



# Constitutional Reform and Governance Act 2010

## 2010 CHAPTER 25

An Act to make provision relating to the civil service of the State; to make provision in relation to section 3 of the Act of Settlement; to make provision relating to the ratification of treaties; to make provision relating to the counting of votes in parliamentary elections; to amend the Parliamentary Standards Act 2009 and the European Parliament (Pay and Pensions) Act 1979 and to make provision relating to pensions for members of the House of Commons, Ministers and other office holders; to make provision for treating members of the House of Commons and members of the House of Lords as resident, ordinarily resident and domiciled in the United Kingdom for taxation purposes; to amend the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales; to amend the Public Records Act 1958 and the Freedom of Information Act 2000. [8th April 2010]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

## PART 1

### THE CIVIL SERVICE

#### CHAPTER 1

##### STATUTORY BASIS FOR MANAGEMENT OF THE CIVIL SERVICE

###### *Application*

### 1 Application of Chapter

- (1) Subject to subsections (2) and (3), this Chapter applies to the civil service of the State.
- (2) This Chapter does not apply to the following parts of the civil service of the State—
- (a) the Secret Intelligence Service;
  - (b) the Security Service;
  - (c) the Government Communications Headquarters;
  - (d) the Northern Ireland Civil Service;
  - <sup>F1</sup>(e) .....
- (3) Further, this Chapter—
- (a) does not apply in relation to the making, outside the United Kingdom, of selections of persons who are not members of the civil service of the State for appointment to that service for the purpose only of duties to be carried out wholly outside the United Kingdom;
  - (b) does not apply in relation to the appointment of a person to the civil service of the State who was selected for the appointment as mentioned in paragraph (a);
  - (c) does not apply to the civil service of the State so far as it consists of persons—
    - (i) who were appointed to the civil service of the State as mentioned in paragraph (b), and
    - (ii) all of whose duties are carried out wholly outside the United Kingdom.
- (4) In this Chapter references to the civil service—
- (a) are to the civil service of the State excluding the parts mentioned in subsections (2) and (3)(c);
  - (b) are to be read subject to subsection (3)(a) and (b);
- and references to civil servants are to be read accordingly.

#### **Textual Amendments**

- F1** S. 1(2)(e) omitted (18.10.2012) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **20** (with arts. 24-28)

#### **Commencement Information**

- I1** S. 1 in force at 11.11.2010 by [S.I. 2010/2703](#), **art. 2(a)**

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## *Civil Service Commission*

### **2 Establishment of the Civil Service Commission**

- (1) There is to be a body corporate called the Civil Service Commission (“the Commission”).
- (2) Schedule 1 (which is about the Commission) has effect.
- (3) The Commission has the role in relation to selections for appointments to the civil service set out in sections 11 to 14.
- (4) See also—
  - (a) section 9 (which sets out the Commission's role in dealing with conduct that conflicts with civil service codes of conduct);
  - (b) section 17 (under which the Commission may be given additional functions).

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#### **Commencement Information**

**I2** [S. 2](#) in force at 11.11.2010 by [S.I. 2010/2703](#), [art. 2\(a\)](#)

## *Power to manage the civil service*

### **3 Management of the civil service**

- (1) The Minister for the Civil Service has the power to manage the civil service (excluding the diplomatic service).
- (2) The Secretary of State has the power to manage the diplomatic service.
- (3) The powers in subsections (1) and (2) include (among other things) power to make appointments.
- (4) But they do not cover national security vetting (and, accordingly, subsections (1) and (2) do not affect any power relating to national security vetting).
- (5) The agreement of the Minister for the Civil Service is required for any exercise of the power in subsection (2) in relation to—
  - (a) remuneration of civil servants (including compensation payable on leaving the civil service), or
  - (b) the conditions on which a civil servant may retire.
- (6) In exercising his power to manage the civil service, the Minister for the Civil Service shall have regard to the need to ensure that civil servants who advise Ministers are aware of the constitutional significance of Parliament and of the conventions governing the relationship between Parliament and Her Majesty's Government.

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#### **Commencement Information**

**I3** [S. 3](#) in force at 11.11.2010 by [S.I. 2010/2703](#), [art. 2\(a\)](#)

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#### 4 Other statutory management powers

- (1) All statutory management powers in effect when section 3 comes into force continue to have effect.
- (2) But those and all other statutory management powers are exercisable subject to section 3.
- (3) “Statutory management power” means a power in relation to the management of any part of the civil service conferred by an Act (whenever passed) or an instrument under an Act (whenever made).
- (4) “Act” includes—
  - (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;
 but excludes this Part of this Act.
- (5) Subsection (2) does not apply to a statutory management power conferred by the Superannuation Act 1965 or the Superannuation Act 1972 or an instrument under any of those Acts.

#### Commencement Information

**I4** [S. 4](#) in force at 11.11.2010 by [S.I. 2010/2703](#), [art. 2\(a\)](#)

### *Codes of conduct*

#### 5 Civil service code

- (1) The Minister for the Civil Service must publish a code of conduct for the civil service (excluding the diplomatic service).
- (2) For this purpose, the Minister may publish separate codes of conduct covering civil servants who serve the Scottish Executive or the Welsh Assembly Government.
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be).
- (4) In this Chapter “civil service code” means a code of conduct published under this section as it is in force for the time being.
- (5) The Minister for the Civil Service must lay any civil service code before Parliament.
- (6) The First Minister for Scotland must lay before the Scottish Parliament any civil service code under subsection (2) that covers civil servants who serve the Scottish Executive.
- (7) The First Minister for Wales must lay before the National Assembly for Wales any civil service code under subsection (2) that covers civil servants who serve the Welsh Assembly Government.
- (8) A civil service code forms part of the terms and conditions of service of any civil servant covered by the code.

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**Commencement Information**

**I5** S. 5 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## 6 Diplomatic service code

- (1) The Secretary of State must publish a code of conduct for the diplomatic service.
- (2) In this Chapter “diplomatic service code” means the code of conduct published under this section as it is in force for the time being.
- (3) The Secretary of State must lay the diplomatic service code before Parliament.
- (4) The diplomatic service code forms part of the terms and conditions of service of any civil servant covered by the code.

**Commencement Information**

**I6** S. 6 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## 7 Minimum requirements for civil service and diplomatic service codes

- (1) This section sets out the provision that must be included in a civil service code or the diplomatic service code in relation to the civil servants covered by the code. (The code may include other provision as well.)
- (2) The code must require civil servants who serve an administration mentioned in subsection (3) to carry out their duties for the assistance of the administration as it is duly constituted for the time being, whatever its political complexion.
- (3) The administrations are—
  - (a) Her Majesty's Government in the United Kingdom;
  - (b) the Scottish Executive;
  - (c) the Welsh Assembly Government.
- (4) The code must require civil servants to carry out their duties—
  - (a) with integrity and honesty, and
  - (b) with objectivity and impartiality.
- (5) But the code need not require special advisers (see section 15) to carry out their duties with objectivity or impartiality.

**Commencement Information**

**I7** S. 7 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## 8 Special advisers code

- (1) The Minister for the Civil Service must publish a code of conduct for special advisers (see section 15).

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- (2) For this purpose, the Minister may publish separate codes of conduct covering special advisers who serve the Scottish Executive or the Welsh Assembly Government.
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be).
- (4) In this Chapter “special advisers code” means a code of conduct published under this section as it is in force for the time being.
- (5) Subject to subsection (6), a special advisers code must provide that a special adviser may not—
  - (a) authorise the expenditure of public funds;
  - (b) exercise any power in relation to the management of any part of the civil service of the State;
  - (c) otherwise exercise any power conferred by or under this or any other Act or any power under Her Majesty's prerogative.
- (6) A special advisers code may permit a special adviser to exercise any power within subsection (5)(b) in relation to another special adviser.
- (7) In subsection (5)(c) “Act” includes—
  - (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;
  - (c) Northern Ireland legislation.
- (8) The Minister for the Civil Service must lay any special advisers code before Parliament.
- (9) The First Minister for Scotland must lay before the Scottish Parliament any special advisers code under subsection (2) that covers special advisers who serve the Scottish Executive.
- (10) The First Minister for Wales must lay before the National Assembly for Wales any special advisers code under subsection (2) that covers special advisers who serve the Welsh Assembly Government.
- (11) A special advisers code forms part of the terms and conditions of service of any special adviser covered by the code.

**Commencement Information**

**I8** S. 8 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**9 Conduct that conflicts with a code of conduct: complaints by civil servants**

- (1) This section applies in relation to any civil service code and the diplomatic service code; and “code” is to be read accordingly.
- (2) Subsection (3) applies if a civil servant (“P”) covered by a code has reason to believe—
  - (a) that P is being, or has been, required to act in a way that conflicts with the code, or

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- (b) that another civil servant covered by the code is acting, or has acted, in a way that conflicts with the code.
- (3) P may complain to the Commission about the matter.
- (4) A code may include provision about the steps that must be taken by a civil servant before making a complaint (and P must take the steps accordingly).
- (5) The Commission—
  - (a) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
  - (b) after considering a complaint, may make recommendations about how the matter should be resolved.
- (6) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
  - (a) civil service management authorities;
  - (b) the complainant;
  - (c) any civil servant whose conduct is covered by the complaint.
- (7) The revision of a code does not affect the application of this section in relation to anything occurring before the revision.

**Commencement Information**

**I9** S. 9 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Appointment*

**10 Selections for appointments to the civil service**

- (1) This section applies to the selection of persons who are not civil servants for appointment to the civil service.
- (2) A person's selection must be on merit on the basis of fair and open competition.
- (3) The following selections are excepted from this requirement—
  - (a) a person's selection for an appointment to the diplomatic service either as head of mission or in connection with the person's appointment (or selection for appointment) as Governor of an overseas territory;
  - (b) selection for an appointment as special adviser (see section 15);
  - (c) a selection excepted by the recruitment principles (see sections 11 and 12(1)(b)).
- (4) In determining for the purposes of subsection (1) whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on subsection (3).
- (5) But, in relation to persons selected in reliance on subsection (3)(c), the recruitment principles may disapply subsection (4) in specified cases.

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**Modifications etc. (not altering text)**

**C1** Ss. 10-14 excluded (27.5.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 1 para. 7\(7\)](#); S.I. 2013/1042, art. 3(i)

**Commencement Information**

**I10** S. 10 in force at 11.11.2010 by S.I. 2010/2703, [art. 2\(a\)](#)

## 11 Recruitment principles

- (1) The Commission must publish a set of principles to be applied for the purposes of the requirement in section 10(2).
- (2) Before publishing the set of principles (or any revision of it), the Commission must consult the Minister for the Civil Service.
- (3) In this Chapter “recruitment principles” means the set of principles published under this section as it is in force for the time being.
- (4) Civil service management authorities must comply with the recruitment principles.

**Modifications etc. (not altering text)**

**C1** Ss. 10-14 excluded (27.5.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 1 para. 7\(7\)](#); S.I. 2013/1042, art. 3(i)

**Commencement Information**

**I11** S. 11 in force at 11.11.2010 by S.I. 2010/2703, [art. 2\(a\)](#)

## 12 Approvals for selections and exceptions

- (1) The recruitment principles may include provision—
  - (a) requiring the Commission's approval to be obtained for a selection which is subject to the requirement in section 10(2);
  - (b) excepting a selection from that requirement for the purposes of section 10(3)
  - (c).
- (2) The Commission may participate in the process for a selection for which its approval is required by provision within subsection (1)(a).
- (3) It is up to the Commission to decide how it will participate.
- (4) Provision within subsection (1)(b) may be included only if the Commission is satisfied—
  - (a) that the provision is justified by the needs of the civil service, or
  - (b) that the provision is needed to enable the civil service to participate in a government employment initiative that major employers in the United Kingdom (or a part of the United Kingdom) have been asked to participate in.
- (5) Provision within subsection (1)(a) or (b) may be made in any way, including (for example) by reference to—
  - (a) particular appointments or descriptions of appointments;



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- (b) the circumstances in which a selection is made;
  - (c) the circumstances of the person to be selected;
  - (d) the purpose of the requirement to obtain approval or the purpose of the exception.
- (6) Provision within subsection (1)(b) may also (for example)—
- (a) deal with the way in which selections made in reliance on section 10(3)(c) are to be made;
  - (b) specify terms and conditions that must be included in the terms and conditions of an appointment resulting from a selection made in reliance on section 10(3)(c).
- (7) Provision within subsection (1)(a) or (b) may confer discretions on the Commission or civil service management authorities.

