



CABINET OFFICE

From the Minister of State

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE

Great George Street

London SW1P 3AL

Telephone 01-233 8610

The Rt Hon John Biffen MP

Lord Privy Seal

68 Whitehall

London SW1

21 February 1984

DB
23/2

John,

UPDATING OF SCHEDULE 1 TO THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Schedule 1 to the above Act lists the offices whose holders are disqualified for membership of the House of Commons. The Schedule was last updated in April 1983. Since then discussions at official level have brought to light a further 19 amendments and another Commons Resolution and an Order in Council under Section 5(1) of the 1975 Act therefore seem desirable to bring the legislation up to date. We should like to be in a position to put a Resolution and amending Order before Parliament early in April, in time for the amendments to appear in the routine reprint of the Act which will be issued before the elections for the European Assembly in June (Officers disqualified under the 1975 Act are also disqualified for the Assembly).

The question of which offices disqualify for membership of the Commons is a matter for the 'sponsor' Minister, but MPO are responsible for the maintenance of the Act and Barney Hayhoe, as spokesman on the Civil Service matters in the Commons, will be seeing the Order through the House. My purpose in writing to you and other colleagues is therefore:

(a) to seek agreement generally to update the Schedule to the Act in the coming Session;

(b) that, subject to any comments from colleagues, we should proceed with the drafting of the necessary Order in Council and Resolution, and may instruct Parliamentary Counsel for that purpose;

(c) to seek confirmation from the Ministers concerned that the amendments proposed by their Departments are necessary and that making these amendments would not affect the position of any sitting MP or MEP and that none of the holders of offices to be brought into the Schedule is a prospective candidate for the European Assembly;

(d) to seek confirmation from other Ministers that they have no amendments, additions or deletions that they wish to see made.

The administrative criteria which are normally applied in deciding whether an office should disqualify are:

(a) Paid offices in the gift of the Crown or Ministers (to prevent 'trivial' disqualifications a de minimis salary level of £4,000 has been adopted).

(b) Certain positions of control in companies in receipt of Government grants and funds to which Ministers usually, though not necessarily, make nominations.

(c) Offices imposing duties which, with regard to time and place, would prevent their holders from fulfilling Parliamentary duties satisfactorily, i.e. they would take up too much time or otherwise prevent an MP from attending Parliament.

(d) Offices whose holders are required to be, or to be seen to be, politically impartial.

We also undertook during the February 1982 debate to ensure that in future each proposed amendment is supported by an explanatory note on the origin and effect of the amendment so that the House knows what it is voting on. The material I am now circulating includes draft explanatory notes for each amendment, I should be grateful for any comments that sponsor Ministers may have.

You will remember that I also undertook to publish a factual paper on the review of disqualification carried out in 1982. I suggest that it would be appropriate to publish this paper at the same time as the Resolution and explanatory note are laid before the House, when it will provide additional background information. Inevitably, whenever we publish, this paper will create an interest in and pressure for wider reform of disqualification.

I am copying this letter to all members of Cabinet.

*Y
Lons,
t/ny*

PROOF COPY

PART II - BODIES OF WHICH ALL MEMBERS ARE DISQUALIFIED

Entries to be deleted

1. Entry to be deleted: A Value Added Tax Tribunal

An entry referring only to the President, Vice President and full-time Chairmen of a VAT Tribunal, is proposed for addition to Part III (See No 6). It is suggested that part-time Chairmen and members could be released from disqualification as the time spent sitting on Tribunals is not such that it would prevent them from also serving as Members of Parliament. They are paid between £63 - £109 per day but do not in practice receive more than £500 pa.

7 part-time Chairmen and 118 part-time members will be released from disqualification.

Sponsored by HM Customs and Excise.

PROOF COPY

PART III - OTHER DISQUALIFYING OFFICES

Additional entries

2. New entry: Advocate Depute (not being the Solicitor General for Scotland) appointed by the Lord Advocate

The office-holders are Senior or Junior Counsel appointed from the Scottish Bar by the Lord Advocate and are paid £18,100 pa. They hold a Commission from the Lord Advocate to prosecute on his behalf in criminal cases in the High Court of Justiciary and in important cases in the Sheriff Courts.

