

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Public Services Reform (Scotland) Act 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 11

(introduced by section 44(4))

### SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND: ESTABLISHMENT ETC.

#### *Status*

- 1 (1) Social Care and Social Work Improvement Scotland is a body corporate.
- (2) SCSWIS is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.
- (3) SCSWIS's property is not to be regarded as property of, or held on behalf of, the Crown.

#### **Commencement Information**

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|-----------|--|
| <b>I1</b> | Sch. 11 para. 1 in force at 1.8.2010 for specified purposes by <a href="#">S.S.I. 2010/221, art. 3(2)(3)</a> , <a href="#">Sch.</a>      |
| <b>I2</b> | Sch. 11 para. 1 in force at 1.10.2010 for specified purposes by <a href="#">S.S.I. 2010/321, art. 3</a> , <a href="#">Sch.</a>           |
| <b>I3</b> | Sch. 11 para. 1 in force at 1.4.2011 in so far as not already in force by <a href="#">S.S.I. 2011/122, art. 2</a> , <a href="#">Sch.</a> |

#### *Membership of SCSWIS*

- 2 (1) SCSWIS is to consist of the following members—
  - (a) a person appointed by the Scottish Ministers to chair SCSWIS,
  - (b) the person appointed under paragraph 2(1)(a) of Schedule 5A to the National Health Service (Scotland) Act 1978 (c. 29) to chair Healthcare Improvement Scotland,
  - (c) the person appointed under paragraph 2 of schedule 2 to the Regulation of Care (Scotland) Act 2001 (asp 8) as convener of the Scottish Social Services Council, and
  - (d) no fewer than 9 nor more than 12 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may by order amend sub-paragraph (1)(d) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.

#### **Commencement Information**

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| <b>I4</b> | Sch. 11 para. 2 in force at 1.8.2010 for specified purposes by <a href="#">S.S.I. 2010/221, art. 3(2)(3)</a> , <a href="#">Sch.</a>      |
| <b>I5</b> | Sch. 11 para. 2 in force at 1.10.2010 for specified purposes by <a href="#">S.S.I. 2010/321, art. 3</a> , <a href="#">Sch.</a>           |
| <b>I6</b> | Sch. 11 para. 2 in force at 1.4.2011 in so far as not already in force by <a href="#">S.S.I. 2011/122, art. 2</a> , <a href="#">Sch.</a> |

- 3 (1) In appointing members, the Scottish Ministers are to have regard to the desirability of including—
  - (a) persons who have experience of, and have shown capacity and capability in, the provision of any social service,
  - (b) persons who—
    - (i) use, or have used, any social service or services which prospectively are to become social services,

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- (ii) care for, or have cared for, such persons as are mentioned in sub-paragraph (i),
  - (c) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of SCSWIS's functions.
- (2) In appointing members under paragraph 2(1)(d), the Scottish Ministers must appoint at least two persons—
- (a) one of whom falls within sub-paragraph (i), and one of whom falls within sub-paragraph (ii), of sub-paragraph (1)(b) of this paragraph, or
  - (b) both of whom fall within either sub-paragraph (i), or sub-paragraph (ii), of sub-paragraph (1)(b) of this paragraph.

**Commencement Information**

- I7** Sch. 11 para. 3 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#)
- I8** Sch. 11 para. 3 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)
- I9** Sch. 11 para. 3 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

*Terms of appointment etc.*

- 4 (1) Each member of SCSWIS is to be appointed for such period as the Scottish Ministers think fit.
- (2) A member—
- (a) holds and vacates office in accordance with the terms and conditions of appointment, but
  - (b) may, by written notice to the Scottish Ministers, resign office as a member.
- (3) A person is, on ceasing to be a member, eligible for reappointment.

**Commencement Information**

- I10** Sch. 11 para. 4 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#)
- I11** Sch. 11 para. 4 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)
- I12** Sch. 11 para. 4 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

*Removal of members*

- 5 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—
- (a) the member—
    - (i) has been adjudged bankrupt,
    - (ii) has granted a trust deed for creditors or a composition contract,
    - (iii) has proposed a voluntary arrangement which has been approved,
  - (b) the member's estate has been sequestrated,
  - (c) the member has been absent from 3 consecutive meetings of SCSWIS without the permission of SCSWIS,
  - (d) the member is otherwise unfit or unable to discharge the functions of a member.

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- I13** Sch. 11 para. 5 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)  
**I14** Sch. 11 para. 5 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I15** Sch. 11 para. 5 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

#### *Disqualification from membership*

- 6 A person is disqualified from appointment, and from holding office, as a member of SCSWIS if that person is—
- (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a member of the European Parliament.

#### Commencement Information

- I16** Sch. 11 para. 6 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)  
**I17** Sch. 11 para. 6 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I18** Sch. 11 para. 6 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

#### *Remuneration and allowances for members*

- 7 SCSWIS must pay to each of its members such—
- (a) remuneration, and
  - (b) allowances and expenses,
- as the Scottish Ministers may determine.

