Ethical Standards in Public Life etc. (Scotland) Act 2000

2000 asp 7

PART 2

ENFORCEMENT

21 Interim reports on investigations and action thereon

(1) The **[**[F1]Commissioner**]** may, and, if so directed by the Commission, shall, submit an interim report on an investigation being conducted by **[**[F2]the Commissioner**]**.

(2) On receiving an interim report, the Commission, if it is satisfied—

(a) that the further conduct of the investigation is likely to be prejudiced if the sanction mentioned in subsection (3) below is not imposed; or

(b) that otherwise it would be in the public interest to impose that sanction,

then it may impose that sanction.

(3) That sanction is suspending the councillor or member of the devolved public body whose alleged contravention of the councillors' code or, as the case may be, the members' code was the subject of the interim report from the entitlement set out in section 19(1)(c) above for a period not exceeding three months.

(4) The Commission shall not require to hold a hearing before proceeding to impose that sanction, but shall give the councillor or member an opportunity to make representations on the alleged contravention of the councillors' code or, as the case may be, the members' code and on the interim report.

(5) The Commission shall put its decision under this section in writing and shall give a copy to—

(a) the councillor or member;

(b) the council or devolved public body of which that person is a member; and

(c) any other person seeking a copy of the decision who has paid the Commission's reasonable charges for providing such a copy.

(6) A period of suspension imposed under this section ends upon—

(a) the issue of findings under section 18 above that the councillor or member has not contravened the councillors' code or, as the case may be, the members' code;

(b) the imposition of a sanction under section 19 above; or, as the case may be,

(c) a decision by the Commission under section 16(c) above not to hold a hearing.

(7) A period of suspension imposed upon a councillor under this section which would continue until or after the day of the next following ordinary election of councillors ends at the beginning of that day.

(8) If, however, the councillor is re-elected at that election, the Commission may re-impose the suspension.

(9) The period for which suspension may be re-imposed under subsection (8) above is that for which it would have continued to apply but for subsection (7) above.

(10) On the expiry (otherwise than by operation of subsection (6) or (7) above) of a period of suspension, it may be renewed by the Commission for a period not exceeding three months and a renewed period may likewise be further renewed.

(11) Where, but for suspension under this section—

(a) a councillor would be entitled to receive basic allowance and special responsibility allowance from the council; or

(b) a member of a devolved public body would be entitled to receive a salary or daily or other periodic allowance or other payment having the character of remuneration or an honorarium from the devolved public body,

the suspension under this section shall not affect that entitlement; but nothing in this subsection authorises the payment or reimbursement of travelling, subsistence or other allowances or expenses.

(12) In subsection (11) above "basic allowance" and "special responsibility allowance" are the respective allowances referred to in section 18(1)(a) and (c) of the Local Government and Housing Act 1989 (c.42).

Textual Amendments

F1 Words in s. 21(1) substituted (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), ss. 2(5), 31(5), **sch. 1 para. 2** (with s. 31(6), sch. 7)

F2 Words in s. 21(1) substituted (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), ss. 2(5), 31(5), **sch. 1 para. 4** (with s. 31(6), sch. 7)

Changes to legislation:
There are currently no known outstanding effects for the Ethical Standards in Public Life etc. (Scotland) Act 2000, Section 21.