**Modifications etc. (not altering text)**

**C1** Ss. 10-14 excluded (27.5.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 1 para. 7\(7\)](#); S.I. 2013/1042, art. 3(i)

**Commencement Information**

**I12** S. 12 in force at 11.11.2010 by [S.I. 2010/2703](#), art. 2(a)

### 13 Complaints about competitions

- (1) Subsection (2) applies if a person has reason to believe that a selection for an appointment has been made in contravention of the requirement in section 10(2).
- (2) The person may complain to the Commission about the matter.
- (3) The Commission—
- (a) may determine steps that must be taken by a person before making a complaint (and those steps must be taken accordingly);
  - (b) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
  - (c) after considering a complaint, may make recommendations about how the matter should be resolved.
- (4) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
- (a) civil service management authorities;
  - (b) the complainant.

**Modifications etc. (not altering text)**

**C1** Ss. 10-14 excluded (27.5.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 1 para. 7\(7\)](#); S.I. 2013/1042, art. 3(i)

**Commencement Information**

**I13** S. 13 in force at 11.11.2010 by [S.I. 2010/2703](#), art. 2(a)

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## 14 Monitoring by the Commission

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish—
- (a) that the principle of selection on merit on the basis of fair and open competition is being upheld in accordance with the requirement in section 10(2) and the recruitment principles, and
  - (b) that the requirement in section 10(2) and the recruitment principles are not being undermined in any way (apart from non-compliance).
- (2) For this purpose, civil service management authorities must provide the Commission with any information it reasonably requires.

### Modifications etc. (not altering text)

**C1** Ss. 10-14 excluded (27.5.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 1 para. 7(7)**; S.I. 2013/1042, art. 3(i)

### Commencement Information

**I14** S. 14 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## *Special advisers*

## 15 Definition of “special adviser”

- (1) In this Chapter “special adviser” means a person (“P”) who holds a position in the civil service serving an administration mentioned below and whose appointment to that position meets the applicable requirements set out below.

### *Her Majesty’s Government in the United Kingdom*

The requirements are—

- (a) P is appointed to assist a Minister of the Crown after being selected for the appointment by that Minister personally;
- (b) the appointment is approved by the Prime Minister;
- (c) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
- (d) those terms and conditions provide for the appointment to end not later than—
  - (i) when the person who selected P ceases to hold the ministerial office in relation to which P was appointed to assist that person, or
  - (ii) if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment.

### *Scottish Executive*

The requirements are—

- (a) P is appointed to assist the Scottish Ministers (or one or more of the ministers mentioned in section 44(1)(a) and (b) of the Scotland Act 1998) after being selected for the appointment by the First Minister for Scotland personally;
- (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;

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- (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister.

The reference above to the Scottish Ministers excludes the Lord Advocate and the Solicitor General for Scotland.

#### *Welsh Assembly Government*

The requirements are—

- (a) P is appointed to assist the Welsh Ministers (or one or more of the ministers mentioned in section 45(1)(a) and (b) of the Government of Wales Act 2006) after being selected for the appointment by the First Minister for Wales personally;
  - (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
  - (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister.
- (2) In subsection (1), in relation to an appointment for which the selection is made personally by a person designated under section 45(4) of the Scotland Act 1998 or section 46(5) of the Government of Wales Act 2006, the reference to the person who selected P ceasing to hold office as First Minister for Scotland or Wales (as the case may be) is to be read as a reference to the designated person ceasing to be able to exercise the functions of the First Minister by virtue of the designation.

#### **Commencement Information**

**I15** S. 15 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## **16 Annual reports about special advisers**

- (1) The Minister for the Civil Service must—
  - (a) prepare an annual report about special advisers serving Her Majesty's Government in the United Kingdom, and
  - (b) lay the report before Parliament.
- (2) The First Minister for Scotland must—
  - (a) prepare an annual report about special advisers serving the Scottish Executive, and
  - (b) lay the report before the Scottish Parliament.
- (3) The First Minister for Wales must—
  - (a) prepare an annual report about special advisers serving the Welsh Assembly Government, and
  - (b) lay the report before the National Assembly for Wales.
- (4) A report under this section must contain information about the number and cost of the special advisers.

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**Commencement Information**

**I16** S. 16 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Additional functions of the Commission*

**17 Agreements for the Commission to carry out additional functions**

- (1) The Minister for the Civil Service and the Commission may agree that the Commission is to carry out functions in relation to the civil service in addition to those given to it under the other provisions of this Chapter.
- (2) The Commission is to carry out those additional functions accordingly.
- (3) For the purposes of any additional function, civil service management authorities must provide the Commission with any information it reasonably requires.

**Commencement Information**

**I17** S. 17 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Final provisions*

**18 Definitions etc**

- (1) In this Chapter—
  - “civil servant” is read as stated in section 1(4);
  - “civil service” is read as stated in section 1(4);
  - “civil service code” is defined in section 5(4);
  - “civil service management authority” means any person involved in the management of any part of the civil service;
  - “the Commission” is defined in section 2(1);
  - “diplomatic service” means Her Majesty's diplomatic service;
  - “diplomatic service code” is defined in section 6(2);
  - “function” includes power or duty;
  - “information” means information recorded in any form;
  - “recruitment principles” is defined in section 11(3);
  - “special adviser” is defined in section 15;
  - “special advisers code” is defined in section 8(4).
- (2) Subsection (3) applies for the purposes of sections 9(6), 13(4), 14(2) and 17(3).
- (3) No person may be required to provide information which the person could not be compelled to provide in civil proceedings before the High Court or the Court of Session.

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**Commencement Information**

**I18** S. 18 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## CHAPTER 2

### CONSEQUENTIAL AND TRANSITIONAL PROVISION

#### 19 Consequential amendments and transitional provision

Schedule 2 (which contains amendments consequential on this Part and transitional provision) has effect.

**Commencement Information**

**I19** S. 19 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

## PART 2

### RATIFICATION OF TREATIES

#### 20 Treaties to be laid before Parliament before ratification

- (1) Subject to what follows, a treaty is not to be ratified unless—
  - (a) a Minister of the Crown has laid before Parliament a copy of the treaty,
  - (b) the treaty has been published in a way that a Minister of the Crown thinks appropriate, and
  - (c) period A has expired without either House having resolved, within period A, that the treaty should not be ratified.
- (2) Period A is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (1)(a) is met.
- (3) Subsections (4) to (6) apply if the House of Commons resolved as mentioned in subsection (1)(c) (whether or not the House of Lords also did so).
- (4) The treaty may be ratified if—
  - (a) a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why, and
  - (b) period B has expired without the House of Commons having resolved, within period B, that the treaty should not be ratified.
- (5) Period B is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (4)(a) is met.
- (6) A statement may be laid under subsection (4)(a) in relation to the treaty on more than one occasion.
- (7) Subsection (8) applies if—

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- (a) the House of Lords resolved as mentioned in subsection (1)(c), but
  - (b) the House of Commons did not.
- (8) The treaty may be ratified if a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why.
- (9) “Sitting day” means a day on which both Houses of Parliament sit.

#### Commencement Information

**I20** S. 20 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

### 21 Extension of 21 sitting day period

- (1) A Minister of the Crown may, in relation to a treaty, extend the period mentioned in section 20(1)(c) by 21 sitting days or less.
- (2) The Minister does that by laying before Parliament a statement—
- (a) indicating that the period is to be extended, and
  - (b) setting out the length of the extension.
- (3) The statement must be laid before the period would have expired without the extension.
- (4) The Minister must publish the statement in a way the Minister thinks appropriate.
- (5) The period may be extended more than once.

#### Commencement Information

**I21** S. 21 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

### 22 Section 20 not to apply in exceptional cases

- (1) Section 20 does not apply to a treaty if a Minister of the Crown is of the opinion that, exceptionally, the treaty should be ratified without the requirements of that section having been met.
- (2) But a treaty may not be ratified by virtue of subsection (1) after either House has resolved, as mentioned in section 20(1)(c), that the treaty should not be ratified.
- (3) If a Minister determines that a treaty is to be ratified by virtue of subsection (1), the Minister must, either before or as soon as practicable after the treaty is ratified—
- (a) lay before Parliament a copy of the treaty,
  - (b) arrange for the treaty to be published in a way that the Minister thinks appropriate, and
  - (c) lay before Parliament a statement indicating that the Minister is of the opinion mentioned in subsection (1) and explaining why.

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**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

#### Commencement Information

**I22** S. 22 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

### 23 Section 20 not to apply to certain descriptions of treaties

(1) Section 20 does not apply to—

- <sup>F2</sup>(a) .....
- (b) a treaty covered by section 5 of the European Union (Amendment) Act 2008 (treaty amending [<sup>F3</sup>Treaty establishing European Atomic Energy Community] not to be ratified unless approved by Act of Parliament).
- [<sup>F4</sup>(c) a treaty that is subject to a requirement imposed by Part 1 of the European Union Act 2011 (restrictions on treaties and decisions relating to EU). ]

(2) Section 20 does not apply to a treaty in relation to which an Order in Council may be made under one or more of the following—

- (a) section 158 of the Inheritance Tax Act 1984 (double taxation conventions);
- (b) section 2 of the Taxation (International and Other Provisions) Act 2010 (double taxation arrangements);
- (c) section 173 of the Finance Act 2006 (international tax enforcement arrangements).

[<sup>F5</sup>(2A) Section 20 does not apply to a treaty in relation to which an order may be made under paragraph 66 of Schedule 19 to the Finance Act 2011 (bank levy: arrangements affording double taxation relief).]

[<sup>F6</sup>(2B) Section 20 does not apply to any treaty referred to in section 218(1) of the Finance Act 2012.]

(3) Section 20 does not apply to a treaty concluded (under authority given by the government of the United Kingdom) by the government of a British overseas territory, of any of the Channel Islands or of the Isle of Man.

(4) Section 20 does not apply to a treaty a copy of which is presented to Parliament by command of Her Majesty before that section comes into force.

#### Textual Amendments

- F2** S. 23(1)(a) omitted (19.8.2011) by virtue of [European Union Act 2011 \(c. 12\)](#), **ss. 14(2)(a)**, 21; S.I. 2011/1984, art. 2
- F3** Words in s. 23(1)(b) substituted (19.8.2011) by [European Union Act 2011 \(c. 12\)](#), **ss. 14(2)(b)**, 21; S.I. 2011/1984, art. 2
- F4** S. 23(1)(c) inserted (19.8.2011) by [European Union Act 2011 \(c. 12\)](#), **ss. 14(2)(c)**, 21; S.I. 2011/1984, art. 2
- F5** S. 23(2A) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 19 para. 69**
- F6** [S. 23\(2B\)](#) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **s. 218(3)**

#### Commencement Information

**I23** S. 23 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

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## 24 Explanatory memoranda

In laying a treaty before Parliament under this Part, a Minister shall accompany the treaty with an explanatory memorandum explaining the provisions of the treaty, the reasons for Her Majesty's Government seeking ratification of the treaty, and such other matters as the Minister considers appropriate.

### Commencement Information

**I24** S. 24 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

## 25 Meaning of “treaty” and “ratification”

- (1) In this Part “treaty” means a written agreement—
  - (a) between States or between States and international organisations, and
  - (b) binding under international law.
- (2) But “treaty” does not include a regulation, rule, measure, decision or similar instrument made under a treaty (other than one that amends or replaces the treaty (in whole or in part)).
- (3) In this Part a reference to ratification of a treaty is a reference to an act of a kind specified in subsection (4) which establishes as a matter of international law the United Kingdom's consent to be bound by the treaty.
- (4) The acts are—
  - (a) deposit or delivery of an instrument of ratification, accession, approval or acceptance;
  - (b) deposit or delivery of a notification of completion of domestic procedures.

### Commencement Information

**I25** S. 25 in force at 11.11.2010 by S.I. 2010/2703, art. 2(b)

## 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.”



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

**Commencement Information**

**I26** S. 26 in force at 19.4.2010 by S.I. 2010/1277, art. 2(a)

**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
- (c) 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—

**2A “Lay members**

- (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.”

