
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (“the Act”) to establish a new office of Commissioner for Ethical Standards in Public Life in Scotland. The new office assumes the functions of, and replaces, the Commission for Ethical Standards in Public Life in Scotland and its two members: the Public Standards Commissioner for Scotland and the Public Appointments Commissioner for Scotland (the “former Commissioners”).

Article 3 replaces section 1 of the Act to establish the new office of Commissioner. Schedule 1 modifies other provisions of the Act so that these apply instead to the new Commissioner.

The person who holds the office of Public Standards Commissioner for Scotland immediately before this Order comes into force is appointed instead as the first new Commissioner (Schedule 4, paragraph 1). The Scottish Parliamentary Corporate Body (“the SPCB”) is responsible for making subsequent appointments to the new office with the agreement of the Parliament.

Article 4 transfers to the new Commissioner the functions of the former Commissioners. It also dissolves the Commission and abolishes the former Commissioners. Schedule 2 makes consequential modifications to other enactments.

Other matters for which the new Commissioner assumes responsibility include—

- the power to pay witnesses’ expenses (section 13 of the Act);
- the duty to lay strategic plans before Parliament every 4 years (section 14 of the Act);
- the power to delegate (section 16 of the Act);
- the power to appoint staff (section 17 of the Act);
- the power to obtain advice, assistance or other services (section 18 of the Act);
- the duty to send budget proposals to the SPCB for approval (section 20 of the Act);
- the duty to keep proper accounts and prepare annual accounts (section 22 of the Act);
- the duty to lay an annual report before Parliament and publish it (section 25 of the Act).

Section 12 (general powers) of the Act is adjusted to enable the Commissioner to do anything which appears necessary or expedient in relation to the performance or efficient administration of any of the Commissioner’s functions (and not just those of the former Commission).

Section 8 (disqualification), section 9 (terms of office and remuneration) and section 11 (subsequent appointments etc. of former Commissioner) of the Act are also adjusted so that these apply instead to the new office of Commissioner.

Section 10 (pensions, etc.) of the Act is adjusted so that the SPCB assumes responsibility for making arrangements for the payment of pensions etc. to former Commissioners.

Section 21 (funding) of the Act is adjusted so that the SPCB becomes responsible for paying the remuneration and allowances of the Commissioner and any expenses properly incurred in the performance of the Commissioner’s functions. In addition, it requires the SPCB to indemnify the Commissioner in respect of any liabilities incurred in performing those functions.

Section 23 (location of office) and section 24 (sharing of premises, staff, services and other resources) of the Act are adjusted so that the Commissioner must comply with any direction given by the SPCB as to those matters.

Article 4 and Schedule 3 make provision for the transfer of staff, property and liabilities.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 5 and Schedule 4 make transitional and savings provision.