

## **Appendix 9 to Circular LG 2/2015**

### **Local Government Act 2001 (Part 15) Regulations 2015**

**(S.I. No. 29 of 2015)**

These Regulations revoke and replace The Local Government Act 2001 (Part 15) Regulations 2004 (S.I. No. 770 of 2004). They prescribe the classes of local authority employees to whom the provisions of Part 15 of the Local Government Act, 2001 regarding an ethical framework apply. In addition they prescribe the annual declaration form to be furnished by relevant employees and members of local authorities which includes an undertaking to have regard to the relevant Code of Conduct which they declare they have read and understand.



STATUTORY INSTRUMENTS.

**S.I. No. 29 of 2015**

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LOCAL GOVERNMENT ACT 2001 (PART 15) REGULATIONS 2015

S.I. No. 29 of 2015

## LOCAL GOVERNMENT ACT 2001 (PART 15) REGULATIONS 2015

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 4, 167, 171, 174 and 176 of the Local Government Act 2001 (No. 37 of 2001) hereby makes the following Regulations:

**PART 1****Preliminary and General****1. Citation**

These Regulations may be cited as the Local Government Act 2001 (Part 15) Regulations 2015.

**2. Commencement**

These Regulations shall come into operation on 30 January 2015.

**3. Revocation**

The Local Government Act 2001 (Part 15) Regulations 2004 (S.I. No. 770 of 2004) are hereby revoked.

**4. Interpretation**

(1) In these Regulations—

“the Act” means the Local Government Act 2001 (No. 37 of 2001);

"annual declaration" has the meaning given to it by section 171 of the Act;

“Code of Conduct for Councillors” and “Code of Conduct for Employees” mean the Code of Conduct for Councillors and Code of Conduct for Employees respectively, issued by the Minister under section 169 of the Act;

“ethics registrar” has the meaning given to it by section 173(1) of the Act;

“incoming members” has the meaning given to it by section 17 of the Act;

“local authority” has the meaning given to it by section 2 of the Act;

“chief executive” means a chief executive for the purposes of section 144 of the Act;

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 30th January, 2015.*

“Minister” means the Minister for the Environment, Community and Local Government; and

“prescribed form” means the form as prescribed by article 10 of these Regulations.

(2) In these Regulations “relevant employee” means—

- (a) an employee to whom Part 15 of the Act applies by virtue of article 5, and
  - (b) any other employee or other person the holder of a position to whom Part 15 of the Act applies, by virtue of a designation by order of a chief executive pursuant to section 167(1)(c) of the Act.
- (3) (a) In these Regulations any reference to a regulation which is not otherwise identified is a reference to a regulation of these Regulations.
- (b) In these Regulations any reference to a paragraph, subparagraph, clause or subclause which is not otherwise identified is a reference to a paragraph, subparagraph, clause or subclause of the provision in which the reference occurs.

#### **5. Prescribed employees for purposes of Part 15 of the Act**

The following are prescribed employees of a local authority for the purposes of Part 15 of the Act—

- (a) every employee who is the holder of an employment the maximum salary for which is not less than the maximum salary for the time being of a senior executive engineer, and
- (b) every other employee who is assigned duties which relate to the performance of any functions under the Planning and Development Acts 2000 to 2014, and who is the holder of an employment—
  - (i) the maximum salary for which is not less than the maximum salary for the time being of a senior staff officer (grade 6), or
  - (ii) the qualifications for which are wholly or in part professional or technical, and

that Part shall accordingly apply to every employee referred to in paragraphs (a) and (b).

#### **6. Return Period**

- (1) Subject to paragraph (2), the return period for the purposes of Part 15 of the Act shall be the period ending on the last day of February of each year.

- (2) (a) In a local election year the return period for incoming members to a local authority, who were not members of that local authority immediately prior to the local election in question, shall be the period of 6 weeks from the ordinary day of retirement in that year.
- (b) In the case of a person referred to in section 174(3) of the Act, the return period shall be the period of 6 weeks from the date such person becomes a person to whom section 167(1) of the Act applies.
- (c) In these Regulations “local election year” and “ordinary day of retirement” shall be construed in accordance with the Act.

**7. Issue of notice under section 174(1) or 174(2) of the Act**

- (1) Subject to paragraph (2), the time for the purposes of the issue by the ethics registrar of a notice pursuant to section 174(1) or 174(2) of the Act shall be within the first week of January of each year or as soon thereafter in that month as circumstances permit.
- (2) The time for the purposes of the issue by the ethics registrar of a notice pursuant to section 174(1) of the Act in a local election year to incoming members, who were not members of that local authority immediately prior to the local election in question, shall be within 2 weeks of the ordinary day of retirement.
- (3) The ethics registrar shall enclose a copy of the Code of Conduct for Councillors, or as appropriate, a copy of the Code of Conduct for Employees with any notice issued pursuant to section 174(1) or 174(2) of the Act.
- (4) The ethics registrar shall make and maintain a record of any person to whom a notice was issued to pursuant to section 174(1) or 174(2) of the Act.