**Commencement Information**

**I27** S. 27 in force at 7.5.2010 by S.I. 2010/1277, art. 3(a)

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

## 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.”

#### Commencement Information

**I28** S. 28(1)-(3) in force at 7.5.2010 by S.I. 2010/1277, art. 3(b)

**I29** S. 28(4) in force at 27.7.2010 by S.I. 2010/1931, art. 3(a) (with arts. 4, 5)

## 29 MPs' salaries

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

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#### **“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,

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- (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.

#### Commencement Information

**I30** S. 29 in force at 24.5.2011 by S.I. 2011/1274, art. 2(a)

### 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.”

#### Commencement Information

**I31** S. 30 in force at 7.5.2010 by S.I. 2010/1277, art. 3(c)

### 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).

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- (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).

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- (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”.

#### Commencement Information

**I32** S. 31(1)-(5) in force at 27.7.2010 by S.I. 2010/1931, art. 3(b)

**I33** S. 31(6) in force at 7.5.2010 by S.I. 2010/1277, art. 3(d)

### 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.

#### Commencement Information

**I34** S. 32 in force at 7.5.2010 by S.I. 2010/1277, art. 3(e)

### 33 Investigations

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

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## “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).

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- (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.”

#### Commencement Information

I35 S. 33 in force at 27.7.2010 by S.I. 2010/1931, art. 3(c) (with arts. 4, 5)

## 34 Enforcement

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



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### “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.

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#### Commencement Information

**I36** S. 34 in force at 27.7.2010 by S.I. 2010/1931, art. 3(d) (with arts. 4, 5)

## 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.”

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#### Commencement Information

**I37** S. 35 in force at 27.7.2010 by S.I. 2010/1931, art. 3(e)

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

### 36 Further functions of the IPSA and Commissioner

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

#### Commencement Information

**I38** S. 36 in force at 7.5.2010 by [S.I. 2010/1277, art. 3\(f\)](#)

### 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).

#### Commencement Information

**I39** S. 37 in force at 7.5.2010 by [S.I. 2010/1277, art. 3\(g\)](#)

### 38 Consequential amendments

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

#### Commencement Information

**I40** S. 38 in force at 19.4.2010 for specified purposes by [S.I. 2010/1277, art. 2\(b\)](#)

**I41** S. 38 in force at 7.5.2010 for specified purposes by [S.I. 2010/1277, art. 3\(h\)](#)

**I42** S. 38 in force at 27.7.2010 for specified purposes by [S.I. 2010/1931, art. 3\(f\)](#)

**I43** S. 38 in force at 24.5.2011 in so far as not already in force by [S.I. 2011/1274, art. 2\(b\)](#)

*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.

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- (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 ”.

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**Commencement Information**

**I44** S. 39 in force at 24.5.2011 by [S.I. 2011/1274](#), [art. 2\(c\)](#)

#### **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.

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**Commencement Information**

**I45** S. 40 in force at 24.10.2011 for specified purposes by [S.I. 2011/2485](#), [art. 2\(1\)\(2\)\(a\)](#)

### **PART 4**

#### **TAX STATUS OF MPS AND MEMBERS OF THE HOUSE OF LORDS**

#### **41 Tax status of MPs and members of the House of Lords**

- (1) Subsection (2) applies if a person is for any part of a tax year—
- (a) a member of the House of Commons, or
  - (b) a member of the House of Lords.
- (2) The person is to be treated for the purposes of the taxes listed in subsection (3) as resident, ordinarily resident and domiciled in the United Kingdom for the whole of that tax year.

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- (3) The taxes are—
- (a) income tax,
  - (b) capital gains tax, and
  - (c) inheritance tax.
- (4) For the purposes of this section a person—
- (a) becomes a member of the House of Commons when (having been elected to that House) the person makes and subscribes the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), and
  - (b) ceases to be a member of that House when—
    - (i) the Parliament to which the person was elected is dissolved, or
    - (ii) the person's seat is otherwise vacated.
- (5) For the purposes of this section and section 42 a person is a member of the House of Lords if the person is entitled to receive writs of summons to attend that House.
- (6) In relation to a member of the House of Lords, in subsection (1) the reference to any part of a tax year excludes any part of the year during which—
- (a) section 137(3) of the Constitutional Reform Act 2005 applies to the member, or
  - (b) the member is entitled to receive writs of summons to attend the House of Lords by virtue of being an archbishop or bishop.
- (7) This section applies in relation to the tax year 2010-11 and subsequent tax years.
- (8) But in applying this section to the tax year 2010-11—
- (a) if the Parliament in which this Act is passed is dissolved in that tax year, ignore a person's membership of the House of Commons in that Parliament, and
  - (b) in any event, ignore a person's membership of the House of Lords at any time before the end of the period of 3 months beginning with the day on which section 42 comes into force.
- (9) In this section, in relation to inheritance tax—
- (a) “tax year” means a year beginning on 6 April and ending on the following 5 April, and
  - (b) “the tax year 2010-11” means the tax year beginning on 6 April 2010.
- (10) In determining for the purposes of this section and section 42 whether a person is entitled to receive writs of summons to attend the House of Lords, ignore—
- (a) section 2 of the Forfeiture Act 1870;
  - (b) sections 426A and 427 of the Insolvency Act 1986.

#### **42 Tax status of members of the House of Lords: transitional provision**

- (1) This section applies if, before the end of the period of 3 months beginning with the day on which this section comes into force, a member of the House of Lords (“M”) gives written notice to the Clerk of the Parliaments that M does not want section 41 to apply to M.
- (2) M shall not be a member of the House of Lords at any time after the notice is given and accordingly—
- (a) M shall not be entitled to receive writs of summons to attend the House, and

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- (b) any writ of summons previously issued to M has no further effect.
- (3) If M is a person excepted from section 1 of the House of Lords Act 1999 by virtue of section 2 of that Act—
  - (a) M shall no longer be excepted from section 1 of the 1999 Act, and
  - (b) if M counted towards the limit under section 2(2) of the 1999 Act, that limit is reduced by one.
- (4) But section 3(1)(b) of the 1999 Act does not apply in relation to M before the end of the period of three years beginning with the date on which the notice is given.
- (5) If M is not such a person, M ceases to be disqualified by virtue of M's peerage (or dignity) for—
  - (a) voting at elections to the House of Commons, or
  - (b) being, or being elected as, a member of that House.
- (6) But subsection (5)(b) does not apply before the end of the period of three years beginning with the date on which the notice is given.
- (7) In relation to M, any reference in section 1(3) or (4)(b) of the Representation of the People Act 1985 to a register of parliamentary electors is to be read as including—
  - (a) any register of local government electors in Great Britain, and
  - (b) any register of local electors in Northern Ireland,which was required to be published on any date before the notice is given.
- (8) If, after the notice is given, a peerage is conferred on M or M succeeds to a peerage, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage. If subsection (3)(a) has applied to M, it does not stop M becoming excepted from section 1 of the House of Lords Act 1999 again by filling a vacancy under section 2 of that Act after the notice is given.
- (9) If, after the notice is given, M becomes the person who is to hold the office of Earl Marshal or perform the office of Lord Great Chamberlain, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of the peerage that led to M becoming the person who is to hold or perform the office in question.
- (10) A person to whom regulation 4 of the European Parliament (House of Lords Disqualification) Regulations 2008 (S.I. 2008/1647) applies is to be treated as a member of the House of Lords for the purposes of this section.

## PART 5

### TRANSPARENCY OF GOVERNMENT FINANCIAL REPORTING TO PARLIAMENT

#### **43 Inclusion in departmental estimates of resources used by designated bodies**

- (1) The Government Resources and Accounts Act 2000 is amended as follows.
- (2) After section 4 insert—

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### *“Departmental estimates*

#### **4A Inclusion in departmental estimates of resources used by designated bodies**

- (1) An estimate for a government department for approval by the House of Commons in respect of a financial year must be prepared in accordance with directions issued by the Treasury.
- (2) The Treasury may direct that the estimate is to include information relating to resources expected to be used by any body that is a designated body in relation to the department.
- (3) For the purposes of this section a body is a “designated” body in relation to a government department if—
  - (a) it is designated in relation to the department by an order made by the Treasury, or
  - (b) it falls within a description of body designated in relation to the department by such an order.
- (4) A body, or a description of body, may be designated in relation to a government department for a particular financial year or generally.
- (5) Subsections (6) and (7) apply if the Treasury—
  - (a) expect the use of resources by a body in a financial year to involve payments out of a devolved Consolidated Fund to or for the benefit of the body, but
  - (b) do not expect the use of resources by the body in the year to involve payments out of the Consolidated Fund of the United Kingdom to or for the benefit of the body.
- (6) If an order is in force under which the body would (but for this subsection) be a designated body for the year in relation to a government department—
  - (a) the Treasury must notify the department that the conditions in subsection (5) are met in the case of the body for the year, and
  - (b) the body is to be treated as if it were not designated for the year in relation to the department.
- (7) If no such order is in force, the Treasury may not make one.
- (8) Before designating a body, or a description of body, the Treasury must, where they think it appropriate, consult—
  - (a) the Scottish Ministers,
  - (b) the Department of Finance and Personnel for Northern Ireland, or
  - (c) the Welsh Ministers.
- (9) In determining for any purpose whether a body has a particular relationship with a government department (for example, whether it is controlled by, or otherwise dependent on, the department), the following must be disregarded—
  - (a) the fact that an estimate for the department in respect of a financial year includes information relating to the body, and

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- (b) the fact that the department's resource accounts for a financial year prepared under section 5 include information relating to the body.
- (10) An order under subsection (3) is to be made by statutory instrument.
- (11) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section “a devolved Consolidated Fund” means—
- (a) the Scottish Consolidated Fund,
  - (b) the Consolidated Fund of Northern Ireland, or
  - (c) the Welsh Consolidated Fund.”
- (3) In section 5(1) (resource accounts: preparation), for paragraphs (a) and (b) substitute—
- “(a) resources acquired, held or disposed of during the year by—
    - (i) the department, or
    - (ii) any body that is a designated body under section 4A in relation to the department for the year, and
  - (b) the use of resources during the year by the department or any such body.”
- (4) In section 6(1) (resource accounts: scrutiny by the Comptroller and Auditor General), for paragraph (d) substitute—
- “(d) that—
    - (i) the financial transactions of the department, and
    - (ii) the financial transactions of any body that is a designated body under section 4A in relation to the department for the year in question,are in accordance with any relevant authority.”

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**Commencement Information**

**I46** S. 43 in force at 11.11.2010 by S.I. 2010/2703, art. 2(c)

#### **44 Corresponding provision in relation to Wales**

- (1) Part 5 of the Government of Wales Act 2006 (finance) is amended as follows.
- (2) After section 126 insert—

**“126A Inclusion in Budget motions of resources used by designated bodies**

- (1) A Budget motion for a financial year may include information relating to resources expected to be used by any body that is a designated body in relation to a relevant person.
- (2) For the purposes of this section a body is a “designated” body in relation to a relevant person if—
  - (a) it is designated in relation to the relevant person by an order made by the Welsh Ministers, or

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- (b) it falls within a description of body designated in relation to the relevant person by such an order.
- (3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally.
- (4) If the Welsh Ministers expect the use of resources by a body in a financial year to involve payments out of a relevant Consolidated Fund to or for the benefit of the body, they may not make an order under which the body would be a designated body for the year unless the Treasury have consented to the making of the order.
- (5) “A relevant Consolidated Fund” means—
  - (a) the Consolidated Fund of the United Kingdom,
  - (b) the Scottish Consolidated Fund, or
  - (c) the Consolidated Fund of Northern Ireland.
- (6) The Welsh Ministers must, where they think it appropriate, consult the Treasury before designating a body or a description of body.
- (7) In determining for any purpose whether a body has a particular relationship with a relevant person (for example, whether it is controlled by, or otherwise dependent on, the person), the following must be disregarded—
  - (a) the fact that the provisions of a Budget motion relating to the relevant person in respect of a financial year include information relating to the body, and
  - (b) the fact that the relevant person's accounts for a financial year prepared under this or any other Act include information relating to the body.
- (8) An order under subsection (2) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) But subsection (9) does not apply if a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (3) Schedule 8 (Auditor General for Wales) is amended as follows.
- (4) In paragraph 13 (accounts of Auditor General), after sub-paragraph (1) insert—
  - “(1A) The directions which the Treasury may give under sub-paragraph (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Auditor General.”
- (5) In paragraph 15 (audit of accounts of Auditor General)—
  - (a) in sub-paragraph (5)(b)—
    - (i) for “the Auditor General”, in the first place, substitute “ a relevant person ”; and
    - (ii) for “the Auditor General”, in the second place, substitute “ the relevant person ”; and
  - (b) after sub-paragraph (5) insert—



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- “(5A) In sub-paragraph (5)(b) “relevant person” means—
- (a) the Auditor General, or
  - (b) any person to whose financial affairs and transactions the accounts are to relate by virtue of paragraph 13(1A).”
- (6) In paragraph 17(8) (access of Auditor General to documents), after paragraph (b) insert—
- “(ba) in a case within that paragraph relating to any accounts which the Public Services Ombudsman for Wales is directed to prepare under paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, the Ombudsman and any person to whose financial affairs and transactions the accounts are to relate by virtue of sub-paragraph (1A) of that paragraph.”
- (7) In paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (accounts), after sub-paragraph (1) insert—
- “(1A) The directions which the Treasury may give under sub-paragraph (1)(b) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Ombudsman.”

