

## POLICY NOTE

### THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000 (REGISTER OF INTERESTS) AMENDMENT (NO. 2) REGULATIONS 2021

SSI 2021/438

The above instrument was made in exercise of the powers conferred by section 7(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Act'). The instrument is subject to negative procedure.

**Purpose of the instrument.** The instrument amends the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Registers of Interests) Regulations 2003 as a consequence of the approval of the revised Councillors' Code of Conduct and Model Code of Conduct for Members of Devolved Bodies by the Scottish Parliament on 27 October 2021.

#### Policy Objectives

In line with Section 1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Act'), Scottish Ministers are required to produce a Councillors' Code of Conduct ('the Code') along with a Model Code of Conduct for members of devolved public bodies ('the Model Code'). The Act stipulates that Ministers must issue a Code – including any revisions – only once it has been laid before, and approved by, the Scottish Parliament. The new codes were approved by Parliament on 27 October 2021. The provisions in the new codes dealing with the registration of both councillors' interests and members interests differ in certain aspects from the equivalent provisions in the previous codes.

Section 7 of the Act requires every local authority and public body to set up a register of the interests that their councillors or members are obliged to register under the Code. The duty to set up the register is to be carried out in accordance with Regulations made by the Scottish Ministers. The current Regulations made under this power are the Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 (SSI 2003/135) ('the 2003 Regulations') and they set out the notices which must be given by councillors or members on any interests they may have. As the 2003 Regulations cross-refer to the Codes it is necessary to amend those Regulations so that they reflect the Codes as amended,

The Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Amendment Regulations 2021 (SSI 2021/397) ('the 2021 Regulations') were laid before Parliament on 8th November 2021 and will come into force on 8th December. The 2021 Regulations amend the 2003 Regulations in consequence of the new Codes. The Delegated Powers and Law Reform Committee noted that the 2021 Regulations omitted an entry in one of the tables being inserted into the 2003 Regulations and that they did not provide for the continuing operation of members' codes after 8th December 2021.

These Amendment Regulations revoke the 2021 Regulations and make more detailed changes to the 2003 Regulations in order to:

- update the references to the Codes in the 2003 Regulations so they reflect the new Codes;

- provide for the continuing operation of existing members' codes which were issued under the old model code; and
- make consequential changes in light of those amendments.

These Amendment Regulations are being made and laid on 25th November 2021 and will come into force on 8th December 2021 in breach of the 28 day rule in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. A letter is being sent to the Presiding Officer explaining why longer notice could not be provided in this case.

### **Consultation**

A full public consultation was carried out whilst developing the two Codes of Conduct. This instrument is a consequence of Parliament approving those Codes and is of a technical nature. No separate consultation is necessary.

### **Impact Assessments**

See above. This is a technical SSI as a consequence of the instruments already approved by Parliament. No additional impact assessments required for this instrument.

### **Financial Effects**

The Minister for Public Finance, Planning and Community Wealth confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Directorate for Local Government and Communities

*23 November 2021*