

SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002

EXPLANATORY NOTES

BACKGROUND

3. The Act provides the means of fulfilling the duty imposed on the Parliament by section 91(1) of the Scotland Act 1998 to make provision for the investigation of maladministration complaints against members of the Scottish Executive in the exercise of functions conferred on the Scottish Ministers and against other office-holders in the Scottish Administration. Section 91(4) requires the Parliament to have regard (among other things) to the Parliamentary Commissioner Act 1967 when making such provision, and the Executive did so when drafting the Bill that preceded the Act. The Act also contains provisions in pursuance of the power conferred by section 91(3) and goes beyond section 91 in certain respects, e.g. in covering certain health service providers and complaints concerning registered social landlords, in allowing persons liable to investigation to request the Ombudsman to investigate their actions where there has been no complaint to the Ombudsman and in extending the remit of the Ombudsman to cover service failures of non-health service bodies as well as those of the health service bodies.
4. As a consequence of devolution, the [Scotland Act 1998 \(Transitory and Transitional Provisions\) \(Complaints of Maladministration\) Order 1999 \(S.I. 1999/1351\)](#) (referred to in these Notes as the “Transitional Maladministration Order”) put in place temporary arrangements for investigation of complaints by members of the public that they have suffered injustice because of maladministration. The Order established a Scottish Parliamentary Commissioner for Administration to investigate complaints concerning many of the bodies mentioned in paragraph 3 above. The arrangements put in place by the Order will remain in force pending the coming into force of the provisions of the Act.