



# Scottish Parliamentary Standards Commissioner Act 2002

2002 asp 16

*The Scottish Parliamentary Standards Commissioner*

## **3 Functions of the Commissioner**

- (1) Subject to the provisions of this Act, where a complaint has been made to the Commissioner about the conduct of a member of the Parliament, it shall be the function of the Commissioner to—
  - (a) investigate whether the member has committed the conduct complained about and has, as a result of that conduct, breached a relevant provision; and
  - (b) report upon the outcome of that investigation to the Parliament.
- (2) However, subject to section 12, the Commissioner shall not investigate any complaint which falls within a class of complaint which is excluded from the jurisdiction of the Commissioner by any provision in the standing orders or in the Code of Conduct; and any such complaint is referred to in this Act as an “excluded complaint”.
- (3) A “relevant provision” is any provision in force at the relevant time—
  - (a) in the standing orders;
  - (b) in the Code of Conduct;
  - (c) in the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 (S.I.1999/1350); or
  - (d) made by or under an Act of the Scottish Parliament in pursuance of section 39 (members' interests) of the Scotland Act.
- (4) The “relevant time” is the time when the conduct in question is alleged to have taken place, whether before or after this section comes into force.
- (5) The Commissioner may give advice to a member of the Parliament or to a member of the public about the procedures for making a complaint to the Commissioner and the procedures following upon the making of such a complaint.
- (6) However, the Commissioner shall not—
  - (a) give advice to a member of the Parliament or to a member of the public as to whether any conduct which has been, or is proposed to be, committed by a

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*Status: This is the original version (as it was originally enacted).*

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- member of the Parliament (whether or not the member seeking such advice) would constitute a breach of a relevant provision; or
- (b) otherwise express any view upon any of the relevant provisions except in the context of an investigation in any particular case or in a report upon the outcome of that investigation or in such other circumstances as may be specified in any direction given to the Commissioner by the Parliament.
- (7) In addition to the functions mentioned in subsections (1) and (5), the Commissioner also has the functions which are conferred or imposed upon the Commissioner by virtue of any other provision in this Act or in any other enactment or in the standing orders.