Constitutional Reform and Governance Act 2010

2010 CHAPTER 25

PART 3

PARLIAMENTARY STANDARDS ETC

Amendments of the Parliamentary Standards Act 2009

26 Compliance Officer

(1) For section 3(3) and (4) of the Parliamentary Standards Act 2009 (Commissioner for Parliamentary Investigations) substitute—

"(3) There is to be an officer known as the Compliance Officer for the Independent Parliamentary Standards Authority ("the Compliance Officer").

(4) Schedule 2 (which makes provision about the Compliance Officer) has effect."

(2) For Schedule 2 to that Act substitute the Schedule set out in Schedule 3.

27 Membership of Speaker's Committee

(1) Schedule 3 to the Parliamentary Standards Act 2009 (Speaker's Committee for the Independent Parliamentary Standards Authority) is amended as follows.

(2) In paragraph 1—

(a) omit "and" at the end of sub-paragraph (c), and

(b) after sub-paragraph (d) insert ", and

(e) three lay persons appointed by resolution of the House of Commons."

(3) For the heading of paragraph 2 substitute "Appointed members".

(4) After paragraph 2 insert—

"Lay members

2A (1) In paragraph 1(e) "lay person" means a person who is not, and has never been, a member of either House of Parliament.

(2) A motion for a resolution under paragraph 1(e) may be made only with the agreement of the Speaker of the House of Commons.

(3) The person the subject of the motion must have been selected by the Speaker on merit on the basis of fair and open competition.

(4) An appointment under paragraph 1(e) is to be for a fixed term not exceeding five years.

(5) A person who has been appointed under paragraph 1(e) may not be appointed under paragraph 1(e) again.

(6) A person appointed under paragraph 1(e) ceases to be a member of the Committee if the person becomes a member of either House of Parliament.

(7) A person appointed under paragraph 1(e) may resign from the Committee by giving notice to the Committee.

(8) The Speaker of the House of Commons may require the IPSA to pay to members of the Committee appointed under paragraph 1(e) such remuneration and allowances as the Speaker may determine.

(9) The IPSA must make the payment accordingly."

28 Transparency etc

(1) The Parliamentary Standards Act 2009 is amended as follows.

(2) After section 3 insert—

"**3A General duties of the IPSA**

(1) In carrying out its functions the IPSA must have regard to the principle that it should act in a way which is efficient, cost-effective and transparent.

(2) In carrying out its functions the IPSA must have regard to the principle that members of the House of Commons should be supported in efficiently, cost-effectively and transparently carrying out their Parliamentary functions."

(3) In section 5 (MPs' allowances scheme) after subsection (5) insert—

"(5A) When the scheme (or revision) is laid, the IPSA must publish in a way it considers appropriate—

(a) the scheme (or revision), and

(b) a statement of its reasons for adopting that scheme (or making that revision)."

(4) In section 6 (dealing with claims under the MPs' allowances scheme) after subsection (7) insert—

"(8) The IPSA must publish such information as it considers appropriate in respect of—

(a) each claim made under or by virtue of this section, and

(b) each payment of an allowance by the IPSA under or by virtue of this section.

(9) The IPSA must publish the information at times it considers appropriate and in a way it considers appropriate.

(10) The IPSA must determine procedures to be followed by the IPSA in relation to publication of the information, and in doing so must consult—

(a) the Speaker of the House of Commons,

(b) the Leader of the House of Commons,

(c) the House of Commons Committee on Standards and Privileges,

(d) the Compliance Officer, and

(e) any other person the IPSA considers appropriate."

29 MPs' salaries

(1) For section 4 of the Parliamentary Standards Act 2009 (MPs' salaries) substitute—

"**4 MPs' salaries**

(1) Members of the House of Commons are to receive a salary for the relevant period.

(2) The salaries are to be paid by the IPSA.

(3) Salaries are to be paid on a monthly basis in arrears.

(4) The amounts of the salaries are to be determined by the IPSA (see section 4A).

