**Notes for Councillors on Part 15 of Local Government Act 2001**

**Ethical Framework for the Local Government Service**

These notes have been prepared by the Department for the assistance of elected members of local authorities in relation to Part 15 of the Local Government Act 2001 and in particular relate to the annual declaration system, disclosure of interests at meetings and the Code of Conduct for Councillors.

**Part 1** Summary of main provisions of Part 15

**Part 2** Annual declaration requirements

**Part 3** Disclosure requirements at meetings

**Part 4** Code of Conduct for Councillors

In these notes:

“the Act” means the Local Government Act 2001 (No. 37 of 2001) as amended and references to sections are references to sections of that Act;

“Part 15 Regulations 2015” means the Local Government Act 2001 (Part 15) Regulations 2015 (SI No. 29 of 2015) which replace the Local Government Act 2001 (Part 15) Regulations 2004 (SI No. 770 of 2004).

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**Part 1**

**Local Government Act, 2001 – Part 15**

**Main Provisions for Local Authority Elected Members**

**Section 168**

It is your duty to maintain proper standards of integrity, conduct and concern for the public interest.

**Section 169**

Separate codes of conduct (one for members and one for employees) have been issued by the Minister setting out standards of integrity.

**Section 170**

You are prohibited from seeking, exacting or accepting a fee, reward or favour for anything done or not done by virtue of your office.

**Section 171**

You must furnish an annual declaration of your ‘declarable interests’. The necessary forms\* should issue to all councillors and relevant staff during January for completion and return by end February. ‘Declarable interests’ are set out in section 175 of the Act and listed on the declaration form.

**Section 172**

A public register of declarable interests must be maintained by the authority.

**Section 173/4**

An officer of the local authority will be assigned the duties of Ethics Registrar with responsibility for issue of Annual Declaration Forms etc.

* As prescribed by Local Government Act 2001 (Part 15) Regulations 2015 (S.I. NO 29 of 2015).

**Section 177**

You must disclose a pecuniary (i.e. financial) or other beneficial interest, of which you have “actual knowledge”, that you or a connected person has in a matter which arises at a meeting of the local authority or a meeting of a committee, joint committee or joint body of a local authority; and take no part in the discussion or consideration of the matter. If you have “actual knowledge” that such a matter will arise at a meeting at which you will not be present, you must make a disclosure in writing to the Ethics Registrar in advance of the meeting.

You are prohibited from influencing or seeking to influence a decision of the local authority in respect of any matter in which you have “actual knowledge” that you or a connected person has a pecuniary or other beneficial interest.

**Section 181**

Failure to comply with the requirements of section 171 or 177 of the Act is an offence.

The above or similar requirements also apply to Chief Executives and all other relevant employees.

Queries in relation to Part 15 should be taken up with the local authority.

**Part 2**

**Annual Declaration for Councillors**

1. **Who must prepare and furnish an annual declaration of interests? (Section 167, 171, 175 and Part 15 Regulations 2015)**

If you are a member of a local authority (whether elected or co-opted) you are obliged to prepare and furnish an annual declaration of interests.

1. **What interests must I declare? (Section 175)**

2.1 The interests you must declare in the prescribed annual declaration form are termed ‘declarable interests’ and are set out in section 175 of the Act. These interests cover both financial and certain other interests such as land, etc. These declarable interests are listed on the annual declaration form itself which you must complete and which will be forwarded to you by the Ethics Registrar.

2.2 **Section 175** sets out what is meant by a “declarable interest” to be included in theannual declaration under **section 171** and these interests are summarised below -

* any profession, business or occupation of dealing in or developing land
* any other paid employment or occupation
* any interest in land, within the State, including any contract for sale or purchase of land or any option to do so
* any business of dealing in or developing land by a company or body of which the person or their nominee is a member
* shares or investments over €12,697.38 in any company or enterprise
* a directorship or shadow directorship of any company
* a gift, including foreign travel facilities, but excluding gifts from a relative or friend for personal reasons, or gifts less than €634.87
* property or a service supplied or lent at less than commercial rates or free of charge, where the commercial price/consideration was more than €634.87
* a contract or contracts worth more than €6,348.69 for supply of services or goods to a local authority with which the person was any way concerned, directly or indirectly
* a paid position of political adviser, consultant or lobbyist
* any other interest set out in regulations by the Minister (none to date)
* any other interest which the person wishes to volunteer.