**8. Prescribed circumstances**

The following are prescribed circumstances for the purposes of section 176(3)(c) of the Act—

- (a) the consideration or performance of functions in relation to remuneration, allowances or other payments to which sections 142, 143 or 158(1) of the Act apply,
- (b) the consideration or performance of functions in relation to service charges or other charges or fees of a local authority and in common with other payees.

**9. Register of interests**

In respect of a relevant employee, the particulars to be included in the register of interests kept by a local authority pursuant to section 172 of the Act shall not include the address of that employee’s home as entered on the

prescribed form by him or her pursuant to the requirements of section 171 of the Act.

10. **Prescribed form for annual declaration**

- (1) The prescribed form for the purposes of the annual declaration shall be the form set out in the Schedule to these Regulations.
- (2) Form A as set out in Part 1 of the Schedule shall be completed by local authority members and Part 2 of that Schedule shall form part of Form A.
- (3) Form B as set out in Part 1 of the Schedule shall be completed by relevant employees and Part 2 of that Schedule shall form part of Form B.

**SCHEDULE****Part 1 Form A — Local Authority Members****Council****Local Government Act 2001 — Part 15 — Annual Declaration**

<b>Name</b>	
<b>Date of election or co-option</b>	
<b>Appropriate period*</b>	

1. I hereby furnish the following particulars of my declarable interests as required by section 171 of the Local Government Act 2001 and which I have set out at paragraphs 1 to 10 of this form. None of the grounds for disqualification referred to in section 13, or 182 of the Local Government Act 2001 or under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999 apply to me and
2. I hereby declare that I have read the Code of Conduct for Councillors and further declare that I understand its meaning, and
3. I hereby undertake to have regard to and be guided by the Code of Conduct for Councillors in the exercise of my functions. (The Code of Conduct for Councillors was issued by the Minister under section 169 of the Local Government Act 2001.)

Signed:\_\_\_\_\_ Dated:\_\_\_\_\_

**\*Appropriate period**

Appropriate period means the period to be covered when giving particulars of declarable interests. For a first declaration this means the period of 12 months leading up to and including the day the annual declaration form is signed by you. In relation to subsequent declarations it is the period between the date of your previous declaration and the date of the next declaration.

**Form B: Relevant Employee****Council****Local Government Act 2001 — Part 15 — Annual Declaration**

<b>Name</b>	
<b>Position Held<sup>†</sup></b>	
<b>Date of Appointment</b>	
<b>Appropriate period<sup>‡</sup></b>	

1. I hereby furnish the following particulars of my declarable interests as required by section 171 of the Local Government Act 2001 and which I have set out at paragraphs 1 to 10 of this form, and
2. I hereby declare that I have read the Code of Conduct for Employees and further declare that I understand its meaning, and
3. I hereby undertake to have regard to and be guided by the Code of Conduct for Employees in the exercise of my functions. (The Code of Conduct for Employees was issued by the Minister under section 169 of the Local Government Act 2001.)

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

<sup>†</sup>Insert staff position (e.g. “SEO”; “SEE”; “chief executive” etc.) as appropriate opposite “Position Held”.

**<sup>‡</sup>Appropriate period**

Appropriate period means the period to be covered when giving particulars of declarable interests. For a first declaration this means the period of 12 months leading up to and including the day the annual declaration form is signed by you. In relation to subsequent declarations it is the period between the date of your previous declaration and the date of the next declaration.



**Part 2****Declarable Interests**

In relation to each of the following declarable interests as specified in section 175 of the Local Government Act 2001, you should provide particulars of any such interests held by you (or your nominee as may be required) during the appropriate period. The amount or monetary value of any declarable interests need not be specified. Notes related to certain declarable interests are at the back of this form.

**1. Profession, occupation, etc. relating to dealing in or developing land**

Any profession, business or occupation in which you are engaged or employed, whether on your own behalf or otherwise, and which relates to dealing in or developing land during the appropriate period.

Description of profession, occupation etc. relating to land	Business Address

**2. Other profession, occupation, etc.**

Any other remunerated trade, profession, employment, vocation, or other occupation held by you during the appropriate period.

Description of profession, occupation, etc.	Business Address

**3. Land (ownership, interest)**

Any estate or interest you have in land<sup>i</sup> in the State (including the case where you or your nominee, is a member of a company<sup>ii</sup> or other body which has an estate or interest in land) during the appropriate period and without prejudice to the foregoing an interest in land shall be deemed to include

- (a) your interest in any contract entered into by you for the purchase or sale of land, whether or not a deposit or part payment has been made under the contract; and
- (b) your interest in any option held by you to purchase or sell land, whether or not any consideration has been paid for it, or land in respect of which such an option has been exercised by you but which has not yet been conveyed to you,

but excluding an interest to which section 167(3) of the Act relates<sup>iii</sup>.

Property Address	Purpose for which used

#### **4. Company business of dealing in land, etc.**

Any business of dealing in or developing land<sup>iv</sup> carried on during the appropriate period by a company or other body of which you, or any nominee of yours, is a member, if not declared elsewhere in this form.