Over the years the work of Advocates Depute has considerably increased and office-holders would be unable to carry out the duties of a Member of Parliament. There is also the need for the office-holders to be seen to be politically impartial.

There are currently 12 office-holders who will come into the Schedule. They are not appointed ad hoc in relation to any case, but remain Advocates Depute until such time as they resign or are removed from office, cases being assigned to them on an administrative basis.

Sponsored by the Lord Advocates' Departments.

3. New entry: Chairman or Chief Executive of the Simplification of International Trade Procedures Board

The Chairman is appointed by a Minister and is paid expenses only. He appoints the Chief Executive who is paid £26,000 pa.

The body was set up by administrative action in 1970 and is funded from the British Overseas Trade Board's grant-in-aid.

The proposed new entry will bring two office-holders into the Schedule.

Sponsored by the Department of Trade and Industry.

4. New entry: Chairman of any of the Post Office Users' Councils established under section 14 of the Post Office Act 1969

The existing entry which disqualifys Chairman of the Post Office Users' National Council is suggested for deletion from the Schedule (see No 9). This proposed new entry includes the Chairman of the National Council and, for the first time, Chairmen of the Country Councils for Scotland, Wales and Monmouthshire, and Northern Ireland.

The office-holders are appointed by a Minister and are paid £33 per day. They should be seen to be politically impartial.

The proposed new entry will bring 3 office-holders into the Schedule.

Sponsored by the Department of Trade and Industry.

PROOF COPY

5. New entry: **Controller of Audit appointed under Section 97(4) of the Local Government (Scotland) Act 1973**

The **Commission for Local Authority Accounts in Scotland** appoints the office-holder after consultation with, and subject to the approval of, the Secretary of State. All members of the Commission are themselves disqualified under Part II of Schedule I.

The office-holder needs to be seen to be politically impartial. He is paid £25-£30,000 pa by the Commission which is itself supported by a levy on local authorities (93 per cent) and grant in aid from central government (7 per cent), principally the Scottish Office.

The office was established in 1973 but the need to disqualify has only recently been recognised.

Sponsored by the Scottish Office.

6. New entry: **President, Vice President and full-time Chairman of a Value Added Tax Tribunal**

The existing entry referring to all members of the body is suggested for deletion from Part II of the Schedule. This proposed new entry does not include part-time Chairmen and members as it is thought that the time they spend sitting on Tribunals is not such that it would prevent them from also serving as Members of Parliament (see No 1).

The office-holders covered by the proposed new entry are appointed by the Lord Chancellor and are paid between £24,000 - £30,000 pa.

Sponsored by HM Customs and Excise.

7. New entry: **Director of Britoil plc nominated by a Minister of the Crown or Government Department**

The Government Directors of Britoil plc are appointed by the Treasury under the company's Articles of Association. They are paid by Britoil (in the same way as the company's other non-executive directors). There is a need for them to be seen to be politically impartial.

The proposed new entry will bring two office-holders into the Schedule.

Sponsored by the Treasury.

PROOF COPY

PROOF COPY

Entries to be deleted

8. Entry to be deleted: **Chairman of any of the National Boards constituted under the Nurses, Midwives and Health Visitors Act 1979, if appointed by the Secretary of State under Section 5(8)(a) of that Act.**

From September 1983 the office-holders are not appointed by a Minister. This follows the Nurses, Midwives and Health Visitors Act 1979 (Membership of National Boards) Order 1982 (SI 1982/962).

4 office-holders are removed from Schedule 1.

Sponsored by the Department of Health and Social Security, Welsh Office, Scottish Home and Health Department and Department of Health and Social Services for Northern Ireland.

9. Entry to be deleted: **Chairman of the Post Office Users' National Council**

The proposed deletion is to make way for the addition of a new generic entry which will also include Chairmen of Country Councils for Scotland, Wales and Monmouthshire and Northern Ireland (See No 4).

Sponsored by the Department of Trade and Industry.