 2.3 The above interests are largely based on those outlined in the Planning and Development Code and on the registerable interests in the Ethics in Public Office Acts.

2.4 **What does the term ‘land’ cover?**

“Land” includes all property including buildings, dwellings, etc. All land interests in the State should be declared. In limited circumstances certain land interests need not be declared[[1]](#footnote-1).

1. **What if I have no interests to declare?**

You must still sign and date the form and return it to the Ethics Registrar. Please enter ‘nil’ on the form, where appropriate.

1. **Do I need to give details of amount or monetary value in the form?**

No. [section 171(5)].

1. **What time period does my declarable interests have to cover?**

The Act and Part 15 Regulations 2015 refer to declarable interests during the ‘appropriate period’. In the case of your first declaration this covers the 12 month period leading up to and including the date you sign the annual declaration form itself. In relation to subsequent declarations you will cover the period between the date you signed the previous declaration and the date you sign the next one.

1. **What does the Ethics Registrar do with the annual declaration?**

The public register is compiled from the annual declarations furnished by members and relevant employees.

1. **When must I furnish the annual declaration form?**

7.1 The ‘return period’ is the period ending on the last day of February. You are therefore obliged to prepare and furnish your annual declaration to the Ethics Registrar no later than the last day of February.

7.2 **When must I furnish the annual declaration form in a local election year?**

If you are elected to a local authority for the first time (i.e. you were not a member of that particular authority immediately prior to election or co-option) then you must return the annual declaration form no later than 6 weeks from the day you came into office. (Regulation 6(2), Part 15 Regulations 2015). If you have been re-elected to the same local authority and therefore have previously completed your form earlier that year, you will not be issued with a new annual declaration form until the following January. It must then be completed and returned by end of February in the normal course. Only councillors who have been re-elected to their ‘own local authority’ are not required to complete the annual declaration form mid-year in a local election year.

1. **What if I become a member of the local authority later in the year?**

If you are co-opted to a local authority during the year, the Ethics Registrar will, as soon as practicable, send you an annual declaration form to complete. You must then return the annual declaration no later than a period of 6 weeks from the date you were co-opted to the local authority. The interests to be declared will cover the 12 month period leading up to and including the date you sign the annual declaration form itself.

1. **What is the statement regarding disqualification on the annual declaration? (section 171(2))**

The Act requires that the annual declaration form to be completed by members includes a statement that none of the grounds for disqualification set out in certain enactments apply to the person concerned. These disqualifications relate mainly to certain court convictions, or result from failure to furnish certain statements under the local electoral code, or apply to holders of certain positions. The relevant statutory provisions are section 13 and section 182 of the Local Government Act 2001 and section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

**Part 3**

**Disclosure of Interests at meetings by Councillors**

1. **Who must disclose beneficial interests at meetings? (Section 177)**

Any member of a local authority or any member of a committee, joint committee or joint body of a local authority is required to disclose pecuniary or other beneficial interests at a meeting of the authority, committee or joint body. This requirement also applies to non-councillor committee members.

