

- F1** Words in s. 18(4) inserted (5.5.2016 coming into force in accordance with s. 17 of the amending Act) by [Interests of Members of the Scottish Parliament \(Amendment\) Act 2016 \(asp 4\), ss. 13, 16\(2\)](#)

*Status: Point in time view as at 05/05/2016.**Changes to legislation: There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006, Cross Heading: Supplementary. (See end of Document for details)***Commencement Information****II** This provision comes into force in accordance with s. 21(4)**19 Interpretation**

(1) In this Act—

<sup>F2</sup>

“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 [<sup>F3</sup>as defined in section 1(1) of the Companies Act 2006]<sup>F3</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” [<sup>F4</sup>(except in references to a member of a registered political party)] 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>F5</sup>the Companies Acts (see section 1162 of the Companies Act 2006)]<sup>F5</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;

[<sup>F6</sup>“registered political party” means a political party registered under Part II of the Political Parties, Elections and Referendums Act 2000 (c.41);]

“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;

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“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 [F5 the Companies Acts (see section 1162 of the Companies Act 2006)]<sup>F5</sup>; and

“undertaking”, except in paragraph 2(f) of the schedule, has the same meaning as in [F7 the Companies Acts (see section 1161(1) of the Companies Act 2006)]<sup>F7</sup>.

- (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.

[F8(4) For the purposes of the schedule, a member is to be taken as accepting a controlled transaction when it is entered into (even although, in the case of an arrangement of the kind mentioned in paragraph 6A(6) of the schedule, the member is not a party to the arrangement).]

#### Textual Amendments

- F2** 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 )
- F3** 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 )
- F4** Words in s. 19(1) inserted (5.5.2016 coming into force in accordance with s. 17 of the amending Act) by [Interests of Members of the Scottish Parliament \(Amendment\) Act 2016 \(asp 4\)](#) , [ss. 14\(a\)\(i\)](#) , 16(2)
- F5** 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 )
- F6** Words in s. 19(1) inserted (5.5.2016 coming into force in accordance with s. 17 of the amending Act) by [Interests of Members of the Scottish Parliament \(Amendment\) Act 2016 \(asp 4\)](#) , [ss. 14\(a\)\(ii\)](#) , 16(2)
- F7** 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 )

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**F8** S. 19(4) added (5.5.2016 coming into force in accordance with s. 17 of the amending Act) by [Interests of Members of the Scottish Parliament \(Amendment\) Act 2016 \(asp 4\)](#) , **ss. 14(b)** , 16(2)

#### Commencement Information

**I2** 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

- (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

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

## 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.

#### Commencement Information

**I4** [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 05/05/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the Interests of Members of the Scottish Parliament Act 2006, Cross Heading: Supplementary.