



PUBLIC PETITION NO.

PE01458

Name of petitioner

Peter Cherbi

Petition title

Register of Interests for members of Scotlands judiciary

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to create a Register of Pecuniary Interests of Judges Bill (as is currently being considered in New Zealand's Parliament) or amend present legislation to require all members of the Judiciary in Scotland to submit their interests & hospitality received to a publicly available Register of Interests.

Action taken to resolve issues of concern before submitting the petition

I asked that a register of judicial interests be created. All parties - the Judiciary of Scotland & Scottish Government refused to do so, saying there are no plans to create one.

The Scottish Court Service & Judiciary of Scotland were asked for details of a register of interests for members of the judiciary in Scotland.

Both have indicated there is no such register of interests for members of the judiciary in Scotland, none has existed and there are no plans to create one. Similarly there is no such register of hospitality for members of the judiciary.

Therefore this petition calls on the Scottish Government to bring about a register of interests for all members of the judiciary in Scotland.

Petition background information

The Parliament of New Zealand is currently debating legislation to create a register of interests for the judiciary. I believe it is time for Scotland to move in the same direction and create a similar register of interests for the judiciary of Scotland and all its members, increasing the transparency of the judiciary and ensuring public confidence in their actions & decisions.

The full details of the New Zealand Register of Pecuniary Interests of Judges Bill, which I believe should be looked at for a model of similar legislation in Scotland, can be viewed online here

<http://www.legislation.govt.nz/bill/member/2010/0240/latest/DLM3355002.html> . Dr Graham's bill states :

It is a time-honoured principle of Western democracy that public servants of every kind

must be beyond reproach, and suspicion thereof. Public confidence in the standard of behaviour and conduct observed by leading servants of the people is a cornerstone of social harmony and political stability. A threshold of confidence to that end should ideally be enshrined in constitutional and legislative form. Little scope should be available for individual discretion or subjective perception.

The principle of transparency in this respect pertains in particular to issues of financial (pecuniary) interest. Nothing undermines public confidence in a nation's institutions and procedures more than suspicion that a public servant may have, and especially proof that one has, suffered a conflict of interest arising from a pecuniary interest in a particular dealing in which he or she was professionally involved.

The correct balance in this respect appears to have been achieved over the years—the public interest in such annual statements is significant without appearing prurient, and few complaints have been voiced by those on whom the obligations are placed. There seems to be a general acceptance that such exercises are in the public interest and are neither unduly onerous nor revealing.

No such practice, however, has been observed in the case of the judiciary. Recent developments within New Zealand's judicial conduct processes suggest that application of the same practice observed by the other two branches of government might assist in the protection of the judiciary in future.

Being obliged under law to declare pecuniary interests that might be relevant to the conduct of a future case in which one is involved would relieve a judge from a repetitive weight of responsibility to make discretionary judgements about his or her personal affairs as each case arises. Having declared one's pecuniary interests once, in a generic manner independent of any particular trial, a judge may freely proceed in the knowledge that, if he or she is appointed to adjudicate, public confidence for participation has already been met. Yet care is to be exercised to ensure that the final decision is left to the individual judge whether to accept a case. There should be no intention of external interference into the self-regulation of the judiciary by the judiciary.

This is the reasoning behind this draft legislation—the Register of Pecuniary Interests of Judges Bill. The purpose of the Bill, as stated, is to promote the due administration of justice by requiring judges to make returns of pecuniary interests to provide greater transparency within the judicial system, and to avoid any conflict of interest in the judicial role.

I believe the same aims of the New Zealand legislation as quoted above, are compatible with the public interest in Scotland and to promote the due administration of justice by providing the public with greater transparency within the judicial system,

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/registerofjudicialinterests>

Related information for petition

<http://www.legislation.govt.nz/bill/member/2010/0240/latest/DLM3355002.html> **Register of Pecuniary Interests of Judges Bill** is an example of similar legislation for a register of judicial interests in New Zealand, brought to the New Zealand Parliament by Dr Kennedy Graham. When asked whether a register of interests existed for Scottish judges, the Judicial Office for Scotland said “The Judicial Office for Scotland does not hold a register of hospitality for members of the judiciary and there are no plans to do so. The Lord President has set out formal guidelines to the judiciary in the <http://www.scotland-judiciary.org.uk/21/0/Principles-of-Judicial-Ethics> **STATEMENT OF PRINCIPLES OF JUDICIAL ETHICS**. Para 4.9 and 7.2 address this particular point.”

However in an age of transparency where the decisions of Scottish judges affect all our

lives, whether the case be criminal or civil, there must be a requirement for all public servants particularly those in positions of such importance as the judiciary to submit their interests to a publicly available register of interests.

In New Zealand, it's Law Commission has argued for a wider remit to include all officials whose positions given them potential to influence a case to be included in such a register of interests, the Law Commission stated : "If there is to be legislation, should it apply to all judges, or only to judges of some levels, or to all judicial employees and officials such as prosecutors and registrars? An argument can be made that if there is to be financial disclosure it should be required of all officials whose positions give them sufficient potential to influence the outcome of a case, whether as a result of a bribe or other improper influence." The New Zealand Law Commission's discussion paper on a register of judicial interests can be downloaded

here : <http://www.lawcom.govt.nz/sites/default/files/publications/2011/03/lc2919-towards-a-new-courts-act-first-issues-paper-150.pdf> NZLC IP21 - Towards a New Courts Act: A Register of Judges' pecuniary interests? (pdf)

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

0

Closing date for collecting signatures online

07 / 12 / 2012

Comments to stimulate online discussion

As in many other walks of life where public servants are required to disclose their interests, financial or otherwise, members of the judiciary who are highly paid and enjoy positions of key importance within the country where their decisions have a significant impact on public life, should also be required to disclose all interests in a regularly updated published register of interests available for public inspection at all times.