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#### **5. Shares etc.**

Any holding<sup>v</sup> by you of shares in, or bonds or debentures of, or other like investments in, a particular company or other enterprise or undertaking (which does not relate to land or any business of dealing in or developing land) if the aggregate value of the holding exceeded €12,697.38 at any time during the appropriate period.

Name and address of Company where shares etc. are held	Nature of Business of Company etc.

## 6. Directorships

Any directorship or shadow directorship<sup>vi</sup> of any company held by you during the appropriate period other than one held by virtue of membership of or employment by a local authority.

Business Address of Company	Nature of Business

## 7. Gifts, Property and Services

### Gifts

- (1) Any gift, including foreign travel facilities, given to you during the appropriate period, but excluding
  - (a) a gift given to you by a relative or friend of yours or of your spouse, or of your child or of a child of your spouse [spouse includes a person with whom you are co-habiting] for purely personal reasons only;
  - (b) a gift given to you, or gifts given to you by the same person, during the appropriate period, as respects which the value, or the aggregate value, of the property the subject of the gift or gifts did not exceed €634.87 at any time during the appropriate period;

- (c) a donation which you have already declared in a current donation statement under the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

#### Property and Services<sup>vii</sup>

- (2) (a) Any property supplied or lent, or a service supplied to you, once or more than once by the same person, during the appropriate period, for a consideration or considerations, or at a price or prices less than the commercial consideration or considerations, or the commercial price or prices, by more than €634.87 or which in the aggregate exceeded €634.87; or
- (b) any property supplied or lent, or a service supplied to you, once or more than once by the same person, during the appropriate period, free of charge if the commercial consideration or considerations, or the commercial price or prices was, or were more than €634.87 or which in the aggregate exceeded €634.87; but for both (a) and (b) excluding
- (i) property supplied or lent or a service supplied to you by a relative or friend of yours, or of your spouse, where such supply or loan was in the nature of a gift to you and for personal reasons only,
- (ii) a donation which you have already declared in a current donation statement under the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

Description of Gift, Property and/or Service	Name and Address of Benefactor, Supplier and/or Lender

#### **8. Local Authority Contracts**

Any contract to which you were a party, or were in any other way, directly or indirectly interested for the supply of goods or services to a local authority during the appropriate period, if the value of the goods or services supplied during the period exceeded €6,348.69 or, in case other goods or services were supplied under such a contract to a local authority during that period, if the aggregate of their value exceeded €6,348.69.

Name and Address of Contractor	Description of Contract	Local Authority Concerned

### 9. Political or public affairs/lobbyist etc.

Any remunerated position held by you as a political or public affairs lobbyist, consultant or adviser during the appropriate period.

Description of Position	Name and Address of Person / Company / Organisation

### 10. Any Other Additional Interests

Any other interest which you may wish to volunteer.

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### NOTES

#### Appropriate Period

Appropriate period means the period to be covered when giving particulars of declarable interests. For a first declaration this means the period of 12 months leading up to and including the day the annual declaration form is signed by you. In relation to subsequent declarations it is the period between the date of your previous declaration and the date of the next declaration.

#### Non Declaration of Amount(s)

The amount or monetary value of any declarable interest need not be specified. (Section 171(5)) of the Act).

### **Land**

<sup>i</sup> “land” includes all property including buildings, dwellings, etc. All land interests in the State should be declared.

### **Company**

<sup>ii</sup> Where any body which is a company within the meaning of section 155 of the Companies Act, 1963 is deemed under that section to be a subsidiary of another or to be another such company’s holding company, a person who is a member of the first-mentioned such company is deemed also to be a member of the other company for the purposes of annual declaration. (Section 166(3) of the Act).

### **Non-declaration of certain land interests**

<sup>iii</sup> An interest in land or an interest relating to land or any business of dealing in or developing land does not have to be declared where such interest is by reason only of the beneficial ownership of shares in a company or other body by you or by your nominee and the total nominal value of those shares does not exceed the lesser of €12,697.38, or 1/100th part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which you have an interest. Section 167(3) of Act refers.

### **Declarable Interest no. 4**

<sup>iv</sup> See note iii above.

### **Holding (shares etc.)**

<sup>v</sup> "holding" does not include money in a current, deposit or other similar account with a financial institution (see declarable interest no. 5).

### **Shadow Directorship**

<sup>vi</sup> "shadow directorship" means the position held by a person who is a shadow director for the purposes of the Companies Acts, 1963 to 1999. (see declarable interest no. 6).

### **Declarable Interest no. 7**

<sup>vii</sup> Insofar as services at (2) of declarable interest no. 7 relate to legal or medical services, it is only necessary to state that such services were supplied.



GIVEN under my Official Seal,  
28 January 2015.

ALAN KELLY,  
Minister for the Environment, Community and  
Local Government.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation).*

These Regulations revoke and replace The Local Government Act 2001 (Part 15) Regulations 2004 (S.I. No. 770 of 2004). They prescribe the classes of local authority employees to whom the provisions of Part 15 of the Local Government Act 2001 regarding an ethical framework apply. In addition they prescribe the annual declaration form to be furnished by relevant employees and members of local authorities which includes an undertaking to have regard to the relevant Code of Conduct which they declare they have read and understand.



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