



# Scottish Public Services Ombudsman Act 2002

2002 asp 11

*Supplementary*

## 23 Interpretation

(1) In this Act, unless the context otherwise requires—

[<sup>F1</sup>“the 2014 Act” means the Children and Young People (Scotland) Act 2014,]

[<sup>F2</sup>“the 2015 Act” means the Welfare Funds (Scotland) Act 2015,]

“action” includes failure to act and related expressions are to be construed accordingly,

“complaint” means a complaint to the Ombudsman,

“deputy Ombudsman” has the meaning given in section 1(2),

“family health service provider” has the meaning given in paragraph 5 of schedule 2 and references to family health services are to any of the services mentioned in that paragraph,

“health service body” has the meaning given in paragraph 4 of schedule 2,

“independent provider” has the meaning given in paragraph 6 of schedule 2,

“listed authority” has the meaning given in section 3(1),

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

“the Ombudsman” has the meaning given in section 1(1),

[<sup>F3</sup>“the Ombudsman's functions” includes the Ombudsman's functions under the 2015 Act,]

“the Parliament” means the Scottish Parliament,

“the Parliamentary corporation” means the Scottish Parliamentary Corporate Body,

<sup>F4</sup> ...

“person aggrieved” has the meaning given in section 5(4) [<sup>F5</sup>or (as the case may be) section 6A(5)],

“registered social landlord” has the meaning given in section 111 of the Housing (Scotland) Act 2001 (asp 10),

“request” means a request for investigation under section 2(2).

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[<sup>F6</sup>“welfare fund review” means a review in pursuance of an application under section 7(2) of the 2015 Act.]

- (2) For the purposes of this Act, action taken by or on behalf of a listed authority includes action taken by—
- (a) where the authority is a body, a member or committee of the body,
  - (b) an officer or member of staff of the authority,
  - (c) any person acting on behalf of the authority, and
  - (d) any person to whom the authority has delegated functions.
- (3) Action taken by or on behalf of a member of the Scottish Executive does not, however, include action taken on behalf of the Scottish Ministers by a Minister of the Crown or government department by virtue of section 93 (agency arrangements) of the Scotland Act 1998 (c.46).
- (4) Where a listed authority is an office-holder in the Scottish Administration, the persons referred to in subsection (2)(b) include, in particular, any member of the staff of the Scottish Administration assigned to assist the office-holder in question in the exercise of the office-holder’s functions.

#### Textual Amendments

- F1** Words in s. 23(1) inserted (31.8.2016) by [The Children and Young People \(Scotland\) Act 2014 \(Part 4 and Part 5 Complaints\) Order 2016 \(S.S.I. 2016/152\)](#), arts. 1(1), **9(3)**
- F2** Words in s. 23(1) inserted (1.4.2016) by [Welfare Funds \(Scotland\) Act 2015 \(asp 5\)](#), ss. **13(7)(a)**, 14(2); S.S.I. 2015/428, art. 2(2)
- F3** Words in s. 23(1) inserted (1.4.2016) by [Welfare Funds \(Scotland\) Act 2015 \(asp 5\)](#), ss. **13(7)(b)**, 14(2); S.S.I. 2015/428, art. 2(2)
- F4** Words in s. 23(1) repealed (1.4.2011) by [Scottish Parliamentary Commissions and Commissioners etc. Act 2010 \(asp 11\)](#), s. 31(5), **sch. 3 para. 9** (with s. 31(6), sch. 7)
- F5** Words in s. 23(1) inserted (8.1.2020) by [The Public Services Reform \(The Scottish Public Services Ombudsman\) \(Healthcare Whistleblowing\) Order 2020 \(S.S.I. 2020/5\)](#), arts. 2, **3(6)**
- F6** Words in s. 23(1) inserted (1.4.2016) by [Welfare Funds \(Scotland\) Act 2015 \(asp 5\)](#), ss. **13(7)(c)**, 14(2); S.S.I. 2015/428, art. 2(2)

## 24 Orders in Council: general

- (1) An Order in Council made under any provision of this Act may include such supplementary, incidental, consequential, transitional, transitory or saving provision as Her Majesty considers necessary or expedient.
- (2) No recommendation to make an Order in Council under section 3(2) [<sup>F7</sup>or (7)], 8(2) or, where the Order contains provisions which add to, replace or omit any part of the text of an Act, 25(2) is to be made to Her Majesty in Council unless a draft of the Order has been laid before, and approved by resolution of, the Parliament.
- (3) An Order in Council under section 6(2), 25(2) (except where subsection (2) of this section applies) or 26(2) is subject to annulment in pursuance of a resolution of the Parliament.

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### Textual Amendments

- F7** Word in s. 24 inserted (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), **ss. 27(2), 36(2)**; [S.S.I. 2005/419](#), art. 2(1)

## 25 Modification of enactments

- (1) Schedule 6 makes modifications of enactments for the purposes of this Act.
- (2) Her Majesty may by Order in Council make such modifications in any enactment, instrument or document as she considers necessary or expedient for the purposes of this Act.

## 26 Consequential, transitional, transitory and saving provision

- (1) Schedule 7 makes provision for the transfer to the Ombudsman of staff, property and liabilities and undetermined complaints in consequence of the provisions of this Act.
- (2) Her Majesty may by Order in Council make such further transitional, transitory or saving provision as she considers necessary or expedient in connection with the coming into force of any provision of this Act.

### Commencement Information

- II** S. 26 wholly in force at 23.10.2002; s. 26(2) in force at Royal Assent see s. 27(1); s. 26 in force at 23.10.2002 insofar as not already in force by [S.S.I. 2002/467](#), **art. 2**

## 27 Commencement, revocation and short title

- (1) The provisions of this Act, except for—
  - (a) sections 1, 23, 24 and 26(2),
  - (b) schedule 1, and
  - (c) this section,come into force on such day as Her Majesty may by Order in Council appoint.
- (2) An Order in Council under subsection (1) may appoint a day for the purposes of article 3 of the Scotland Act 1998 (Transitory and Transitional Provisions) (Complaints of Maladministration) Order 1999 (S.I. 1999/1351).
- (3) Different days may be appointed under this section for different purposes.
- (4) This Act may be cited as the Scottish Public Services Ombudsman Act 2002.

### Subordinate Legislation Made

- P1** S. 27(1) power fully exercised: 23.10.2002 appointed by [{S.S.I. 2002/467}](#), art. 2

**Changes to legislation:**

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

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

- Sch. 2 para. 37A inserted by [2007 asp 3 Sch. 5 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 27 repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- sch. 2 para. 32ZA inserted by [2023 asp 6 sch. 2 para. 1\(2\)](#)