#### Commencement Information

**I47** S. 44 in force at 11.11.2010 by S.I. 2010/2703, art. 2(c)

## PART 6

### PUBLIC RECORDS AND FREEDOM OF INFORMATION

#### 45 Transfer of records to Public Record Office

- (1) In section 3 of the Public Records Act 1958 (selection and preservation of public records)—
- (a) in subsection (4) (transfer to Public Record Office or to other appointed place of deposit of public records selected for permanent preservation), for “thirty years” substitute “ 20 years ”, and
  - (b) after that subsection insert—
- “(4A) Until the end of the period of 10 years beginning with the commencement of section 45 of the Constitutional Reform and Governance Act 2010, subsection (4) has effect subject to any order made under subsection (2) of that section.”
- (2) The Lord Chancellor may by order make transitional, transitory or saving provision in connection with the coming into force of subsection (1)(a).
- (3) An order under subsection (2) may in particular—
- (a) provide for the time within which any records are to be transferred to the Public Record Office or other place of deposit referred to in section 3(4) of the Public Records Act 1958, and
  - (b) make different provision in relation to records of different descriptions.

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- (4) An order under this section is to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

- I48** S. 45(1) in force at 1.1.2013 for specified purposes by S.I. 2012/3001, art. 3(1)(a), Sch.  
**I49** S. 45(2)-(5) in force at 30.11.2012 by S.I. 2012/3001, art. 2(a)

## 46 Freedom of information

- (1) Schedule 7 (which makes amendments of the Freedom of Information Act 2000) has effect.
- (2) The Secretary of State may by order make transitional, transitory or saving provision in connection with the coming into force of paragraph 4 of Schedule 7 (which reduces from 30 years to 20 years the period at the end of which a record becomes a historical record for the purposes of Part 6 of the Freedom of Information Act 2000).
- (3) An order under subsection (2) may in particular—
  - (a) make provision about the time when any records are to become historical records for the purposes of Part 6 of the Freedom of Information Act 2000, and
  - (b) make different provision in relation to records of different descriptions.
- (4) An order under subsection (2) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Modifications etc. (not altering text)

- C2** S. 46(2)-(5) power modified (1.7.2012) by Protection of Freedoms Act 2012 (c. 9), ss. 104(2), 120 (with s. 97); S.I. 2012/1205, art. 3(x)

#### Commencement Information

- I50** S. 46(1) in force at 19.1.2011 for specified purposes by S.I. 2011/46, art. 3(a) (with art. 4)  
**I51** S. 46(1) in force at 1.1.2013 in so far as not already in force by S.I. 2012/3001, art. 3(1)(b)  
**I52** S. 46(2)-(5) in force at 30.11.2012 by S.I. 2012/3001, art. 2(b)

## PART 7

### MISCELLANEOUS AND FINAL PROVISIONS

## 47 Section 3 of the Act of Settlement

- (1) For the avoidance of doubt, the repeal in section 18(7) of the Electoral Administration Act 2006 of the entry in Schedule 7 to the British Nationality Act 1981 (entry which modified certain disqualifications imposed by section 3 of the Act of Settlement) applied only so far as the modification made by that entry related to—

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- (a) membership of the House of Commons, or
  - (b) anything from which a person is disqualified by virtue of a disqualification from membership of that House.
- (2) Section 3 of the Act of Settlement has effect accordingly, and has done so since the coming into force of section 18 of the Electoral Administration Act 2006.

#### **48 Parliamentary elections: counting of votes**

- (1) Schedule 1 to the Representation of the People Act 1983 (parliamentary elections rules) is amended as follows.
- (2) In rule 44 (attendance at counting of votes) after paragraph (5) insert—
- “(6) In making arrangements under this rule, the returning officer shall have regard to the duty imposed on him by rule 45(3A) below.”
- (3) In rule 45 (the count)—
- (a) after paragraph (3) insert—
    - “(3A) The returning officer shall take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within the period of four hours starting with the close of the poll.”;
  - (b) after paragraph (7) insert—
    - “(8) The Electoral Commission shall issue guidance to returning officers on the duty imposed by paragraph (3A) above.”
- (4) After rule 53 insert—

#### **53ZA “Counting of votes: statement by returning officer**

- (1) In a contested election, if the counting of the votes given on the ballot papers did not begin within the period specified in rule 45(3A) above, the returning officer shall before the expiry of the period of 30 days starting with the day on which the poll closed—
- (a) prepare and publish a statement giving the information specified in paragraph (2) below, and
  - (b) deliver it to the Electoral Commission.
- (2) The statement must—
- (a) specify the time at which the counting of the votes given on the ballot papers began,
  - (b) describe the steps taken under rule 45(3A) above, and
  - (c) explain why the counting of the votes given on the ballot papers did not start within the period specified in rule 45(3A) above.
- (3) Where a statement is delivered to the Electoral Commission under paragraph (1)(b) above, the Commission shall specify in any election report they produce that a statement has been delivered to them under that paragraph in respect of the constituency to which the statement relates.

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- (4) In paragraph (3) above “election report” means a report under section 5(1) or (2A) of the Political Parties, Elections and Referendums Act 2000 in relation to the parliamentary election in question.”

#### **49 Meaning of “Minister of the Crown”**

In this Act “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### **50 Financial provision**

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

#### **51 Power to make consequential provision**

- (1) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make such provision as the Minister or Ministers consider appropriate in consequence of any provision of this Act.
- (2) An order under subsection (1) may—
  - (a) amend, repeal or revoke any existing statutory provision;
  - (b) include supplementary, incidental, transitional, transitory or saving provision.
- (3) “Existing statutory provision” means—
  - (a) a provision of an Act passed on or before the last day of the Session in which this Act is passed;
  - (b) a provision of subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) made on or before that day.
- (4) An order under subsection (1) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (1) which amends or repeals a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing an order under subsection (1) which does not amend or repeal a provision of an Act is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **52 Extent, commencement, transitional provision and short title**

- (1) An amendment or repeal contained in this Act has the same extent as the Act or instrument or relevant part of the Act or instrument to which the amendment or repeal relates (ignoring extent by virtue of an Order in Council).
- (2) This Act comes into force on such day as a Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order appoint; and different days may be appointed for different purposes.

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- (3) Subsection (2) does not apply to the following provisions of this Act (which accordingly come into force on the day this Act is passed)—
  - (a) section 41;
  - (b) section 42;
  - (c) the provisions of this Part.
- (4) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.
- (5) An order under subsection (2) or (4) is to be made by statutory instrument.
- (6) This Act may be cited as the Constitutional Reform and Governance Act 2010.

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## SCHEDULES

### SCHEDULE 1

Section 2

#### THE CIVIL SERVICE COMMISSION

#### PART 1

#### THE COMMISSIONERS

##### *Membership of the Commission*

- 1 (1) The Commission is to consist of at least seven members.
- (2) One of those is to be the First Civil Service Commissioner appointed under paragraph 2.
- (3) The others are to be Civil Service Commissioners appointed under paragraph 3.

#### **Commencement Information**

**I53** Sch. 1 para. 1 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

##### *Appointment of First Civil Service Commissioner*

- 2 (1) This paragraph is about the appointment of the First Civil Service Commissioner (“First Commissioner”).
- (2) The First Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service.
- (3) A person's selection for recommendation must be on merit on the basis of fair and open competition.
- (4) Before selecting a person, the Minister must consult—
  - (a) the First Ministers for Scotland and Wales, and
  - (b) the relevant opposition leaders (see sub-paragraph (8)).
- (5) The terms on which the First Commissioner holds office are determined by the Minister for the Civil Service.
- (6) The period of the appointment is to be no more than five years.
- (7) A person cannot be appointed as First Commissioner more than once.
- (8) The relevant opposition leaders are the registered leaders of the registered parties in opposition to Her Majesty's Government in the United Kingdom which had the highest and second highest national vote at the previous parliamentary general election.

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(9) In sub-paragraph (8)—

“registered leader”, in relation to a party, means the person registered as that party's leader in accordance with section 24 of the Political Parties, Elections and Referendums Act 2000;

“registered party” means a party registered in a register of political parties maintained by the Electoral Commission in accordance with section 23 of that Act.

#### Commencement Information

**I54** Sch. 1 para. 2 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Appointment of Civil Service Commissioners*

- 3 (1) This paragraph is about the appointment of Civil Service Commissioners (“Commissioners”).
- (2) A Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service.
- (3) A person's selection for recommendation must be on merit on the basis of fair and open competition.
- (4) A person must not be selected without the agreement of the First Commissioner.
- (5) The terms on which a Commissioner holds office are determined by the Minister.
- (6) The period of the appointment is to be no more than five years.
- (7) The Minister must not make a determination under sub-paragraph (5) without the agreement of the First Commissioner.
- (8) A person cannot be appointed as a Commissioner more than once.
- (9) A person cannot be a Commissioner and the First Commissioner at the same time.
- (10) But, if the office of First Commissioner is vacant, the Minister may authorise a Commissioner to carry out the functions of First Commissioner until the vacancy is filled.
- (11) Sub-paragraphs (12) and (13) apply in relation to the appointment as Commissioner of a person holding another public office (including an office under the Crown) if the Minister and the First Commissioner are both satisfied that the functions of the other public office are concerned with matters similar to matters with which the Commission's functions are concerned.
- (12) The Minister and the First Commissioner may agree to disapply sub-paragraph (3) or (6).
- (13) The terms determined under sub-paragraph (5) may—
- provide for the person to cease to hold office as Commissioner if the person ceases to hold the other public office;
  - restrict the functions that the person may carry out as Commissioner.

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#### Commencement Information

**I55** Sch. 1 para. 3 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Payment of remuneration and allowances etc*

- 4 (1) The terms mentioned in paragraph 2(5) or 3(5) may provide for the Commission—
- (a) to pay remuneration and allowances to the person appointed;
  - (b) to make provision for a pension in relation to that person.
- (2) The Commission must make the payments or provision accordingly.

#### Commencement Information

**I56** Sch. 1 para. 4 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Resignation or removal from office*

- 5 (1) This paragraph is about resignation or removal from the office of First Commissioner or Commissioner.
- (2) A person may resign from office by giving written notice to the Minister for the Civil Service.
- (3) Her Majesty may, on the recommendation of the Minister, remove a person from office if a condition in sub-paragraph (4) is met.
- (4) The conditions are that—
- (a) the person is absent from three successive meetings of the Commission without the Commission's approval;
  - (b) the person is convicted of an offence (see sub-paragraph (5));
  - (c) the person becomes bankrupt (see sub-paragraph (6));
  - (d) the person is unfit or unable to carry out the functions of the office.
- (5) For the purpose of determining if a person is convicted of an offence—
- (a) it does not matter where the person is convicted;
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (6) A person becomes bankrupt if—
- (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person's estate is sequestrated.