10. Entry to be deleted: **Director of the Scottish Agricultural Securities Corporation plc nominated by a Minister of the Crown or government department**

The Government's right to nominate a Director of the Company lapsed in February 1983 upon the completion of debt repayment. The last Director nominated by the Government resigned his post during 1983.

Sponsored by the Department of Agriculture and Fisheries for Scotland.

11. Entry to be deleted: **Distributor of Stamps appointed by the Commissioners of Inland Revenue for the Stock Exchange at Glasgow**

The business conducted by the office-holder on behalf of the Inland Revenue is now minimal. Moreover, the business is delegated and he does not personally benefit from the very small commission paid by the department.

The proposed deletion will remove one office-holder from the Schedule.

Sponsored by the Inland Revenue.

PROOF COPY

12. Amend the entry: **Chairman of the Distinction and Meritorious Service Committee for Northern Ireland**
- to read: **Chairman of the Distinction and Meritorious Service Awards Committee for Northern Ireland**

The body's title was incorrectly shown when the 1983 amending Order was made.

Ministers are involved in the appointment of the office-holder who is paid.

Sponsored by the Department of Health and Social Services for Northern Ireland.

13. Amend the entry: **Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1972**
- to read: **Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1978**

The earlier legislation has been superceded by the 1978 Act.

There are 15 Chairmen who are appointed by the Secretary of State for Scotland and receive an honorarium of between £2530-£9628 pa.

Sponsored by the Scottish Home and Health Department.

14. Amend the entry: **Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service**
- to read: **Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service constituted under the National Health Service (Scotland) Act 1978**

The Chairman is appointed by the Secretary of State and is paid £5225 pa. Reference to the legislation in the entry is proposed for additional clarity and to conform with other similar entries.

Sponsored by the Scottish Home and Health Department.

15. Amend the entry: **Director of ICL Public Limited Company nominated or appointed by a Minister of the Crown or government department**
- to read: **Director of ICL Public Limited Company nominated by a Minister of the Crown or government department**

Since 1981 the Department of Trade and Industry has not had the right to appoint a director though it retains the right to be consulted about appointments and to nominate candidates for consideration. At present there is no Departmental nominee on the Board.

Sponsored by the Department of Trade and Industry.

PROOF COPY

16. Amend the entry: Member of an Agricultural Marketing Board appointed under Section 3 of the Agricultural Marketing Act (Northern Ireland) 1964

to read: Member of an Agricultural Marketing Board appointed under Section 3 of the Agricultural Marketing Act (Northern Ireland) 1964 or Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982

The office-holders are appointed by a Minister and are paid from producers funds. They should be seen to be politically impartial.

The amendment is necessary because the 1964 Act, which will eventually be replaced entirely by the 1982 Order, still applies to two of the Marketing Boards. Both the 1964 Act and the 1982 Order will continue to apply until certain transitional steps are completed.

There are no additional office-holders brought into Schedule I.

Sponsored by the Department of Agriculture for Northern Ireland.

17. Entry to be deleted: Registration Officer appointed under Section 6(3) of the Representation of the People Act 1949

18. Amend the entry: Registration Officer appointed under Section 8(2) of the Representation of the People Act 1983

to read: Registration Officer appointed under Section 8(2) or (3) of the Representation of the People Act 1983

The entry to be deleted covers Registration Officers in Scotland. The 1949 legislation has now been repealed and the office-holders are appointed under the 1983 Act only. The single proposed entry covers Registration Officers in England, Wales and Scotland.

The office-holders are engaged in the electoral process and should be seen to be politically impartial.

There are no additional office-holders brought into the Schedule.

Sponsored by the Home Office and Scottish Home and Health Department.

PROOF COPY

PROOF COPY

PART IV - OFFICES DISQUALIFYING FOR PARTICULAR CONSTITUANCES

19. Amend the entry: Her Majesty's Commissioner of Lieutenancy in the City of London The Cities of London and Westminster
- to read: Her Majesty's Commissioner of Lieutenancy in the City of London The City of London and Westminster South

The constituency which includes the City of London has been renamed.

Sponsored by the Home Office.

PROOF COPY



25 JAN 1984