



# Interests of Members of the Scottish Parliament (Amendment) Act 2016

## 2016 asp 4

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 17th December 2015 and received Royal Assent on 21st January 2016**

An Act of the Scottish Parliament to amend the Interests of Members of the Scottish Parliament Act 2006 and the Political Parties, Elections and Referendums Act 2000.

*Amendment of the Interests of Members of the Scottish Parliament Act 2006*

### **1 Amendment of the Interests of Members of the Scottish Parliament Act 2006**

The Interests of Members of the Scottish Parliament Act 2006 is amended as in sections 2 to 14.

#### **Commencement Information**

- II** [S. 1](#) in force for certain purposes at 22.1.2013 and at 5.5.2016 for certain purposes and in accordance with s. 16(5)(a), see [s. 16\(5\)](#)

#### *Registrable financial interests*

### **2 Exempt expenses**

In the definition of “specified limit” in sub-paragraph (5) of paragraph 2 of the schedule (which, among other things, exempts from registration certain expenses expressed as a percentage of salary), for “1%” there is substituted “0.5%”.

### **3 Gifts**

For paragraph 6 of the schedule (registrable gifts) there is substituted—

- 6 (1) Where the circumstances are as described in sub-paragraph (2) or (3).

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- (2) 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—
  - (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, each valued at the date on which it was received, exceeds the specified limit; and, in either case,
  - (c) that gift or those gifts meet the prejudice test.
- (3) 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—
  - (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 £1,500; or
  - (b) in the case where—
    - (i) the value of the gift, at the date on which it was received, exceeds £500 (but does not exceed £1,500); and
    - (ii) the aggregate value of the gift and any aggregable benefit or benefits, each valued at the date on which it was received, exceeds £1,500; and, in either case,
  - (c) that gift is—
    - (i) offered to the member; or
    - (ii) having been accepted, retained by the member, for use by or the benefit of the member in connection with the member's political activities.
- (4) Sub-paragraph (2) does not apply to 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—
  - (a) the organiser of that conference; or
  - (b) one of the other parties attending that meeting,
 as the case may be.
- (5) Sub-paragraphs (2) and (3) do not apply to—
  - (a) 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
  - (b) a donation (of any kind) which is intended by the donor to be used for the purposes of meeting—
    - (i) 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

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- (ii) the election expenses of the member in relation to any UK parliamentary election at which that member stands as a candidate,  
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.
- (6) Sub-paragraph (3) does not apply to a gift or other benefit which the member has returned (or repaid) or sent to the Electoral Commission in accordance with sections 56 and 57 of the Political Parties, Elections and Referendums Act 2000 (c.41) (as applied by paragraph 8 of Schedule 7 to that Act).
- (7) The reference in sub-paragraph (3)(b)(ii) to a benefit being valued at the date on which it was received is, in the case of a controlled transaction, a reference to its being valued at the date on which it was entered into.
- (8) For the purposes of this paragraph—
  - “aggregable benefit” means any of the following that is accepted by the member from the same person as gave the gift and in the same calendar year as the member accepted it—
    - (a) any other gift of a kind to which sub-paragraph (3)(b)(i) and (c) applies;
    - (b) any remuneration that is registrable by virtue of paragraph 2, and has a value exceeding £500 (but not exceeding £1,500) and consisting of—
      - (i) the payment to the member of any expenses incurred directly or indirectly by the member in connection with any of the member's political activities; or
      - (ii) a benefit in kind deriving from the payment by a person (other than the member) to a third party of expenses attributable to the member in connection with those activities;
    - (c) any controlled transaction (construed in accordance with paragraph 6A) having a value not exceeding £1,500;
    - (d) any overseas political visit (within the meaning given by sub-paragraph (4), as read with sub-paragraph (5), of paragraph 7) having a value exceeding £500 (but not exceeding £1,500);
  - “candidate” has the same meaning as in section 118A, as read with section 90ZA(5) of the Representation of the People Act 1983 (c.2);
  - “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;
  - “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—
    - (a) sub-paragraph (5)(b)(i) 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

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(b) sub-paragraph (5)(b)(ii) as “election expenses” has in section 90ZA of the Representation of the People Act 1983 (c.2);

“political activities”, in relation to a member, means the political activities of the member as such or as a member of a registered political party or both;

“specified limit” means 0.5% of a member's salary (rounded down to the nearest £10) at the beginning of the current parliamentary session.”.

