

Status: Point in time view as at 09/06/2015.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, SCHEDULE 9A is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 9A

THE COMMISSION: FURTHER PROVISIONS

Textual Amendments

F1 Sch. 9A inserted (1.1.1998) by 1997 c. 48, s. 25(2); S.I. 1997/3004, art. 2, Sch. (subject to arts. 4, 5)

Membership

- 1 Her Majesty shall, on the recommendation of the Secretary of State, appoint one of the members of the Commission to be the chairman of the Commission.
- 2 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member of the Commission, or as chairman of the Commission, in accordance with the terms of his appointment.
 - (2) An appointment as a member of the Commission may be full-time or part-time.
 - (3) The appointment of a person as a member of the Commission, or as chairman of the Commission, shall be for a fixed period of not longer than five years.
 - (4) Subject to sub-paragraph (5) below, a person whose term of appointment as a member of the Commission, or as chairman of the Commission, expires shall be eligible for re-appointment.
 - (5) No person may hold office as a member of the Commission for a continuous period which is longer than ten years.
 - (6) A person may at any time resign his office as a member of the Commission, or as chairman of the Commission, by notice in writing addressed to Her Majesty.
 - (7) Her Majesty may at any time remove a person from office as a member of the Commission if satisfied—
 - (a) that he has without reasonable excuse failed to discharge his functions as a member for a continuous period of three months beginning not earlier than six months before that time;
 - (b) that he has been convicted of a criminal offence;
 - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
 - (d) that he is unable or unfit to discharge his functions as a member.
 - (8) If the chairman of the Commission ceases to be a member of the Commission he shall also cease to be chairman.

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Members and employees

- 3 (1) The Commission shall—
- (a) pay to members of the Commission such remuneration;
 - (b) pay to or in respect of members of the Commission any such allowances, fees, expenses and gratuities; and
 - (c) pay towards the provisions of pensions to or in respect of members of the Commission any such sums,
- as the Commission are required to pay by or in accordance with directions given by the Secretary of State.
- (2) Where a member of the Commission was, immediately before becoming a member, a participant in a scheme under section 1 of the ^{M1}Superannuation Act 1972, the Minister for the Civil Service may determine that his term of office as a member shall be treated for the purposes of the scheme as if it were service in the employment or office by reference to which he was a participant in the scheme; and his rights under the scheme shall not be affected by sub-paragraph (1)(c) above.
- (3) Where—
- (a) a person ceases to hold office as a member of the Commission otherwise than on the expiry of his term of appointment; and
 - (b) it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation,
- the Secretary of State may direct the Commission to make to him a payment of such amount as the Secretary of State may determine.

Marginal Citations

M1 1972 c. 11.

- 4 (1) The Commission may appoint a chief executive and such other employees as the Commission think fit, subject to the consent of the Secretary of State as to their number and terms and conditions of service.
- (2) The Commission shall—
- (a) pay to employees of the Commission such remuneration; and
 - (b) pay to or in respect of employees of the Commission any such allowances, fees, expenses and gratuities,
- as the Commission may, with the consent of the Secretary of State, determine.
- (3) Employment by the Commission shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.
- 5 The Commission shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to paragraph 3(2) or 4(3) above in the sums payable out of money provided by Parliament under the ^{M2}Superannuation Act 1972.

Marginal Citations

M2 1972 c. 11.

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Procedure

- 6
- (1) The arrangements for the procedure of the Commission (including the quorum for meetings) shall be such as the Commission may determine.
 - (2) The arrangements may provide for the discharge, under the general direction of the Commission, of any function of the Commission—
 - (a) in the case of the function specified in sub-paragraph (3) below, by a committee consisting of not fewer than three members of the Commission; and
 - (b) in any other case, by any committee of, or by one or more of the members or employees of, the Commission.
 - (3) The function referred to in sub-paragraph (2)(a) above is making a reference to the High Court under section 194B of this Act.
 - (4) The validity of any proceedings of the Commission (or of any committee of the Commission) shall not be affected by—
 - (a) any vacancy among the members of the Commission or in the office of chairman of the Commission; or
 - (b) any defect in the appointment of any person as a member of the Commission or as chairman of the Commission.
 - (5) Where—
 - (a) a document or other material has been produced to the Commission under section 194I of this Act, or they have been given access to a document or other material under that section, and the Commission have taken away the document or other material (or a copy of it); and
 - (b) the person who produced the document or other material to the Commission, or gave them access to it, has notified the Commission that he considers that its disclosure to others may be contrary to the interests of national security,the Commission shall, after consulting that person, deal with the document or material (or copy) in a manner appropriate for safeguarding the interests of national security.

Evidence

- 7
- A document purporting to be—
- (a) duly executed under the seal of the Commission; or
 - (b) signed on behalf of the Commission,
- shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Annual reports and accounts

- 8
- (1) As soon as possible after the end of each financial year of the Commission, the Commission shall send to the Secretary of State a report on the discharge of their functions during that year.
 - (2) Such a report may include an account of the working of the provisions of Part XA of this Act and recommendations relating to any of those provisions.

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- (3) The Secretary of State shall lay before each House of Parliament, and cause to be published, a copy of every report sent to him under sub-paragraph (1).
- 9 (1) The Commission shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts in respect of each financial year of the Commission.
- (2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may ^{F2} . . . direct.
- (3) The Commission shall send ^{F3} . . . the statement of accounts to the Secretary of State ^{F3} . . . within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
- [The Scottish Ministers shall send the statement of accounts to the Auditor General ^{F4}(3A) for Scotland for auditing.]
- ^{F5}(4)

Textual Amendments

- F2** Words in Sch. 9A para. 9(2) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 122(3), Pt. IV; S.I. 1998/3178, art. 3**
- F3** Words in Sch. 9A para. 9(3) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 14(a); S.S.I. 2000/10, art. 2(3)**
- F4** Sch. 9A para. 9(3A) inserted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 14(b); S.S.I. 2000/10, art. 2(3)**
- F5** Sch. 9A para. 9(4) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 14(c); S.S.I. 2000/10, art. 2(3)**

- 10 For the purposes of this Schedule the Commission’s financial year shall be the period of twelve months ending with 31st March; but the first financial year of the Commission shall be the period beginning with the date of establishment of the Commission and ending with the first 31st March which falls at least six months after that date.

Expenses

- 11 The Secretary of State shall defray the expenses of the Commission up to such amount as may be approved by him.]

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