#### Commencement Information

- I19** Sch. 11 para. 7 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)  
**I20** Sch. 11 para. 7 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I21** Sch. 11 para. 7 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

#### *Chief executive and other employees*

- 8
- (1) SCSWIS is to employ a chief executive.
  - (2) The chief executive may not be a member of SCSWIS.
  - (3) The Scottish Ministers are to make the first appointment of the chief executive on such terms and conditions as the Scottish Ministers may determine.
  - (4) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by SCSWIS on such terms and conditions as SCSWIS may, with such approval, determine.
  - (5) SCSWIS may (subject to any directions given under sub-paragraph (6)) appoint such other employees on such terms and conditions as SCSWIS may determine.
  - (6) The Scottish Ministers may give directions to SCSWIS as regards—

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- (a) the appointment of employees under sub-paragraph (5), and
  - (b) the terms and conditions of their employment.
- (7) SCSWIS may, with the approval of the Scottish Ministers—
- (a) pay or make arrangements for the payment,
  - (b) make payments or contributions towards the provision,
  - (c) provide and maintain schemes (whether contributory or not) for the payment, of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of SCSWIS, as it may determine.
- (8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

**Commencement Information**

- I22** Sch. 11 para. 8 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)
- I23** Sch. 11 para. 8 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
- I24** Sch. 11 para. 8 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

*Committees*

- 9
- (1) SCSWIS may establish committees for any purpose relating to its functions.
  - (2) SCSWIS is to determine the composition of its committees.
  - (3) SCSWIS may appoint persons who are not members of SCSWIS to be members of a committee; but such persons are not entitled to vote at meetings of the committee.
  - (4) A committee of SCSWIS is to comply with any directions given to it by SCSWIS.

**Commencement Information**

- I25** Sch. 11 para. 9 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)
- I26** Sch. 11 para. 9 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)
- I27** Sch. 11 para. 9 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

*Procedure and meetings*

- 10
- (1) SCSWIS may determine its own procedure and that of its committees, including a quorum for meetings.
  - (2) The validity of any proceedings of SCSWIS, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.
  - (3) Members of—
    - (a) the Scottish Executive and persons authorised by the Scottish Ministers,
    - (b) Healthcare Improvement Scotland and persons authorised by it,
    - (c) the Scottish Social Services Council and persons authorised by it,
 may attend and take part in meetings of SCSWIS or any of its committees, but are not entitled to vote at such meetings.

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- I28** Sch. 11 para. 10 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#)  
**I29** Sch. 11 para. 10 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)  
**I30** Sch. 11 para. 10 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

#### General powers

- 11 (1) SCSWIS may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.
- (2) In particular, SCSWIS may—
- (a) enter into contracts,
  - (b) with the consent of the Scottish Ministers—
    - (i) borrow money,
    - (ii) acquire and dispose of land,
    - (iii) borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

#### Commencement Information

- I31** Sch. 11 para. 11 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#)  
**I32** Sch. 11 para. 11 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)  
**I33** Sch. 11 para. 11 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

#### Delegation of functions

- 12 (1) SCSWIS may, subject to sub-paragraphs (2) and (3), authorise—
- (a) the chief executive,
  - (b) any other employee,
  - (c) any of its committees,
- to exercise such of its functions, and to such extent, as it may determine.
- (2) SCSWIS may not authorise any of the following functions to be exercised by any other person—
- (a) the approval of annual reports and accounts,
  - (b) the approval of any budget or other financial plan.
- (3) Sub-paragraph (1) does not affect the responsibility of SCSWIS for the exercise of its functions.

#### Commencement Information

- I34** Sch. 11 para. 12 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221](#), art. 3(2)(3), [Sch.](#)  
**I35** Sch. 11 para. 12 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, [Sch.](#)  
**I36** Sch. 11 para. 12 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, [Sch.](#)

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### *Location of office*

- 13 SCSWIS's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

#### **Commencement Information**

- I37** Sch. 11 para. 13 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)  
**I38** Sch. 11 para. 13 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I39** Sch. 11 para. 13 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

### *Accounts*

- 14 (1) SCSWIS must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Scottish Ministers,
- and must do so in accordance with any directions the Scottish Ministers may give.
- (2) SCSWIS must send the statement of accounts to the Auditor General for Scotland for auditing.

#### **Commencement Information**

- I40** Sch. 11 para. 14 in force at 1.8.2010 for specified purposes by [S.S.I. 2010/221, art. 3\(2\)\(3\), Sch.](#)  
**I41** Sch. 11 para. 14 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I42** Sch. 11 para. 14 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

### *Reports*

- 15 (1) As soon as practicable after the end of each financial year, SCSWIS must prepare a report which is—
- (a) to provide information on the discharge of SCSWIS's functions during that year, and
  - (b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.
- (2) SCSWIS must—
- (a) publish the report,
  - (b) lay a copy of the report before the Scottish Parliament,
  - (c) send a copy of the report to the Scottish Ministers.
- (3) SCSWIS may publish such other reports and information on matters relevant to the functions of SCSWIS as it considers appropriate.

#### **Commencement Information**

- I43** Sch. 11 para. 15 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321, art. 3, Sch.](#)  
**I44** Sch. 11 para. 15 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122, art. 2, Sch.](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5 Ch. 3A amendment to earlier affecting provision 2019 asp 6, s. 12(2) by [S.S.I. 2023/127 reg. 3\(4\)](#)
- Pt. 5 Ch. 3A inserted by [2019 asp 6 s. 12\(2\)](#)