1. **What interests do I need to disclose at a meeting? (Section 177)**

You must disclose any “pecuniary or other beneficial interest”, of which you have “actual knowledge”, that you or a connected person has in, or which is material to any matter proposed or otherwise arises at a meeting of the local authority, committee, joint committee or joint body either as a result of any of its functions or as regards the performance of any of its functions. **See prohibition on influencing such matter in** **paragraph 9 below.**

1. **What is a pecuniary or other beneficial interest? (Section 176)**

The Act provides that a “beneficial interest” includes an interest in respect of which -

* 1. you or a connected person, or any nominee of yours or of a connected person, is a member of a company or any other body which has a beneficial interest in, or which is material to, any such matter,

*(*b) you or a connected person is in a partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, any such matter,

*(*c) you or a connected person is a party to any arrangement or agreement (whether or not enforceable) concerning land which relates to any such matter,

*(*d) you or a connected person in the capacity as a trustee or as a beneficiary of a trust has a beneficial interest in, or which is material to, any such matter,

*(*e) you or a connected person is acting with another person to secure or exercise control of a company which has a beneficial interest in, or which is material to any such matter.

You shall also be deemed to have a beneficial interest to be disclosed if you have “actual knowledge” that you or a connected person has a declarable interest in, or which is material to the matter. Declarable interests are set out in section 175 of the Act and on the annual declaration form which you must complete.

1. **What is a connected person? (Section 166)**

Your obligation to disclose interests also relates to interests of which you have “actual knowledge” of, of a “connected person”. A “connected person” means a means a brother, sister, parent or spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the person or a child of the person or of the spouse;. A spouse includes a person with whom you are co-habiting.

1. **What must I do if I, or a connected person, has a ‘pecuniary or other beneficial’ interest? (Section 177)**

You must disclose the nature of your interest or the fact of a connected person’s interest at the meeting before discussion or consideration of the matter begins. You must then withdraw fully from the meeting for so long as that matter is being discussed or considered. The Act provides that you shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

1. **What happens to disclosures made at meetings? (Section 177(3))**

The minutes of the meeting must refer to disclosure(s) made and withdrawal(s) from the meeting. The register of interests will also record disclosures.

1. **When do I not have to disclose an interest at a meeting?**

You do not have to disclose an interest where

* 1. your or a connected person’s interest is so remote or insignificant that it could not reasonably be regarded as influencing a person in considering or discussing, or in voting on, any question with respect to the matter or in performing any function in relation to that matter [section 176(3)(a)].
	2. where your interest or a connected person’s interest is as a result of being a ratepayer or a local authority tenant, service charge payer, local property tax

payer, etc. and in common with other ratepayers/tenants etc. [section 176(3)(b)

and (c) and regulation 8, Part 15 Regulations 2015.]

* 1. in circumstances relating to consideration or performance of functions relating to remuneration, allowances or other payments [regulation 8, Part 15 Regulations 2015).
	2. where your or your nominee or a connected person’s interest in land or an interest relating to land or any business of dealing in or of developing land arises solely through a small shareholding in a company etc. [section 167(3))
1. **If I know that I, or a connected person, has an interest in a matter arising at a future meeting at which I know I will not be present? (Section 177(2))**

You must disclose this interest in writing to the Ethics Registrar in advance of the meeting.

1. **Prohibition on seeking to influence a decision where you or a connected person has a pecuniary or other beneficial interest (Section 177(4))**

Section 177(4) provides as follows: “A member of a local authority or of any committee, joint committee or joint body of a local authority shall neither influence nor seek to influence a decision of the authority in respect of any matter which he or she has “actual knowledge” that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.”

1. **Code of Conduct for Councillors**

Your attention is also drawn to the Code of Conduct for Councillors and in particular the section of the Code concerning conflict of personal and public interest. A councillor is prohibited from influencing or seeking to influence a decision of a local authority in any matter in which, or related to which, the councillor has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest. The Code of Conduct can be viewed online at the link below -

<https://www.gov.ie/en/publication/48675-code-of-conduct-for-councillors/>

1. Section 167(3) of the Act provides that where your interest in land or an interest relating to land or any business of dealing in or developing land is by reason only of the beneficial ownership of shares in a company or other body by you, or 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, the annual declaration requirements do not have effect in relation to that interest or interests. [↑](#footnote-ref-1)