#### Commencement Information

**I57** Sch. 1 para. 5 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)



*Status:* Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

*Compensation for loss of office of First Commissioner or Commissioner*

- 6 The Minister for the Civil Service may direct the Commission to pay compensation if—
- (a) a person ceases to hold office as First Commissioner or Commissioner, and
  - (b) the Minister is satisfied that, because of the circumstances in which the person ceased to hold office, compensation should be paid to the person.

**Commencement Information**

**I58** Sch. 1 para. 6 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 2**

THE COMMISSION

*Status of the Commission and its property*

- 7 (1) The Commission (including its members and employees) is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission's property is not to be regarded as property of, or held on behalf of, the Crown.

**Commencement Information**

**I59** Sch. 1 para. 7 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Powers*

- 8 (1) The Commission may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.
- (2) But the Commission may not borrow money except with the agreement of the Minister for the Civil Service.
- (3) Nothing in this Schedule which specifies powers of the Commission limits the generality of sub-paragraph (1).

**Commencement Information**

**I60** Sch. 1 para. 8 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Committees*

- 9 (1) The Commission may establish committees.
- (2) A committee of the Commission may establish sub-committees.

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

- (3) Members of a committee or sub-committee may include persons who are not members of the Commission.

**Commencement Information**

**I61** Sch. 1 para. 9 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Procedure and proceedings*

- 10 (1) The Commission may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) The validity of proceedings of the Commission or a committee or sub-committee is not affected by—
- (a) a vacancy among the members, or
  - (b) a defect in the appointment of a member.

**Commencement Information**

**I62** Sch. 1 para. 10 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Staff*

- 11 The Commission may employ staff.

**Commencement Information**

**I63** Sch. 1 para. 11 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Pensions*

- 12 (1) Employment by the Commission is included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.
- (2) The offices of First Commissioner and Commissioner are included among the offices to which such a scheme may apply.
- (3) Accordingly, in Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply)—
- (a) at the end of the list of “Royal Commissions and other Commissions” insert “ Civil Service Commission ”,
  - (b) in the list of “Offices” insert, at the appropriate place, “ Civil Service Commissioner ”, and
  - (c) in that list the reference to the First Civil Service Commissioner is to be read as a reference to the office of the First Civil Service Commissioner established by this Schedule.
- (4) The Commission must pay the Minister for the Civil Service the sums determined by the Minister in relation to any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

- (5) The payments must be made at the times directed by the Minister.

**Commencement Information**

**I64** Sch. 1 para. 12 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Arrangements for assistance*

- 13 (1) The Commission may make arrangements with other persons for the provision of assistance to the Commission.
- (2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance.
- (3) Arrangements may provide for the making of payments by the Commission.

**Commencement Information**

**I65** Sch. 1 para. 13 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Delegation*

- 14 (1) The Commission may delegate functions to—
- (a) any of its members;
  - (b) any of its committees;
  - (c) any of its employees;
  - (d) a person with whom arrangements are made under paragraph 13 or a person (including a civil servant) assisting the Commission under such arrangements.
- (2) A committee may delegate functions (including functions delegated to it) to a sub-committee.

**Commencement Information**

**I66** Sch. 1 para. 14 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Financial provisions*

- 15 (1) The Minister for the Civil Service must pay to the Commission the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Commission's functions.
- (2) When making a payment, the Minister may impose conditions—
- (a) about how some or all of the money is to be used;
  - (b) requiring the Commission to follow specified procedures in relation to its costs and expenditure.
- (3) Before making a determination under sub-paragraph (1) or imposing a condition under sub-paragraph (2), the Minister must consult the Commission.

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

#### Commencement Information

**I67** Sch. 1 para. 15 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Accounts*

- 16 (1) The Commission must keep proper accounts and proper records in relation to them.
- (2) The Commission must prepare a statement of accounts for each financial year (see paragraph 18).
- (3) The statement must give a true and fair view of—
- (a) the state of the Commission's affairs at the end of the financial year, and
  - (b) the Commission's income and expenditure and cash flows in the financial year.
- (4) The statement must be in compliance with any directions given by the Minister for the Civil Service with the Treasury's approval as to—
- (a) the information to be contained in the statement,
  - (b) the manner in which the information is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared.
- (5) The Commission must send the statement to the Minister at such time as the Minister may direct.
- (6) The Minister must then send the statement to the Comptroller and Auditor General.
- (7) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement, and
  - (b) lay copies of the statement and the report before Parliament (unless it has been arranged for the Minister to do so).

#### Commencement Information

**I68** Sch. 1 para. 16 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Reports*

- 17 (1) The Commission—
- (a) must, as soon as practicable after the end of each financial year (see paragraph 18), prepare a report about the carrying out of its functions during the year, and
  - (b) may, in exceptional cases, prepare a report at any other time about any matter relating to the carrying out of its functions.
- (2) As soon as practicable after preparing a report under sub-paragraph (1), the Commission must give a copy of the report to the Minister for the Civil Service and to the First Ministers for Scotland and Wales.
- (3) The Commission must then publish the report in the way the Commission thinks appropriate.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

- (4) The Minister for the Civil Service must lay a copy of the report before Parliament (unless it has been arranged for the Comptroller and Auditor General to do so).
- (5) The First Minister for Scotland must lay a copy of the report before the Scottish Parliament.
- (6) The First Minister for Wales must lay a copy of the report before the National Assembly for Wales.

**Commencement Information**

**I69** Sch. 1 para. 17 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Meaning of “financial year”*

- 18 For the purposes of paragraphs 16 and 17, each of the following is a “financial year”—
- (a) the period which begins when section 2 of this Act comes into force and ends with the following 31 March;
  - (b) each successive period of 12 months.

**Commencement Information**

**I70** Sch. 1 para. 18 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Documentary evidence*

- 19 (1) The application of the Commission's seal is to be authenticated by the signature of any of the following—
- (a) a member of the Commission;
  - (b) if the Commission's staff includes a chief executive, the chief executive;
  - (c) any person authorised (whether generally or specifically) for the purpose by anyone within paragraph (a) or (b).
- (2) A document purporting to be duly executed under the Commission's seal or signed on its behalf—
- (a) is to be received in evidence, and
  - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.
- (3) This paragraph does not extend to Scotland.

**Commencement Information**

**I71** Sch. 1 para. 19 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the  
 Constitutional Reform and Governance Act 2010. (See end of Document for details)*

## SCHEDULE 2

Section 19

### CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION RELATING TO PART 1

#### PART 1

##### CONSEQUENTIAL AMENDMENTS TO ACTS OF PARLIAMENT

###### *Parliamentary Commissioner Act 1967 (c. 13)*

- 1 In Schedule 2, in the note about the Cabinet Office, omit “and Head of the Home Civil Service”.

**Commencement Information**

**I72** Sch. 2 para. 1 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *Superannuation Act 1972 (c. 11)*

- 2 In section 2(10) for “home civil service or the diplomatic service” substitute “civil service of the State”.

**Commencement Information**

**I73** Sch. 2 para. 2 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *House of Commons Disqualification Act 1975 (c. 24)*

- 3 In Schedule 1—
- (a) in Part 2, at the appropriate place, insert “The Civil Service Commission”;
  - (b) in Part 3 omit “Civil Service Commissioner”.

**Commencement Information**

**I74** Sch. 2 para. 3 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 4 In Part 2 of Schedule 1, at the appropriate place, insert “The Civil Service Commission”.

**Commencement Information**

**I75** Sch. 2 para. 4 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *House of Commons (Administration) Act 1978 (c. 36)*

- 5 (1) Amend section 2 as follows.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

(2) In subsections (2) and (3) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.

(3) After subsection (4) insert—

“(5) The statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

#### Commencement Information

**I76** Sch. 2 para. 5 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Civil Service (Management Functions) Act 1992 (c. 61)*

6 (1) Amend section 1 as follows.

(2) For subsections (1) and (2) substitute—

“(1) This section applies to the functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 (management of the civil service, excluding the diplomatic service).

(2) The Minister for the Civil Service may, to such extent and subject to such conditions as the Minister thinks fit, delegate a function to which this section applies to any other servant of the Crown.”

(3) Omit subsection (5).

(4) For the italic cross-heading before section 1 substitute “*Civil service (excluding the diplomatic service)*”.

#### Commencement Information

**I77** Sch. 2 para. 6 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

7 In section 2(1)(a) for “Her Majesty's Home Civil Service” substitute “the civil service (excluding the diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010”.

#### Commencement Information

**I78** Sch. 2 para. 7 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *Government of Wales Act 1998 (c. 38)*

8 In paragraph 3(1) and (2) of Schedule 6 for “Her Majesty's Home Civil Service” substitute “the civil service of the State”.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

**Commencement Information**

**I79** Sch. 2 para. 8 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Scotland Act 1998 (c. 46)*

- 9 (1) Amend section 51 as follows.
- (2) In subsection (2) for “Home Civil Service” substitute “ civil service of the State ”.
- (3) For subsection (3) substitute—
- “(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
- (a) subsection (1), and
- (b) any other enactment about the appointment of persons mentioned in subsection (2).”
- (4) For subsection (4) substitute—
- “(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Scottish Ministers etc.”
- (5) Omit subsection (9).

**Commencement Information**

**I80** Sch. 2 para. 9 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)*

- 10 (1) Amend section 24 as follows.
- (2) In subsection (3)(c)(iii) for “Her Majesty's Home Civil Service” substitute “ the statutory home civil service ”.
- (3) After subsection (7) insert—
- “(8) In this section “the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

**Commencement Information**

**I81** Sch. 2 para. 10 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 11 (1) Amend section 81 as follows.



**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

(2) In subsection (7) for “home civil service or diplomatic service” substitute “ statutory civil service (or any part of it) ”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory civil service” means—

- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but
- (b) also includes the Government Communications Headquarters.”

**Commencement Information**

**I82** Sch. 2 para. 11 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Freedom of Information Act 2000 (c. 36)*

12 In Part 6 of Schedule 1 for “The Civil Service Commissioners” substitute “ The Civil Service Commission ”.

**Commencement Information**

**I83** Sch. 2 para. 12 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Tax Credits Act 2002 (c. 21)*

13 (1) Amend section 52 as follows.

(2) In subsection (7) for “Her Majesty's Home Civil Service” substitute “ the statutory home civil service ”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

**Commencement Information**

**I84** Sch. 2 para. 13 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Extradition Act 2003 (c. 41)*

14 (1) Amend section 101 as follows.

(2) In subsection (5) for “home civil service or diplomatic service” substitute “ statutory civil service (or any part of it) ”.

(3) After subsection (5) insert—

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

“(6) In subsection (5) “the statutory civil service” means the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

**Commencement Information**

**I85** Sch. 2 para. 14 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Government of Wales Act 2006 (c. 32)*

- 15 (1) Amend section 52 as follows.
- (2) In subsections (2) and (9) for “Home Civil Service” substitute “ civil service of the State ”.
- (3) For subsection (3) substitute—
- “(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
- (a) subsection (1), and
- (b) any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government.”
- (4) For subsection (4) substitute—
- “(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.”
- (5) Omit subsection (10).

**Commencement Information**

**I86** Sch. 2 para. 15 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Police and Justice Act 2006 (c. 48)*

- 16 In paragraph 7(4)(c) of Schedule 1 for “Her Majesty's Home Civil Service” substitute “ the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act) ”.

**Commencement Information**

**I87** Sch. 2 para. 16 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Parliament (Joint Departments) Act 2007 (c. 16)*

- 17 (1) Amend section 3 as follows.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

(2) In subsection (2) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.

(3) After subsection (3) insert—

“(4) The statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

**Commencement Information**

**I88** Sch. 2 para. 17 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Crossrail Act 2008 (c. 18)*

18 (1) Amend Schedule 12 as follows.

(2) In paragraphs 13(3) and 16(2)(a) and (b) for “Her Majesty's Home Civil Service” substitute “any part of the statutory home civil service”.

(3) In paragraph 20(2), after the definition of “enactment”, insert—

““the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act);”.

