

Explanatory Memorandum to the Well-being of Future Generations (Wales) Act 2015 (Registrable Interests) Regulations 2015

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Well-being of Future Generations (Wales) Act 2015 (Registrable Interests) Regulations 2015.

Carl Sargeant AM
Minister for Natural Resources

29 October 2015

Description

1. The Well-being of Future Generations (Wales) Act 2015 (Registrable Interests) Regulations 2015 make provision about the register of interests required to be created and maintained by the Future Generations Commissioner for Wales (“the Commissioner”) which details all registrable interests of the Commissioner and the Deputy Commissioner.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. None.

Legislative Background

3. Paragraphs 13 to 15 of Schedule 2 to the Well-being of Future Generations (Wales) Act 2015 (“the Act”) make provision regarding the register of interest and conflicts of interest of the Commissioner and the Deputy Commissioner.

4. Paragraph 13 of Schedule 2 to the Act requires the Commissioner to create and maintain a register of his/her and the Deputy Commissioner’s registrable interests.

5. A register of interests must include all of a relevant office holder’s registrable interests. Paragraphs 14 and 15 of Schedule 2 to the Act make related provision about the publication of the register of interests and conflicts of interest.

6. Paragraph 13(2) of Schedule 2 to the Act provides the Welsh Ministers with the power, by regulations, to specify what interests are registrable interests for the purposes of paragraph 13, 14 and 15 of Schedule 2 to the Act. These Regulations are made in exercise of that power and, as specified in section 54(5) of the Act, these regulations are subject to the negative resolution procedure.

Purpose and intended effect of the legislation

Policy Objectives

9. These Regulations are intended to help ensure objectivity and integrity on the part of the Commissioner and Deputy Commissioner in undertaking his/her activities.

10. The general duty of the Commissioner is to promote the sustainable development principle and for that purpose, to monitor and assess the extent to which the Well-being objectives set by public bodies are being met. In doing so, the Commissioner may provide advice or assistance to public bodies and may conduct reviews and make recommendations into the extent that a public body is safeguarding the ability of future generations to meet their needs, by taking account of the long term impact of things that the public body does pursuant to the Well-being duty. Given these powers and duties, it is considered important that any individual tasked with the role of Commissioner or Deputy Commissioner is not perceived to be biased in any way and does not allow private interests to influence the way he or she performs in their professional capacity.

11. The making of these Regulations is therefore entirely consistent with the desire for the Commissioner and his/her Deputy to operate in a transparent, accountable and impartial manner. The Regulations will operate to help ensure that the Commissioner and his/her Deputy observes the highest standards of probity in the management of their affairs. The Nolan principle of honesty, in particular, states that “holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest”.

12. In circumstances where the Commissioner or Deputy Commissioner has a registrable interest which relates to the exercise of a function, the Act will operate to prevent the Commissioner or Deputy Commissioner (as applicable) from exercising that function. Instead the function must be delegated to a member of the Commissioner’s staff.

Effect

13. Part 1 of the Schedule to these Regulations defines terms used in Part 2 of the Regulations, which specifies those interests that are registrable interests for the purposes of paragraph 13, 14 and 15 of Schedule 2 to Act.

15. Regulation 2 introduces the Schedule to the Regulations which specifies the registrable interests of the Commissioner and Deputy Commissioner. Interests (a) to (g) list the circumstances in which a relevant office holder (i.e. the Commissioner or Deputy Commissioner) must register an interest in the circumstances.

16. Details must be registered in respect of any office or employment, paid or unpaid, that is held by the Commissioner or a family member, as defined in the Regulations. Similarly, where a relevant office holder or their partner or child (as defined in the Regulations) holds any interest in land or intellectual property in which the office of the Commissioner (as opposed to the Commissioner as a private person) holds an interest. This provision would apply in a situation where, for example, the Commissioner’s partner owned land rented by the Commissioner’s office, so the person acting as Commissioner would be prevented from exercising any of the Commissioners functions in relation to that land.

18. The other provisions relate to the commercial interests of relevant office holders, their partners and/or children. A relevant office holder will, have to register the names of companies or other bodies in which they hold a beneficial interest in shares. That interest must be registered regardless of whether it is an interest he or she holds alone, or is an interest held with or on behalf of a partner and/or child. In addition to interests in shares, a relevant office holder must register any remunerated directorships held by that relevant office holder in any company (including where the remuneration is paid through another company). Any position where a relevant office holder is a trustee, any office held in a political party, and any remuneration, gift or other benefit in kind received in connection with the exercise of functions under the Act.

Consultation

20. No consultation has taken place since these Regulations have no material effect on the business, public or voluntary sectors.

Regulatory Impact Assessment

21. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a Regulatory Impact Assessment given that there is no material impact on business, charities or voluntary bodies.