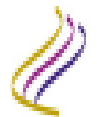


Ethics in Public Office Acts

David Waddell



The Law on Ethics

- Ethics in Public Office Act 1995
- Standards in Public Office Act 2001
- “An Act to provide for disclosure of interests ... [and] to investigate contraventions ...”
- Local Government Act 2001 (Part 15)



Standards in Public Office Commission

- Mr. Justice Matthew P. Smith (Chairman)
- Ms. Emily O'Reilly, Ombudsman
- Mr. John Buckley, Comptroller & Auditor General
- Mr. Kieran Coughlan, Clerk of Dáil Éireann
- Ms. Deirdre Lane, Clerk of Seanad Éireann
- Mr. Michael Smith



Clients

- Ministers and Ministers of State
- Chairman / Deputy Chairman of Dáil and Seanad Éireann
- Special Advisers to Ministers
- Members of Boards of Public Bodies
- Occupiers of Senior Positions in the Public Service



"There shall be deemed to be included in the terms on which a person holds a designated directorship ... a term that the person shall comply ..."

(Ethics in Public Office Act 1995)

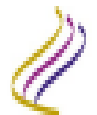


What is a Disclosable Interest?

Any interest

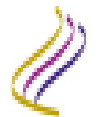
"... which could materially influence the person in, or in relation to, the performance of the functions of the directorship by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, or the spouse or child, a substantial benefit ..."

(Ethics in Public Office Act 1995)



How to deal with a Disclosable Interest

- Annual Statement of Interests (Own/ Spouse/ Child): 1 January to 31 December
- Board Members provide to CEO and to the Standards Commission
- CEO provides to Chairperson
- Other employees provide to CEO



What is a Material Interest?

A person or a connected person has a material interest in a matter if the consequence or effect –

- (a) of the performance by the person of a function of his or her office, directorship, designated position, or position as a special adviser, as the case may be, or
- (b) of any decision made in relation to or in the course or as a result of the performance of such a function by the person,

(contd. next slide)



What is a Material Interest?

concerning that matter may be to confer on or withhold from the person or the connected person a significant benefit or impose on the person a significant loss, liability, penalty, forfeiture, punishment or other disadvantage without also conferring it on, withholding it from or imposing it on persons in general or a class of persons which is of significant size having regard to all the circumstances and of which the person or the connected person is a member.

(Ethics in Public Office Act 1995)



What is a Connected Person?

“Connected person” is defined as:

- A person is connected with an individual if that person is a relative of the individual,
- a person, in his or her capacity as trustee of a trust, is connected with an individual who or any of whose children or as respects whom any body corporate which he or she controls is a beneficiary of the trust,
- a person is connected with any person with whom he or she is in partnership,

(contd. next slide)



What is a Connected Person?

- a company is connected with another person if that person has control of it or if that person and persons connected with that person together have control of it,
- any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(Ethics in Public Office Act 1995)



Where does a Material Interest Exist?

A Material Interest exists:

"... where a function of the directorship, or of any other office or position held by the person in that public body, falls to be performed and the director has actual knowledge that he or she or a connected person has a material interest in a matter to which the function relates ..."

(Ethics in Public Office Act 1995)



How to deal with a Material Interest

- Prepare a statement of the facts
- Designated directors - provide the statement to all other directors
- Occupiers of designated positions – provide the statement to the relevant authority.
- Do not perform the function unless there are compelling reasons



How to deal with a Material Interest

- If the function is performed in these circumstances, a statement of the compelling reasons must be provided to
 - Designated directors – to all other directors and to the Standards Commission
 - Occupiers of designated positions – to the relevant authority



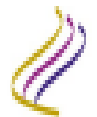
Registrable Interests

- Interest
- Occupation
- Shares or Investments
- Directorships
- Land or Property
- Gifts/Property/Services
- Registration Threshold
- €2,600 +
- €13,000 +
- Any Company or enterprise
- €13,000 +
- €650 +



Registrable Interests

Interest	Registration Threshold
Travel facilities, Living Accommodation, Meals, Entertainment	€650 +
Political or Public Affairs Lobbyist, Consultant, Adviser	Any
Contract for Goods/Services to the Public Service	€6,500+



Prohibition on Disclosure of Information

- Statements are protected by the Ethics in Public Office Act 1995
- Freedom of Information Acts do not apply to Statements



Guidelines & Advice

- Guidelines - published by the Standards Commission.
- Advice is available on any provision of the Ethics Acts.
- Requests for advice may be made by letter, telephone, fax or e-mail.



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