**Commencement Information**

**I89** Sch. 2 para. 18 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 2**

CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

*Civil Service Orders in Council*

19 The following are revoked—

- (a) the Civil Service Order in Council 1995;
- (b) the Civil Service (Amendment) Order in Council 1995;
- (c) the Civil Service (Amendment) Order in Council 1996;
- (d) the Civil Service (Amendment) Order in Council 1997;
- (e) the Civil Service (Amendment) Order in Council 1998;
- (f) the Civil Service (Amendment) Order in Council 1999;
- (g) the Civil Service (Amendment) Order in Council 2000;
- (h) the Civil Service (Amendment) Order in Council 2001;
- (i) the Civil Service (Amendment) Order in Council 2002;
- (j) the Civil Service (Amendment) Order in Council 2004;

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

- (k) the Civil Service (Amendment) Order in Council 2005;
- (l) the Civil Service (Amendment) Order in Council 2007;
- (m) the Civil Service (Amendment) (No. 2) Order in Council 2007;
- (n) the Civil Service (Amendment) (No. 3) Order in Council 2007;
- (o) the Civil Service (Amendment) Order in Council 2008;
- (p) the Civil Service (Amendment) (No. 2) Order in Council 2008.

**Commencement Information**

**I90** Sch. 2 para. 19 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Diplomatic Service Orders in Council*

- 20 The following are revoked—
- (a) the Diplomatic Service Order in Council 1991;
  - (b) the Diplomatic Service (Amendment) Order in Council 1994;
  - (c) the Diplomatic Service (Amendment) (No. 2) Order in Council 1994;
  - (d) the Diplomatic Service (Amendment) Order in Council 1995;
  - (e) the Diplomatic Service (Amendment) Order in Council 2004;
  - (f) the Diplomatic Service (Amendment) Order in Council 2009.

**Commencement Information**

**I91** Sch. 2 para. 20 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Servants of the Crown (Parliamentary, European Assembly  
and Northern Ireland Assembly Candidature) Order 1987*

- 21 This is revoked.

**Commencement Information**

**I92** Sch. 2 para. 21 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311)*

- 22 (1) Amend Schedule 1 as follows.
- (2) For “Head of the Home Civil Service” (wherever appearing) substitute “ designated permanent secretary ”.
- (3) After paragraph 12(2)(d) insert—
- “(da) after the definition of “the Deputy Chairman” insert—
- ““the designated permanent secretary” means the permanent secretary in the civil service of the State designated by the Minister for the Civil Service for the purposes of this Part;”.”

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

**Commencement Information**

**I93** Sch. 2 para. 22 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 23 In Schedules 3 and 4 for “Head of the Home Civil Service” (wherever appearing) substitute “ designated permanent secretary ”.

**Commencement Information**

**I94** Sch. 2 para. 23 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242)*

- 24 In article 2(2) for “Home Civil Service” substitute “ civil service of the State ”.

**Commencement Information**

**I95** Sch. 2 para. 24 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

### PART 3

#### TRANSITIONAL PROVISION RELATING TO THE CIVIL SERVICE COMMISSION

##### *Definitions*

- 25 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) A person is a “member of the old commission” if the person is one of Her Majesty's Civil Service Commissioners for the purposes of the 1995 Order or the 1991 Order.
- (3) References to “the old commission” are to be read accordingly.
- (4) A person is “head of the old commission” if the person is the First Civil Service Commissioner in relation to the old commission.
- (5) “Commission” has the same meaning as in Chapter 1 of this Part of this Act.
- (6) “First Commissioner” and “Commissioner” have the same meanings as in Schedule 1 to this Act.
- (7) “The 1995 Order” and “the 1991 Order” mean, respectively, the Civil Service Order in Council 1995 and the Diplomatic Service Order in Council 1991.

**Commencement Information**

**I96** Sch. 2 para. 25 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

*Head of the old commission to become First Commissioner*

- 26 (1) The person who is head of the old commission immediately before section 2 of this Act comes into force becomes the First Commissioner on that section coming into force.
- (2) Sub-paragraphs (3) and (4) below apply instead of paragraph 2(5) and (6) of Schedule 1 to this Act.
- (3) The person holds office as the First Commissioner for a period equal to the remaining part of the period for which the person was appointed as head of the old commission.
- (4) The other terms on which the person holds office as the First Commissioner are—
- (a) the same terms as those on which the person held office as head of the old commission, or
  - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (5) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.
- (6) The person's becoming First Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 2(7) of Schedule 1 to this Act.

**Commencement Information**

**I97** Sch. 2 para. 26 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Restriction on period of office if First Commissioner is former head of the old commission*

- 27 (1) This paragraph applies if the person who is the First Commissioner is a former head of the old commission.
- (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.
- (3) The five year rule is that the total of the following must not exceed five years—
- (a) the period or periods for which the person holds office as the First Commissioner, and
  - (b) the period or periods for which the person is head of the old commission.

**Commencement Information**

**I98** Sch. 2 para. 27 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Members of the old commission to become Commissioners*

- 28 (1) The persons who are members of the old commission immediately before section 2 comes into force become Commissioners on that section coming into force.
- (2) Sub-paragraph (1) does not apply to the person who is the head of the old commission.

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- (3) Sub-paragraphs (4) and (5) below apply instead of paragraph 3(5) and (6) of Schedule 1 to this Act.
- (4) A person holds office as Commissioner for a period equal to the remaining part of the period for which the person was appointed as a member of the old commission.
- (5) The other terms on which the person holds office as Commissioner are—
  - (a) the same terms as those on which the person held office as a member of the old commission, or
  - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (6) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.
- (7) The person's becoming Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 3(8) of Schedule 1 to this Act.

**Commencement Information**

**I99** Sch. 2 para. 28 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Restriction on period of office for former member of old commission*

- 29
- (1) This paragraph applies if a person who is a Commissioner is a former member of the old commission.
  - (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.
  - (3) The five year rule is that the total of the following must not exceed five years—
    - (a) the period or periods for which the person holds office as Commissioner, and
    - (b) the period or periods for which the person is a member of the old commission.
  - (4) Sub-paragraph (3)(a) and (b) does not include any period for which the person is also Her Majesty's Commissioner for Public Appointments.
  - (5) Sub-paragraph (3)(b) does not include any period for which the person is also head of the old commission.

**Commencement Information**

**I100** Sch. 2 para. 29 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Audits of recruitment policies and practices*

- 30
- (1) This paragraph applies in relation to an audit under article 4(3) of the 1995 Order or the 1991 Order that is started, but not completed, before the coming into force of section 2 of this Act.

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- (2) So far as the audit is within the Commission's function under section 14 of this Act, the Commission may continue and complete the audit.

**Commencement Information**

**I101** Sch. 2 para. 30 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Requirements to publish recruitment information*

- 31 Any requirement under article 4(4) of the 1995 Order or the 1991 Order imposed before the coming into force of section 2 of this Act must be complied with notwithstanding the revocation of the Order by Part 2 of this Schedule.

**Commencement Information**

**I102** Sch. 2 para. 31 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Appeals by civil servants*

- 32 (1) This paragraph applies in relation to an appeal under article 4(5) of the 1995 Order or the 1991 Order that is made, but not determined, before the coming into force of section 2 of this Act.
- (2) The Commission may continue with and determine the appeal and paragraphs (a) to (c) of article 4(5) of the 1995 Order or the 1991 Order (as the case may be) continue to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).

**Commencement Information**

**I103** Sch. 2 para. 32 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 33 (1) This paragraph applies in relation to a matter occurring before the coming into force of section 2 of this Act which could have been made the subject of an appeal under article 4(5) of the 1995 Order or the 1991 Order immediately before the coming into force of that section.
- (2) The Commission may hear and determine an appeal in relation to the matter and article 4(5) of the 1995 Order or the 1991 Order (as the case may be) is to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).

**Commencement Information**

**I104** Sch. 2 para. 33 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)



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### *First annual report*

- 34 (1) This paragraph applies to the first report that the Commission is required to prepare under paragraph 17(1)(a) of Schedule 1 to this Act.
- (2) The report must, for the relevant period, include the information required by—
- (a) article 8(1)(a) to (c) of the 1995 Order;
  - (b) article 4A(1)(a) to (c) of the 1991 Order.
- (3) For this purpose it does not matter if any of that information relates to a part of the civil service of the State to which Chapter 1 of this Part of this Act does not apply.
- (4) “The relevant period” means the period—
- (a) beginning with—
    - (i) for the purposes of sub-paragraph (2)(a), the end of the period covered by the last report published under article 8(1) of the 1995 Order;
    - (ii) for the purposes of sub-paragraph (2)(b), the end of the period covered by the last report published under article 4A(1) of the 1991 Order;
  - (b) ending when section 2 of this Act comes into force.

#### **Commencement Information**

**I105** Sch. 2 para. 34 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

### *Transfer of property, rights and liabilities*

- 35 (1) The Minister for the Civil Service may make a scheme—
- (a) specifying property, rights and liabilities of the Crown (or held on behalf of the Crown) that are relevant to the old commission's functions, and
  - (b) transferring the specified property, rights and liabilities to the Commission; and the transfer has effect in accordance with the terms of the scheme.
- (2) The scheme may operate in relation to property, rights and liabilities—
- (a) whether or not they would otherwise be capable of being transferred,
  - (b) without any instrument or other formality being required, and
  - (c) irrespective of any kind of requirement for consent that would otherwise apply.
- (3) The scheme may include supplementary, incidental, transitional, transitory or saving provision, including (in particular) provision—
- (a) for the continuing effect of things done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
  - (b) for the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
  - (c) for references to the Crown or a person who acts on behalf of the Crown in any agreement (whether written or not) or instrument or other document to be treated as or as including references to the Commission;
  - (d) for shared ownership, use or access.

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**Commencement Information**

**I106** Sch. 2 para. 35 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Information previously held by old commission*

- 36 (1) The Minister for the Civil Service must make arrangements for the Commission to be provided with any information—
- (a) which was held by (or on behalf of) the old commission for the purposes of the old commission's functions, and
  - (b) which the Commission reasonably requires for the purposes of its functions.
- (2) For the purposes of the Data Protection Act 1998 and the Freedom of Information Act 2000, any requests made to the old commission relating to information provided to the Commission under sub-paragraph (1) are to be dealt with by the Commission (so far as they were not dealt with by the old commission).

**Commencement Information**

**I107** Sch. 2 para. 36 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Preparatory work*

- 37 (1) During the preparatory period the old commission may carry out, in the name and on behalf of the Commission, any functions given to the Commission by Schedule 1 to this Act.
- (2) “The preparatory period” is the period that—
- (a) starts when this Act is passed, and
  - (b) ends when section 2 of this Act comes into force.

**Commencement Information**

**I108** Sch. 2 para. 37 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 4**

OTHER TRANSITIONAL PROVISION

*Application of section 16(1) of the Interpretation Act 1978*

- 38 (1) In this Part of this Schedule “old management functions” means functions that cease to be exercisable on the coming into force of section 3 of this Act.
- (2) Section 16(1) of the Interpretation Act 1978 applies in relation to an old management function ceasing to be exercisable as if—
- (a) the function had been conferred by an Act, and
  - (b) that Act were repealed by section 3 of this Act.

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- (3) So far as not covered by sub-paragraph (2), section 16(1) of the 1978 Act applies in relation to the revocation of an Order in Council by Part 2 of this Schedule as if it were the repeal of an Act.

**Commencement Information**

**I109** Sch. 2 para. 38 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Power to manage the civil service*

- 39 (1) Anything done under old management functions by—
- (a) a Minister of the Crown, or
  - (b) any other servant of the Crown under a delegation under section 1 of the Civil Service (Management Functions) Act 1992,
- is treated as done under subsection (1) or (2) of section 3 of this Act (as the case may be) so far as necessary or appropriate for continuing its effect after the coming into force of section 3.
- (2) Civil servants who, immediately before section 3 comes into force, held their positions in the civil service under or subject to old management functions, continue to hold their positions but under or subject to subsection (1) or (2) of that section (as the case may be).
- (3) The powers in subsections (1) and (2) of section 3 may (in particular) be used to deal with transitional matters.
- (4) Section 1 of this Act applies for the purposes of this paragraph as it applies for the purposes of Chapter 1 of this Part of this Act.