(5) "Relevant period", in relation to a person who is a member of the House of Commons, means the period beginning with the day after the day of the poll for the parliamentary election at which the member was elected and ending with—

(a) if the person is a member immediately before Parliament is dissolved, the day of the poll for the parliamentary general election which follows the dissolution;

(b) otherwise, the day on which the person ceases to be a member.

(6) No payment of salary is to be made to a member before the member has made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation).

(7) The duty of the IPSA to pay a salary to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons.

4A Determination of MPs' salaries

(1) This section is about determinations under section 4(4).

(2) A determination may provide for higher salaries to be payable to members while holding an office or position specified for the purposes of this subsection in a resolution of the House of Commons.

(3) A determination by virtue of subsection (2) may make different provision for different offices or positions or different classes of member (and may include exceptions).

(4) A determination may include a formula or other mechanism for adjusting salaries from time to time.

(5) A determination (other than the first determination) may have retrospective effect.

(6) The IPSA must review the current determination (and make a new determination as appropriate)—
  (a) in the first year of each Parliament;
  (b) at any other time it considers appropriate.

(7) In reviewing a determination (and before making the first determination) the IPSA must consult—
  (a) the Review Body on Senior Salaries,
  (b) persons appearing to the IPSA to represent persons likely to be affected by the determination or the review,
  (c) the Minister for the Civil Service,
  (d) the Treasury, and
  (e) any other person the IPSA considers appropriate.

(8) After making a determination, the IPSA must publish in a way it considers appropriate—
  (a) the determination, and
  (b) a statement of how it arrived at the determination.

(9) If the IPSA reviews the current determination but decides not to make a new determination, it must publish in a way it considers appropriate a statement of how it arrived at that decision.

(10) The IPSA may delegate to the Review Body on Senior Salaries its function of reviewing a determination (but not its function of deciding whether or not to make a new determination)."

(2) The first determination under section 4(4) of the Parliamentary Standards Act 2009 does not have to come into effect before 1 April 2012; and section 4A(6)(a) of that Act does not apply in relation to a Parliament that begins before that date.

(3) Until the first determination under section 4(4) of that Act comes into effect, the amounts of the salaries payable by the Independent Parliamentary Standards Authority under section 4 of that Act are to be determined in accordance with the relevant resolutions of the House of Commons.

30 MPs' allowances scheme

In section 5 of the Parliamentary Standards Act 2009 (MPs' allowances scheme) after subsection (8) insert—

"(8A) Any duty of the IPSA to pay an allowance to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons."

31 Allowances claims

(1) Section 6 of the Parliamentary Standards Act 2009 (dealing with claims under the MPs' allowances scheme) is amended as follows.

(2) Omit subsections (4) and (5).

(3) In subsection (6) for paragraph (b) substitute—

"(b) provision for deducting amounts within subsection (6A) from allowances payable under the scheme or salaries payable under section 4;

(c) provision about how such deductions, and deductions under paragraph 5 or 12 of Schedule 4, are to be made."

(4) After subsection (6) insert—

"(6A) This subsection applies to amounts which a member (under section 9(8) or otherwise) has agreed to repay, in respect of amounts paid to the member under the MPs' allowances scheme that should not have been allowed."

(5) After section 6 of that Act insert—

"6A Review of IPSA's determination

(1) This section applies if—

(a) the IPSA determines under section 6(3) that a claim is to be refused or that only part of the amount claimed is to be allowed, and

(b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration).

(2) The Compliance Officer must—

(a) consider whether the determination (or the altered determination) is the determination that should have been made, and

(b) in light of that consideration, decide whether or not to confirm or alter it.

(3) The Compliance Officer must give the IPSA a statement of any decision under subsection (2)(b), and may include a statement of the Compliance Officer's findings about the way in which the IPSA has dealt with the claim.

(4) The IPSA must make any payments or adjustments necessary to give effect to the Compliance Officer's decision; but it must not do so until—

(a) it is no longer possible for there to be a relevant appeal, and

(b) all relevant appeals have been withdrawn or determined.

(5) A relevant appeal is—

(a) an appeal under subsection (6) brought before the end of the period mentioned in subsection (7), or

(b) a further appeal in relation to the Compliance Officer's decision which—

(i) is brought before the end of the usual period for bringing such an appeal, and

(ii) is an appeal against the determination of an appeal which was itself a relevant appeal.

