
STATUTORY INSTRUMENTS

1998 No. 633

The Police Act 1997 (Provisions in relation to the NCIS Service Authority) Order 1998

PART E

RESTRICTIONS ON VOTING AND MEMBERS' INTERESTS

Disability of members of the Authority for voting on account of interest in contracts etc.

E1.—(1) Subject to the provisions of article E4 below, if a member of the Authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the Authority at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) If any person fails to comply with the provisions of paragraph (1) above he shall for each offence be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(3) A prosecution for an offence under this article shall not be instituted in England and Wales except by or on behalf of the Director of Public Prosecutions.

(4) The Authority may by standing orders provide for the exclusion of a member of the Authority from a meeting of the Authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(5) The receipt by a member of the Authority of an allowance or other payment under paragraph 17 of Schedule 2 to the Police Act 1997 or his right to receive, or the possibility of his receiving, any such payment shall not be treated as a pecuniary interest for the purposes of this article.

Pecuniary interests for purposes of article E1

E2.—(1) For the purposes of article E1 above a person shall be treated, subject to the following provisions of this article and to article E4 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

(2) Paragraph (1) above does not apply to membership of or employment under any public body, and a member of a company or other body shall not by reason only of his membership be treated as

having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of article E1 above, to be also an interest of the other.

General notices and recording of disclosures for purposes of article E1

E3.—(1) A general notice given in writing to the proper officer of the Authority by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person, which may be the subject of consideration after the date of the notice.

(2) The proper officer of the Authority shall record in a book to be kept for the purpose particulars of any disclosure made under article E1 above and of any notice given under this article, and the book shall be open at all reasonable hours to the inspection of any member of the Authority.

Removal or exclusion of disability etc.

E4.—(1) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by article E1 above in any case in which the number of members of the Authority disabled by that article at any one time would be so great a proportion of the whole as to impede the transaction of business.

(2) The power of the Secretary of State under paragraph (1) above includes power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member, or any class or description of member, by reason of such interests, and in respect of such matters, as may be specified by the Secretary of State.

(3) Nothing in article E1 above precludes any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the powers conferred by paragraphs (1) and (2) above.

(4) Article E1 above does not apply to an interest in a contract, proposed contract or other matter which a member of the Authority has as an inhabitant of any area, or to an interest in any matter relating to the terms in which a right to participate in any service, including the supply of goods, is offered to the public,

(5) For the purposes of article E1 above a member of the Authority shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only of an interest of his or of any company, body or person with which he is connected as mentioned in article E2(1) above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

(6) Where a member of the Authority has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £5000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class, article E1 above shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

Interpretation of articles E2 and E4

E5.—(1) In articles E2 and E4 above “securities” means—

- (a) investments falling within any of paragraphs 1 to 6 of Schedule 1 to the Financial Services Act 1986⁽¹⁾ or, so far as relevant to any of those paragraphs, paragraph 11 of that Schedule; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any society registered under the Industrial and Provident Societies Act 1965⁽²⁾ or any building society within the meaning of the Building Societies Act 1986⁽³⁾.

(2) In article E2 above “public body” includes any body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, the governing body of any university, university college or college, school or hall of a university, the National Trust for Places of Historic Interest or Natural Beauty and the National Trust for Scotland for Places of Historic Interest or Natural Beauty.

Application of articles E1 to E5 to committees

E6. Articles E1 to E5 above shall apply as respects members of a committee of the Authority, as they apply in respect of members of the Authority, subject to the following modifications—

- (a) references to meetings of any such committee shall be substituted for references to meetings of the Authority; and
- (b) in the case of members of a committee of the Authority the right of persons who are members of the committee but not members of the Authority to inspect the book kept under article E3(2) above shall be limited to an inspection of the entries in the book relating to the members of the committee.

Members' interests

E7.—(1) Subject to paragraph (2) below, any requirement in regulations made under section 19 of the 1989 Act as to the giving of notices shall apply to members of the Authority for the purposes of the application of this Order as they apply to members of a police authority appointed under paragraph 2 or 5 of Schedule 2 to the Police Act 1996⁽⁴⁾.

(2) A member of the Authority shall give the relevant notice not later than—

- (a) one month after the date of coming into force of this Order, or
- (b) one month after the date on which he first attends a relevant meeting, whichever is the later.

(3) Any member of the Authority who—

- (a) without reasonable excuse fails to comply with the requirements which apply by virtue of paragraph (1) above; or
- (b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(4) Proceedings for an offence under paragraph (3) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.

(1) 1986 c. 60.
(2) 1965 c. 12.
(3) 1986 c. 53.
(4) 1996 c. 16.

(5) Article E3 above shall not apply in relation to any notice given in pursuance of any regulations which apply to members of the Authority by virtue of paragraph (1) above, but—

- (a) where such regulations provide that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the Local Government Act 1972⁽⁵⁾ (disability of members of authorities for voting on account of interest in contracts etc) or for the purposes of section 38 of the Local Government (Scotland) Act 1973⁽⁶⁾, then the giving of such a notice shall also be deemed to be sufficient disclosure for the purposes of article E1 above; and
- (b) where such regulations prescribe that the proper officer of the authority is to maintain such records of the information contained in notices given to him as may be prescribed by those regulations and is to keep those records open to inspection by the public, the proper officer of the Authority shall be under the same obligation in relation to the equivalent notices given under this Order.

(6) The Authority shall not be entitled (whether by means of making it a condition of any appointment or by any other means whatever) to impose any obligation on its members to disclose any interest other than those that they are required to disclose by virtue of article E1 above or any regulations applicable by virtue of paragraph (1) above.

(7) References in this article to the indirect pecuniary interests of a member of the Authority shall include references to any such interest as by virtue of any connection between that member or his spouse and any other person, would fall to be disclosed under article E1 above if the Authority were proposing to enter into a contract with that other person.

⁽⁵⁾ 1972 c. 70.
⁽⁶⁾ 1973 c. 65.