**Commencement Information**

**I110** Sch. 2 para. 39 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 40 (1) So far as—
- (a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or
  - (b) a relevant transferred function is not an old management function,
- the subject matter of the Order or function reverts to Her Majesty and may be dealt with (including delegated) by Her accordingly.
- (2) Civil servants who, immediately before this paragraph comes into force, held their positions in the civil service of the State under or subject to—
- (a) an Order in Council revoked by Part 2 of this Schedule so far as it was not made under old management functions, or
  - (b) a relevant transferred function so far as it is not an old management function,
- continue to hold their positions but on the basis mentioned in sub-paragraph (1).
- (3) “Relevant transferred function” means a function which—
- (a) has been delegated by Her Majesty in relation to the management of the civil service of the State (excluding the Northern Ireland Civil Service), and

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- (b) has been the subject of a transfer of functions Order (as that term was defined in section 1(5) of the Civil Service (Management Functions) Act 1992 before its repeal by Part 1 of this Schedule).

**Commencement Information**

**I111** Sch. 2 para. 40 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Selection on merit etc*

- 41 (1) In determining for the purposes of section 10(1) of this Act whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on an exception made by the old commission (within the meaning of Part 3 of this Schedule) from a requirement for selection for the appointment to be on merit on the basis of fair and open competition.
- (2) But the recruitment principles (within the meaning of Chapter 1 of this Part of this Act) may disapply sub-paragraph (1) in specified cases.

**Commencement Information**

**I112** Sch. 2 para. 41 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 42 For the purpose of determining whether a selection for an appointment complies with the requirement in section 10(2) of this Act in a case in which the selection process began before section 10(2) comes into force, account must be taken of anything done under or in relation to the selection process before section 10(2) comes into force.

**Commencement Information**

**I113** Sch. 2 para. 42 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Special advisers*

- 43 (1) This paragraph applies to a person who, immediately before the coming into force of this paragraph, holds a position in the civil service of the State for which the person was selected for appointment in reliance on article 3(2), (4) or (5) of the Civil Service Order in Council 1995.
- (2) For the purposes of Chapter 1 of this Part of this Act the person is treated as a special adviser so long as the person remains in that position on the same terms and conditions.

**Commencement Information**

**I114** Sch. 2 para. 43 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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## SCHEDULE 3

Section 26

### PARLIAMENTARY STANDARDS ACT 2009: SUBSTITUTED SCHEDULE 2

#### Commencement Information

I115 Sch. 3 in force at 19.4.2010 by S.I. 2010/1277, art. 2(c)

## “SCHEDULE 2

Section 3

### COMPLIANCE OFFICER

#### *Appointment of Compliance Officer*

- 1 (1) The Compliance Officer is to be appointed by the IPSA.
- (2) The person to be appointed must be selected by the IPSA on merit on the basis of fair and open competition.

#### *Terms and conditions: general*

- 2 (1) Subject to the provisions of this Schedule, the Compliance Officer holds office in accordance with the terms and conditions of the Compliance Officer's appointment.
- (2) Those terms and conditions are to be determined by the IPSA.

#### *Term of office*

- 3 (1) The Compliance Officer is to be appointed for a fixed term not exceeding five years.
- (2) A person who has been appointed as the Compliance Officer may not be appointed again.

#### *Resignation and removal from office*

- 4 (1) A person may resign from the office of Compliance Officer by giving written notice to the IPSA.
- (2) The IPSA may remove a person from the office of Compliance Officer if the person—
  - (a) is convicted of an offence (see sub-paragraph (3)),
  - (b) becomes bankrupt (see sub-paragraph (4)), or
  - (c) is unfit or unable to carry out the functions of the office.
- (3) For the purposes of determining if the person is convicted of an offence—
  - (a) it does not matter where the person is convicted, and
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (4) A person becomes bankrupt if—
  - (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person's estate is sequestrated.

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#### *Remuneration*

- 5 (1) The terms and conditions on which a person is appointed as the Compliance Officer may provide for the IPSA—
- (a) to pay remuneration and allowances to the person;
  - (b) to make provision for a pension in relation to that person.
- (2) The IPSA must make the payment or provision accordingly.

#### *Status*

- 6 (1) The Compliance Officer is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Compliance Officer's property is not to be regarded as property of, or property held on behalf of, the Crown.

#### *Funding*

- 7 (1) The IPSA must provide the Compliance Officer with adequate resources for the Compliance Officer's functions.
- (2) In particular, the IPSA is responsible for providing staff to assist in the carrying out of those functions.

#### *Annual report*

- 8 (1) As soon as practicable after the end of each financial year, the Compliance Officer must—
- (a) prepare a report about the performance of the Compliance Officer's functions during that financial year, and
  - (b) send the report to the IPSA.
- (2) The IPSA must send the report to the Speaker of the House of Commons, who must lay it before each House of Parliament.
- (3) When the Speaker lays the report, the Compliance Officer must publish it in such manner as the Compliance Officer considers appropriate.
- (4) “Financial year” means—
- (a) the period beginning with the day on which a Compliance Officer is first appointed and ending with the next following 31 March, and
  - (b) each successive period of 12 months.

#### *Vacancy in office of Compliance Officer*

- 9 (1) This paragraph applies if the office of Compliance Officer is vacant.
- (2) The IPSA may authorise a member of the IPSA's staff provided under paragraph 7(2) to carry out the functions of the Compliance Officer during the vacancy.
- (3) In relation to a vacancy of more than six months, the functions of the Compliance Officer may not be carried out by virtue of sub-paragraph (2) after the first six months.

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### *Disqualification*

- 10 (1) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”
- (2) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”

### *Freedom of information*

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”

### *Public records*

- 12 In Schedule 1 to the Public Records Act 1958 (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ” ”

## SCHEDULE 4

Section 34

### PARLIAMENTARY STANDARDS ACT 2009: NEW SCHEDULE 4

#### **Commencement Information**

**I116** Sch. 4 in force at 27.7.2010 by S.I. 2010/1931, art. 3(g) (with arts. 4, 5)

## “SCHEDULE 4

Section 9B

### ENFORCEMENT

#### **PART 1**

#### RECOVERY OF OVERPAYMENTS

##### *Power to give repayment direction*

- 1 (1) This paragraph applies where the Compliance Officer—
- (a) has conducted an investigation in respect of a member of the House of Commons under section 9, and
  - (b) has made findings under section 9(5) that the member was paid an amount under the MPs' allowances scheme (the “overpayment”) that—
    - (i) should not have been allowed, and
    - (ii) has not been repaid.
- (2) The Compliance Officer—

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- (a) if sub-paragraph (3) applies, may give the member a direction under this paragraph (a “repayment direction”), and
  - (b) otherwise, must give the member a repayment direction.
- (3) This sub-paragraph applies if the Compliance Officer has made findings under section 9(5) 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.
- (4) A repayment direction must require the member to pay to the IPSA—
- (a) if sub-paragraph (3) applies, such amount (not exceeding the amount of the overpayment) as the Compliance Officer considers reasonable, and
  - (b) otherwise, the amount of the overpayment.
- (5) The repayment direction must specify the period (the “repayment period”) before the end of which that amount is to be paid.
- (6) A repayment direction may also require the member to do one or both of the following before the end of the repayment period—
- (a) pay to the IPSA interest on the amount mentioned in sub-paragraph (4), at the rate and in relation to the period specified in the direction;
  - (b) pay to the IPSA an amount reasonably representing the costs incurred by the IPSA in relation to the overpayment, including the costs of the Compliance Officer in conducting the investigation.
- (7) The Compliance Officer must send a copy of the repayment direction to the IPSA.
- (8) References in this Part of this Schedule to a member of the House of Commons include a former member of that House.
- (9) In this Schedule “overpayment”, “repayment direction” and “repayment period” have the meaning given by this paragraph (but in relation to the repayment period, see further paragraph 4(3)).

#### *Guidance etc*

- 2 (1) The IPSA must prepare guidance about the circumstances in which the Compliance Officer should include in a repayment direction a requirement under paragraph 1(6)(a) or (b).
- (2) The guidance must include guidance about whether the Compliance Officer should include such a requirement if paragraph 1(3) applies.
- (3) The amount mentioned in paragraph 1(6)(b) is to be calculated by the Compliance Officer in accordance with a scheme prepared by the IPSA for that purpose.
- (4) Before preparing guidance under sub-paragraph (1) or a scheme under sub-paragraph (3) the IPSA must consult the persons listed in section 9A(6).

#### *Appeal against repayment direction*

- 3 (1) A member who has been given a repayment direction under paragraph 1 may appeal to the First-tier Tribunal against—
- (a) the Compliance Officer's findings under section 9(5);
  - (b) if paragraph 1(3) applies, the Compliance Officer's decision to give the member a repayment direction;



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- (c) if paragraph 1(3) applies, the amount the member is required to repay because of paragraph 1(4)(a);
  - (d) a requirement contained in the repayment direction because of paragraph 1(6).
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the repayment direction is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (3) An appeal under this paragraph is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may—
- (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (5) If the Tribunal allows the appeal (in whole or in part) it may—
- (a) revoke the repayment direction;
  - (b) revoke or vary any requirement contained in the repayment direction;
  - (c) make any other order it thinks fit.
- (6) If the Tribunal dismisses the appeal it may make any other order it thinks fit.
- (7) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

#### *Extension of repayment period*

- 4 (1) The member may at any time before the end of the repayment period make an application to the Compliance Officer for the Compliance Officer to extend (or further extend) the repayment period.
- (2) The Compliance Officer must notify the IPSA of any decision by the Compliance Officer to extend (or further extend) the repayment period.
- (3) If the Compliance Officer extends (or further extends) the repayment period, references in this Schedule to the repayment period are to that period as extended (or further extended) by the Compliance Officer.
- (4) The member may appeal to the First-tier Tribunal against the Compliance Officer's decision on an application under this paragraph.
- (5) An appeal under this paragraph 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).
- (6) The appeal is by way of a rehearing.
- (7) The Tribunal may—
- (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (8) If the Tribunal allows the appeal (in whole or in part) it may—
- (a) revoke or vary the Compliance Officer's decision;
  - (b) make any other order it thinks fit.
- (9) If the Tribunal dismisses the appeal it may make any other order it thinks fit.

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

*Enforcement of repayment direction*

- 5 (1) This paragraph applies to any amount which a member is required by a repayment direction to pay to the IPSA, but only when—
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is—
- (a) an appeal under paragraph 3 brought before the end of the period mentioned in paragraph 3(2), or
  - (b) a further appeal in relation to the repayment direction 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.
- (3) The IPSA may recover the amount by making deductions from—
- (a) any salary payable to the member under section 4;
  - (b) any allowances payable to the member under the MPs' allowances scheme.
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the Compliance Officer, as if it were payable under an order of that court.
- (5) In Scotland the amount is recoverable as if the repayment direction were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

## PART 2

### PENALTIES

*Power to impose penalties*

- 6 (1) If sub-paragraph (3) or (4) applies to a member of the House of Commons, the Compliance Officer may by notice (a “penalty notice”) impose a penalty on the member.
- (2) A “penalty” means a sum of money payable by the member to the IPSA.
- (3) This sub-paragraph applies if the Compliance Officer has made a finding under section 9(5) that the member has without reasonable excuse failed to comply with a requirement under section 9(3) (provision of information to Compliance Officer).
- (4) This sub-paragraph applies if the Compliance Officer is satisfied that the member has without reasonable excuse failed to comply with any requirement contained in a repayment direction.
- (5) The Compliance Officer must send a copy of the penalty notice to the IPSA.

*Status:* Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

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- (6) References in this Part of this Schedule to a member of the House of Commons include a former member of that House.
- (7) In this Schedule “penalty notice” and “penalty” have the meanings given by this paragraph.

*Amount of penalty*

- 7 (1) The penalty notice must state the amount of the penalty.
- (2) The amount of the penalty must not exceed £1,000.
- (3) The amount in sub-paragraph (2) may be increased (or further increased) by an order made by a Minister of the Crown.
- (4) An order under sub-paragraph (3) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

*Information to be contained in notice*

- 8 (1) The penalty notice must (as well as stating the amount of the penalty) include information as to—
- (a) the reasons for imposing the penalty,
  - (b) the period before the end of which the penalty is to be paid,
  - (c) how the penalty may be paid,
  - (d) the procedure and time limit for appealing,
  - (e) the effect of paragraph 12, and
  - (f) any other matter specified by the IPSA.
- (2) Before specifying a matter the IPSA must consult the persons listed in section 9A(6).