(6) The member may appeal to the First-tier Tribunal against a decision of the Compliance Officer under subsection (2)(b).

(7) The appeal must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).

(8) The appeal is by way of a rehearing.

(9) On an appeal under subsection (6) the Tribunal may—

(a) allow the appeal in whole or in part, or

(b) dismiss the appeal.

(10) If the Tribunal allows the appeal (in whole or in part) it may—

(a) order the IPSA to make any payments or adjustments necessary to give effect to that decision;

(b) make any other order it thinks fit.

(11) If the Tribunal dismisses the appeal it may make any other order it thinks fit.

(12) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal)."

(6) In section 7 of that Act (information and guidance about taxation)—

(a) before subsection (1) insert—

"(A1) The IPSA must—

(a) prepare guidance for members of the House of Commons about making claims under the MPs' allowances scheme;

(b) review the guidance regularly and revise it as appropriate;

(c) publish the guidance in a way the IPSA considers appropriate;

(d) provide to any member on request such further advice about making claims as the IPSA considers appropriate.", and

(b) in the heading omit "about taxation".

32 MPs' code of conduct relating to financial interests

Omit section 8 of the Parliamentary Standards Act 2009 (MPs' code of conduct relating to financial interests) and the italic heading before it.

33 Investigations

For section 9 of the Parliamentary Standards Act 2009 (investigations) substitute—

"**9 Investigations**

(1) The Compliance Officer may conduct an investigation if the Compliance Officer has reason to believe that a member of the House of Commons may have been paid an amount under the MPs' allowances scheme that should not have been allowed.

(2) An investigation may be conducted—
- (a) on the Compliance Officer's own initiative,
- (b) at the request of the IPSA,
- (c) at the request of the member, or
- (d) in response to a complaint by an individual.

(3) For the purposes of the investigation the member and the IPSA—
- (a) must provide the Compliance Officer with any information (including documents) the Compliance Officer reasonably requires, and
- (b) must do so within such period as the Compliance Officer reasonably requires.

(4) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer, prepare a statement of the Compliance Officer's provisional findings.

(5) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer about the provisional findings, prepare a statement of the Compliance Officer's findings (subject to subsection (7)).

(6) Provisional findings under subsection (4) and findings under subsection (5) may include—
- (a) a finding that the member failed to comply with subsection (3),
- (b) findings about the role of the IPSA in the matters under investigation, including findings that the member's being paid an amount under the MPs' allowances scheme that should not have been allowed was wholly or partly the IPSA's fault.

(7) If subsection (8) applies, the Compliance Officer need not make a finding under subsection (5) as to whether the member was paid an amount under the MPs' allowances scheme that should not have been allowed.

(8) This subsection applies if—
- (a) the member accepts a provisional finding that the member was paid an amount under the MPs' allowances scheme that should not have been allowed,
- (b) such other conditions as may be specified by the IPSA are, in the Compliance Officer's view, met in relation to the case, and
- (c) the member agrees to repay to the IPSA, in such manner and within such period as the Compliance Officer considers reasonable, such

amount as the Compliance Officer considers reasonable (and makes the repayment accordingly).

(9) Before specifying conditions under subsection (8)(b) the IPSA must consult the persons listed in section 9A(6).

(10) References in this section (and section 9A) to a member of the House of Commons include a former member of that House.

9A Procedures etc

(1) The IPSA must determine procedures to be followed by the Compliance Officer in relation to investigations under section 9.

(2) The procedures must in particular include provision about—
- (a) complaints under section 9(2)(d),
- (b) representations under section 9(4),
- (c) representations under section 9(5), and
- (d) the circumstances in which the Compliance Officer must publish the documents listed in subsection (4).

(3) Provision under subsection (2)(b) must include provision giving the member who is the subject of the investigation—
- (a) an opportunity to be heard in person, and
- (b) an opportunity, where the Compliance Officer considers it appropriate, to call and examine witnesses.

