

CHILD POVERTY (SCOTLAND) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule

53. The schedule is introduced by section 8 and makes further provision about the Poverty and Inequality Commission established under that section.

Membership

54. [Paragraph 1\(1\)](#) of the schedule sets out the membership of the Commission. The Commission is to consist of (a) a member to chair it, and (b) 2, 3 or 4 other members. Sub-paragraph (5) allows the Scottish Ministers to amend the number of members other than the chair by regulations subject to the negative procedure (see sub-paragraph (6)). The members will be appointed by the Scottish Ministers, but the appointment may only be made if the Scottish Parliament has approved the appointment (sub-paragraphs (2) and (3)).
55. [Paragraph 1\(4\)](#) requires the Scottish Ministers, in proposing persons to the Scottish Parliament for approval for appointment to the Commission, to have regard to the desirability of securing that the Commission (as a whole) has experience in or knowledge of: (a) the formulation, implementation and evaluation of policy relating to child poverty, (b) research in connection with child poverty, and (c) work with children and families experiencing poverty.
56. In addition, appointments to the Commission will be public appointments and therefore subject to the Public Appointments and Public Bodies etc. (Scotland) Act 2003. That means that appointments will be made after fair and open competition and the appointments process will be regulated by the Commissioner for Ethical Standards in Public Life in Scotland.

Independence

57. [Paragraph 2](#) states that, in performing its functions, the Commission is not subject to the direction or control of any member of the Scottish Government. This paragraph is subject to any contrary provision in the Act or any other enactment.

Access to information

58. [Paragraph 3\(1\)](#) allows the Commission a right of access at reasonable times to any information in the possession or under the control of a member of the Scottish Government, a local authority or other person (or a person of a description) as specified by the Scottish Ministers by regulations (“relevant information”) that the Commission may reasonably require for the purpose of performing its functions. It also allows the Commission to require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of performing its functions (or exercising its right of access to relevant information for the purpose of performing its functions). Sub-

paragraph (3) provides that these provisions are subject to any other enactment or rule of law that prohibits or restricts the disclosure of any information or the giving of any assistance or explanation.

59. Any regulations made by the Scottish Ministers specifying additional persons (or persons of a particular description) who possess or who are in control of “relevant information” are subject to the affirmative procedure (sub-paragraph (4)).

Exclusion of Crown status

60. [Paragraph 4](#) provides that the Commission is not to be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown.

Disqualification for appointment

61. [Paragraph 5\(1\)](#) lists persons that the Scottish Ministers may not appoint as a member of the Commission, and sub-paragraph (2) makes interpretative provision relating to the meaning of a person being insolvent for the purposes of sub-paragraph (1)(b).

Period and terms of appointment

62. [Paragraph 6](#) provides that the Scottish Ministers are to determine how long a member is appointed for, which cannot exceed 5 years, and the other terms of appointment. Members may be reappointed, but only once.

Disqualification after appointment

63. [Paragraph 7](#) provides that a person’s appointment as a member ceases if they become a person who the Scottish Ministers could not have appointed in the first place (on the basis of the disqualification provisions set out in paragraph 5).

Resignation

64. [Paragraph 8](#) allows a member to resign by giving notice in writing to the Scottish Ministers and the Presiding Officer of the Scottish Parliament.

Removal

65. [Paragraph 9](#) allows the Scottish Ministers to remove a member, by giving the member notice in writing, if the Scottish Ministers consider that the member is: (a) unable to perform the member’s functions or (b) otherwise unfit to continue to be a member. The Scottish Ministers may remove a member under this paragraph only with the approval of the Scottish Parliament.

Remuneration, expenses and resources

66. [Paragraph 10\(1\)](#) states that members of the Commission, and any members of committees established by the Commission under paragraph 12 who are not members of the Commission, are entitled to such remuneration and expenses as the Scottish Ministers may determine. Paragraph 10(2) provides that the Scottish Ministers are to pay any such remuneration and expenses.
67. [Paragraph 10\(3\)](#) requires the Scottish Ministers to provide the Commission with such staff and other resources as it requires to carry out its functions.

Regulation of procedure

68. [Paragraph 11](#) allows the Commission to regulate its own procedure (including the quorum at its meetings) and that of any committee established under paragraph 12.

Committees

69. [Paragraph 12\(1\)](#) gives the Commission the power to establish committees. Paragraph 12(2) provides that the membership of a committee may include (but may not consist entirely of) persons who are not members of the Commission but those persons are not entitled to vote at meetings.

Amendment of public bodies' legislation

70. [Paragraph 13\(1\)](#) adds the Commission to schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. This requires the Commission to draw up a code of conduct for its members and applies the enforcement provisions of that Act to the code.
71. [Paragraph 13\(2\)](#) adds the Commission to Part 7 of schedule 1 of the Freedom of Information (Scotland) Act 2002. This provides that the Commission is a Scottish public authority for the purposes of that Act and subject to the requirements it places on such bodies.
72. [Paragraph 13\(3\)](#) adds the Commission to schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003. The effect is to apply the code of practice prepared by the Commissioner for Ethical Standards in Public Life in Scotland, and other provisions of that Act, to the making of appointments to the Commission.
73. [Paragraph 13\(4\)](#) adds the Commission to schedule 5 of the Public Services Reform (Scotland) Act 2010. This allows amendments to the functions of the statutory Commission to be modified by an order made under section 14(1) of that Act.