

Summary of the Regulatory Regime on Prevention of Conflict of Interest concerning Civil Servants

I. Introduction

The Government is committed to maintaining a high standard of integrity and conduct in the civil service. A fundamental rule underlying civil service integrity and impartiality is the need for civil servants to avoid or declare any real or apparent conflict of interest that may arise or has arisen.

2. A conflict of interest situation arises where the “private interests¹” of a civil servant compete or conflict with the interests of the Government or the civil servant’s official duties. There are circumstances in which a tie of kinship or friendship, or some other association or loyalty which does not give rise to a financial interest, can influence the judgement of a civil servant in discharging his official duties, or may reasonably be perceived as having such an influence. As such, a civil servant’s duty to avoid or declare a conflict of interest goes beyond the disclosure of interests that are definable in pecuniary terms.

II. Avoiding conflict of interest

3. All civil servants must avoid situations which may compromise (or be seen to compromise) their personal judgement or integrity at work or lead to conflict of interest. They must not allow the pursuit of their private interests to interfere with the proper discharge of their official duties.

4. Civil servants should –

- (a) refrain from acquiring any investment or any financial or other interest which may lead to a conflict of interest with their official duties. They should report private investments in accordance with government regulations;
- (b) refrain from taking part in the deliberation, decision-making, investigation or enforcement process in connection with any matter in which they have a private interest. They should not use or

¹ “Private interests” include the financial and other interests of the civil servant himself; his family or other relations; his personal friends; the clubs and associations to which he belongs; any other groups of people with whom he has personal or social ties; or any person to whom he owes a favour or is obligated in any way.

permit the use of their official position in a manner that is intended to coerce or induce another person to provide any benefit to themselves or their relations and friends, etc. Nor should they accord preferential treatment to organisations or persons with whom they have connections;

- (c) avoid putting themselves in a position of obligation to any subordinate, any company/organisation, or any person with whom they have, or are likely to have, dealings in their official capacity. For example, civil servants should not accept any advantage (including free service and favour), excessive entertainment or benefit, and not over-socialising with any person/organization with whom they have official dealings. When exercising discretion in discharging their duties, civil servants should ensure that the decisions are made on the basis of merit and for good reason, free from any improper influence;
- (d) decline to provide assistance, advice or information to relatives, friends etc. in connection with their work so as to avoid giving the recipient an unfair advantage over other people and to maintain a level-playing field in public administration. For example, civil servants should not assist their relatives or friends in bidding for a government contract or obtaining a licence or approval from the Government. All legitimate requests for assistance, advice and information should be referred to the proper subject officer to be dealt with in the normal way;
- (e) refrain from engaging in outside work or any other outside activity which may give rise to any conflict of interest with their official duties. Civil servants are required to apply for approval for undertaking outside work in the circumstances set out in government regulations; and
- (f) report to their supervisor any private interest that may be seen to compromise their reasoned judgement in the performance of their duties.

III. Declaration of conflict of interest situations

5. When a situation involving a conflict of interest cannot be avoided, civil servants should as soon as possible declare to their supervisors all relevant

interests which may or may be seen to conflict with their official duties. A declaration should also be made when they are called upon to take part in the deliberation, decision-making, investigation or enforcement process over matters in which they have a private interest.

6. Having made a declaration, civil servants should in general refrain from taking part in the matters in question unless authorised by their supervisors. If civil servants have doubts concerning the handling of conflict of interest situations, they should consult their supervisor immediately.

IV. Declaration of Investments

7. As a general principle, civil servants are free to make any private investment provided that such investment does not lead to conflict of interest with their official duties. Under no circumstances should civil servants make use of classified or market sensitive information which they may have access to or control of by virtue of their official posts for financial investment or related activities.

8. In addition, civil servants holding designated posts (including all directorate posts) which have access to sensitive information are required to declare their private investments and the occupation of their spouses on a regular basis. The Administration will base on the declarations to assess how likely they may be confronted with conflict of interest situations and take appropriate management or preventive measures. The upper echelons in the Civil Service (e.g. Permanent Secretaries) are required, on appointment and annually thereafter, to register their financial interests for public inspection on request.

V. Managing conflict of interest

9. Supervisors at all levels should watch out for any possibility of their staff being exposed to conflict of interest situations. Where a conflict of interest situation may arise or upon receipt of a declaration of conflict of interest from a staff, the supervisor should examine whether the situation could lead to embarrassment or loss of impartiality of the officer by taking into account the civil servant's duties and the importance of his role in the matter, etc. The supervisor should then decide on the appropriate course of action to be taken such as to relieve the civil servant of his involvement in the task which may give rise to conflict of interest, ask the civil servant to divest himself of his

investments, etc. Any report of conflict of interest and any advice given and/or any action taken should be properly recorded.

10. In addition to the general guidelines which are applicable to all civil servants, individual bureaux and departments may issue specific guidelines on managing conflict of interest having regard to the operational need.

VI. Sanction

11. Failure to avoid or declare a conflict of interest may render a civil servant liable to disciplinary proceedings and, in certain circumstances criminal proceedings including prosecution under the common law for misconduct in public office.

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