(4) The documents referred to in subsection (2)(d) are—
- (a) statements of provisional findings under section 9(4),
- (b) statements of findings under section 9(5), and
- (c) agreements under section 9(8).

(5) The IPSA must also determine procedures to be followed by the Compliance Officer as to the circumstances in which the Compliance Officer must publish—
- (a) statements under section 6A(3), and
- (b) penalty notices under paragraph 6 of Schedule 4.

(6) Procedures under this section must be fair, and before determining procedures the IPSA must consult—
- (a) the Speaker of the House of Commons,
- (b) the Leader of the House of Commons,
- (c) the House of Commons Committee on Standards and Privileges,
- (d) the Compliance Officer, and
- (e) any other person the IPSA considers appropriate."

34 Enforcement

(1) After section 9A of the Parliamentary Standards Act 2009 insert—

"**9B Enforcement**

(1) Schedule 4 (which makes provision about the enforcement powers of the Compliance Officer) has effect.

(2) The Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under Schedule 4 which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards."

(2) After Schedule 3 to that Act insert the Schedule set out in Schedule 4.

35 Relationships with other bodies etc

After section 10 of the Parliamentary Standards Act 2009 insert—

"**10A Relationships with other bodies etc**

(1) The IPSA and the Compliance Officer must prepare a joint statement setting out how the IPSA and the Compliance Officer will work with the following—
   (a) the Parliamentary Commissioner for Standards,
   (b) the Director of Public Prosecutions,
   (c) the Commissioner of Police of the Metropolis, and
   (d) any other person the IPSA and the Compliance Officer consider appropriate.

(2) Before preparing the statement the IPSA and the Compliance Officer must consult the persons listed in subsection (1).

(3) Nothing in sections 9 to 9B (or Schedule 4) affects the disciplinary powers of the House of Commons.

(4) The powers conferred by sections 9 to 9B (and Schedule 4) may be exercised in relation to the conduct of a member of the House of Commons even if—
   (a) the member is or has been the subject of criminal proceedings in relation to that conduct (whether or not convicted of an offence);
   (b) the House of Commons is exercising or has exercised any of its disciplinary powers in relation to that conduct.

(5) References in subsection (4) to a member of the House of Commons include a former member of that House."

36 Further functions of the IPSA and Commissioner

Omit section 11 of the Parliamentary Standards Act 2009 (further functions of the IPSA and Commissioner).

37 Expiry of provisions of the Parliamentary Standards Act 2009

Omit section 15 of the Parliamentary Standards Act 2009 (expiry of provisions of the Act).

38 Consequential amendments

Schedule 5 (which makes consequential amendments relating to sections 26 to 37) has effect.

Other provision

39 Resettlement grants for MEPs

(1) The European Parliament (Pay and Pensions) Act 1979 is amended as follows.

(2) In section 3 (resettlement grants for persons ceasing to be MEPs) for subsections (1) to (3) substitute—

"(1) The IPSA may make a scheme providing for allowances to be payable to persons to whom this section applies, in connection with their ceasing to be Representatives.

(2) It may do so only if a scheme under section 5 of the Parliamentary Standards Act 2009 (MPs' allowances scheme) makes provision for allowances to be payable in connection with persons ceasing to be Members on a dissolution of Parliament.

(3) A scheme under this section must make provision which is as nearly equivalent to the provision made by the scheme under section 5 of that Act as the IPSA considers practicable.

(3A) The IPSA must send to the Speaker of the House of Commons for laying before both Houses of Parliament—

(a) any scheme made by it under this section, and

(b) a statement of the reasons for making the scheme.

(3B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.

(3C) This section applies to a person who is a Representative immediately before the end of a five-year period, and either—

(a) does not stand for election to the European Parliament at the general election of representatives to the European Parliament held in that period, or

(b) does so stand at that election (whether for the same or a different electoral region) and is not elected.

(3D) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section."

(3) Omit section 3A (power to amend section 3).

(4) In section 7(1)(b) (expenses and receipts) for "grant" substitute "allowance".

40 Parliamentary and other pensions

Schedule 6 (which makes provision about pensions for members of the House of Commons, ministers and other office holders) has effect.