#### Commencement Information

**I2** [S. 3](#) in force 5.5.2016 by s. 16(2) but see [s. 17](#)

## 4 Loans, credit facilities etc.

After paragraph 6 of the schedule, there is inserted—

- 6A (1) Where a member enters into a controlled transaction and—
- (a) the value of the transaction is more than £1,500; or
  - (b) if not, the aggregate value of it and any aggregable benefit or benefits exceeds £1,500.
- (2) Sub-paragraphs (3) to (10) define and provide further about controlled transactions.
- (3) An agreement between the member and another person by which that person lends money to the member is a controlled transaction if the use condition (see sub-paragraph (9)) is satisfied.
- (4) An agreement between the member and another person by which that person provides a credit facility to the member is a controlled transaction if the use condition (see sub-paragraph (9)) is satisfied.
- (5) A credit facility is an agreement whereby a member is enabled to receive from time to time from another party to the agreement a loan of money not exceeding such amount (taking account of any repayments made by the member) as is specified in or determined in accordance with the agreement.
- (6) Where—
- (a) the member and another person enter into a controlled transaction of a kind mentioned in sub-paragraph (3) or (4) or a transaction under which any property, services or facilities are provided for the use or benefit of the member (including the services of any person);
  - (b) the other person also enters into an arrangement where a third person gives any form of security for a sum owed to the other person by the member under a transaction mentioned in paragraph (a); and
  - (c) the use condition (see sub-paragraph (9)) is satisfied,
- the arrangement is a controlled transaction.
- (7) But the agreement or arrangement is not a controlled transaction—

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- (a) to the extent that, in accordance with any enactment, a payment made in pursuance of the agreement or arrangement falls to be included in a return as to election expenses in respect of a candidate or candidates at a particular election;
  - (b) to the extent that it is entered into by the member and a person—
    - (i) in connection with the provision of goods or services to the member; and
    - (ii) in the normal course of that person's trade or business and on its normal terms;
  - (c) if its value does not exceed £500; or
  - (d) despite section 3(1)(b), it was entered into by the person who is the member before the date the member was returned.
- (8) For the purposes of sections 3 and 5 and sub-paragraph (1) of this paragraph, if—
  - (a) the value of a controlled transaction as first entered into is such that it is not registrable; but
  - (b) the terms of the transaction are subsequently varied in such a way that it becomes registrable,the member is to be treated as having entered into a registrable transaction on the date when the variation takes effect.
- (9) The use condition is that the member intends, at the time the member enters into the loan or credit facility agreement or the transaction second mentioned in sub-paragraph (6)(a), to use any money or benefit obtained in consequence of it in connection with the member's political activities (either as a member or as a member of a registered political party or both).
- (10) For the purposes of sub-paragraph (9), it is immaterial that only part of the money or benefit is intended to be used in connection with the member's political activities.
- (11) In sub-paragraph (1)(b), “aggregable benefit” means any of the following that is accepted by the member from the same person, being a party to the controlled transaction, and in the same calendar year as the member accepted the controlled transaction—
  - (a) any other controlled transaction having a value not exceeding £1,500;
  - (b) any remuneration that is registrable by virtue of paragraph 2, and has a value exceeding £500 (but not exceeding £1,500) and consisting of—
    - (i) the payment to the member of expenses incurred directly or indirectly by the member in connection with the member's political activities (as a member or as a member of a registered political party or both); or
    - (ii) a benefit in kind deriving from the payment by a person (other than the member) to a third party of expenses attributable to the member in connection with those activities;
  - (c) any gift to which paragraph 6(3)(b)(i) and (c) applies;