

# **SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 17 – Protection from actions of defamation***

95. Subsection (1) at paragraph (a) provides the Commissioner with absolute privilege for all reports, statements and communications on a complaint whether with the complainer, a witness or the member of the Parliament complained about. The provision of absolute privilege effectively places a bar on a person's right to pursue an action of defamation in respect of statements made by the Commissioner. This allows the Commissioner to carry out investigations without being fettered in relation to the repetition of any defamatory material received.
96. Paragraph (b) of subsection (1) provides individuals who make complaints or members or witnesses who respond to complaints with qualified privilege. Under qualified privilege individuals can make complaints and can assist in the investigation of complaints without fear of an action for defamation provided statements are not motivated by malice or intent to injure. "Statement" has the same meaning as in the Defamation Act 1996 and therefore includes words, pictures, visual images, gestures or any other method of signifying meaning.