*Guidance etc*

- 9 (1) The IPSA must prepare guidance about—
- (a) the circumstances in which the Compliance Officer should impose a penalty under paragraph 6, and
  - (b) how the Compliance Officer should determine the amount of the penalty.
- (2) Before preparing the guidance the IPSA must consult the persons listed in section 9A(6).

*Review of penalty*

- 10 (1) The Compliance Officer may at any time review a decision to impose a penalty on a member under paragraph 6.
- (2) Following the review the Compliance Officer may cancel the penalty or reduce the amount of the penalty.
- (3) If the Compliance Office does either of those things, the Compliance Officer must notify the IPSA.

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- (4) If the penalty (or part of the penalty) has already been paid the IPSA must repay the member accordingly.

*Appeal against penalty*

- 11 (1) A member on whom a penalty has been imposed under paragraph 6 may appeal to the First-tier Tribunal.
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the penalty notice is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (3) The appeal is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may—
- (a) allow the appeal and cancel the penalty,
  - (b) allow the appeal and reduce the penalty, or
  - (c) dismiss the appeal.
- (5) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

*Enforcement of penalty*

- 12 (1) This paragraph applies to the amount of a penalty imposed on a member under paragraph 6, but only when—
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is—
- (a) an appeal under paragraph 11 brought before the end of the period mentioned in paragraph 11(2), or
  - (b) a further appeal in relation to the penalty notice 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.
- (3) The IPSA may recover the amount by making deductions from—
- (a) any salary payable to the member under section 4;
  - (b) any allowances payable to the member under the MPs' allowances scheme.
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the Compliance Officer, as if it were payable under an order of that court.
- (5) In Scotland the amount is recoverable as if the penalty notice were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

*Payment of penalty into Consolidated Fund*

- 13 The IPSA must pay into the Consolidated Fund—

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- (a) the amount of any penalty paid to the IPSA, and
- (b) where the IPSA makes a deduction under paragraph 12(3), an amount corresponding to the amount of the deduction.”

## SCHEDULE 5

Section 38

### PARLIAMENTARY STANDARDS: CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS OF THE PARLIAMENTARY STANDARDS ACT 2009

1 The Parliamentary Standards Act 2009 is amended as follows.

#### Commencement Information

**I117** Sch. 5 para. 1 in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(i)

- 2 In section 2(2) (effect of Act on House of Lords)—
- (a) omit paragraph (a), and
  - (b) in paragraph (c) for “paragraphs 4(2) and 8(1)” substitute “ paragraph 8(2) ”.

#### Commencement Information

**I118** Sch. 5 para. 2(a) in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(i)

**I119** Sch. 5 para. 2(b) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(ii)

- 3 In section 5(8) (allowances) for the words from “and” to the end substitute “ and in relation to any such allowances, references in this Act to a member of the House of Commons include a former member of that House. ”

#### Commencement Information

**I120** Sch. 5 para. 3 in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(ii)

- 4 (1) Section 12 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) for “ “the Commissioner” ” substitute “the Compliance Officer” , and
  - (b) omit the definition of “the MPs' code of conduct relating to financial interests”.
- (3) In subsection (2)—
- (a) after “committee” (in each place) insert “ or officer ”, and
  - (b) in paragraph (a) for “its” substitute “ the ”.

*Status: Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the  
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**Commencement Information**

**I121** Sch. 5 para. 4(1)(2)(a) in force at 19.4.2010 by S.I. 2010/1277, **art. 2(d)(iii)**

**I122** Sch. 5 para. 4(2)(b) in force at 7.5.2010 by S.I. 2010/1277, **art. 3(i)(iii)**

**I123** Sch. 5 para. 4(3) in force at 27.7.2010 by S.I. 2010/1931, **art. 3(h)(i)**

- 5 (1) Section 13 (transitional provision) is amended as follows.
- (2) Omit subsection (2)(b) and (c).
- (3) In subsection (4) and (6)(c) for “Commissioner” substitute “ Compliance Officer ”.

**Commencement Information**

**I124** Sch. 5 para. 5(1)(3) in force at 19.4.2010 by S.I. 2010/1277, **art. 2(d)(iv)**

**I125** Sch. 5 para. 5(2) in force at 7.5.2010 by S.I. 2010/1277, **art. 3(i)(iv)**

- 6 In section 14 (commencement) omit subsection (2)(d).

**Commencement Information**

**I126** Sch. 5 para. 6 in force at 7.5.2010 by S.I. 2010/1277, **art. 3(i)(v)**

- 7 (1) Schedule 1 (the IPSA) is amended as follows.
- (2) Omit paragraph 10 and the heading above it.
- (3) In paragraph 18(1)—
- (a) for paragraph (a) substitute—
- “(a) section 4 (MPs' salaries), so far as relating to the payment (but not the determination) of salaries,”
- (b) in paragraph (c), after “claims)” insert “ (except as mentioned in sub-paragraph (2) below) ”, and
- (c) omit the words following paragraph (c).
- (4) In paragraph 18(2)—
- (a) before paragraph (a) insert—
- “(za) sections 4 and 4A (MPs' salaries) (except as mentioned in sub-paragraph (1) above),”
- (b) after paragraph (a) insert—
- “(aa) section 6(10) (determining procedures for publication of allowances claims),”
- (c) omit paragraph (b) (and the “and” following it), and
- (d) for paragraph (c) substitute—
- “(c) section 9(8)(b) and (9) (determining conditions),  
 (d) section 9A (determining procedures for investigations etc),  
 (e) paragraphs 1, 2(2), 4(2) and 9(2) of Schedule 2 (appointment and removal of Compliance Officer etc), and  
 (f) paragraphs 2, 8 and 9 of Schedule 4 (scheme, guidance etc for Compliance Officer).”

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

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- (5) In paragraph 22(8) for “Any repayments” substitute “ Any payments received by the IPSA as a result of a repayment direction under Schedule 4, and any repayments otherwise ”.

#### Commencement Information

- I127** Sch. 5 para. 7(1) in force at 19.4.2010 by S.I. 2010/1277, **art. 2(d)(v)**  
**I128** Sch. 5 para. 7(2)(3)(c)(4)(c) in force at 7.5.2010 by S.I. 2010/1277, **art. 3(i)(vi)**  
**I129** Sch. 5 para. 7(3)(a)(4)(a) in force at 24.5.2011 by S.I. 2011/1274, **art. 2(b)**  
**I130** Sch. 5 para. 7(3)(b)(4)(b)(5) in force at 27.7.2010 by S.I. 2010/1931, **art. 3(h)(ii)**  
**I131** Sch. 5 para. 7(4)(d) in force at 19.4.2010 for specified purposes by S.I. 2010/1277, **art. 2(d)(v)**  
**I132** Sch. 5 para. 7(4)(d) in force at 27.7.2010 in so far as not already in force by S.I. 2010/1931, **art. 3(h)(ii)**

## PART 2

### AMENDMENTS OF OTHER ACTS

#### *European Parliament (Pay and Pensions) Act 1979 (c. 50)*

- 8 (1) In section 1(2) (salaries of MEPs) for paragraphs (a) and (b) substitute “ the same as that of the salary payable for that period, under section 4 of the Parliamentary Standards Act 2009, to a Member who does not hold an office or position specified in a resolution of the House of Commons for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions). ”
- (2) Omit section 5 (salary to be used for calculating pension benefits).
- (3) In section 8(1) (interpretation) omit the definition of “ “a Member's ordinary salary” and “a Member's pensionable salary” ”.

#### Commencement Information

- I133** Sch. 5 para. 8 in force at 24.5.2011 by S.I. 2011/1274, **art. 2(b)**

#### *Parliamentary and other Pensions Act 1987 (c. 45)*

- 9 In section 5(2) (interpretation) for the words from “such resolutions” to the end substitute—
- “(a) section 4 of the Parliamentary Standards Act 2009, or  
(b) in relation to a time before that section was in force, the resolutions of the House of Commons then in force relating to the remuneration of its members.”

#### Commencement Information

- I134** Sch. 5 para. 9 in force at 24.5.2011 by S.I. 2011/1274, **art. 2(b)**

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the  
*Constitutional Reform and Governance Act 2010. (See end of Document for details)*

*Ministerial and other Pensions and Salaries Act 1991 (c. 5)*

- 10 In section 4 (grants to persons ceasing to hold ministerial and other offices)—
- (a) omit subsection (3),
  - (b) after that subsection insert—
    - “(3A) The annual amount of the salary paid to a person in respect of the office of Chairman of Ways and Means or Deputy Chairman of Ways and Means is the difference between—
    - (a) the annual amount of the salary payable under section 4 of the Parliamentary Standards Act 2009 to a person holding that office, and
    - (b) the annual amount of the salary payable under that section to a member of the House of Commons who does not hold an office or position specified in a resolution of that House for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions).”
  - (c) omit subsection (7).

**Commencement Information**

**I135** Sch. 5 para. 10 in force at 24.5.2011 by S.I. 2011/1274, art. 2(b)

*Scotland Act 1998 (c. 46)*

- 11 (1) Section 82 (limits on salaries of MSPs) is amended as follows.
- (2) In subsection (1)—
- (a) before paragraph (a) insert—
    - “(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),”
  - (b) in paragraph (a) for “either House of Parliament” substitute “the House of Lords”.
- (3) In subsection (2)(b) for “(1)(a)” substitute “(1)(za), (a)”.

**Commencement Information**

**I136** Sch. 5 para. 11 in force at 24.5.2011 by S.I. 2011/1274, art. 2(b)

*Government of Wales Act 2006 (c. 32)*

- 12 (1) Section 21 (limits on salaries of Assembly members) is amended as follows.
- (2) In subsection (1)—
- (a) before paragraph (a) insert—
    - “(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),”
  - (b) in paragraph (a) for “either House of Parliament” substitute “the House of Lords”.



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(3) In subsection (2)(b) for “(1)(a)” substitute “ (1)(za), (a) ”.

**Commencement Information**

**I137** Sch. 5 para. 12 in force at 24.5.2011 by S.I. 2011/1274, art. 2(b)

SCHEDULE 6

Section 40

PARLIAMENTARY AND OTHER PENSIONS

**PART 1**

PARLIAMENTARY AND OTHER PENSIONS

**THE PARLIAMENTARY CONTRIBUTORY PENSION FUND ETC**

*Continuance of Fund*

1 There is to continue to be a fund known as the Parliamentary Contributory Pension Fund (“the Fund”).

**Commencement Information**

**I138** Sch. 6 para. 1 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Number and composition of trustees*

- 2 (1) The following are to be the trustees of the Fund—
- (a) one person appointed by the IPSA after consulting the Minister for the Civil Service and the persons who are already trustees of the Fund,
  - (b) one person appointed by the Minister for the Civil Service after consulting the IPSA and the persons who are already trustees of the Fund, and
  - (c) 8 persons nominated and selected in accordance with arrangements under paragraph 3 (“member-nominated trustees”).
- (2) Paragraphs 49 and 50 make transitional provision about the trustees of the Fund.

**Commencement Information**

**I139** Sch. 6 para. 2 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Member-nominated trustees*

- 3 (1) The trustees of the Fund must make arrangements for the nomination and selection of member-nominated trustees.
- (2) The arrangements must provide for the member-nominated trustees to be—

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- (a) nominated as the result of a process in which all the members of a scheme under paragraph 12 and all the members of a scheme under paragraph 16 are eligible to participate, and
  - (b) selected as the result of a process in which some or all of those persons are eligible to participate.
- (3) The arrangements must—
- (a) include provision for the nomination and selection process to take place within a reasonable period of any vacancy arising,
  - (b) include provision, where a vacancy is not filled because insufficient nominations are received, for the nomination and selection process to be repeated at reasonable intervals until the vacancy is filled, and
  - (c) include provision that, where the IPSA or the Minister for the Civil Service so requires, a person who is not a member of a scheme under paragraph 12 and is not a member of a scheme under paragraph 16 must have the approval of the IPSA or the Minister for the Civil Service to qualify for selection as a member-nominated trustee.
- (4) The arrangements may include provision that where the number of nominations received is equal to or less than the number of vacancies, the nominees are to be treated as selected (subject to sub-paragraph (3)(c)).

#### Commencement Information

**I140** Sch. 6 para. 3 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

#### *Remuneration*

- 4 (1) The IPSA may, with the consent of the Treasury, provide for remuneration and allowances to be payable to the trustees of the Fund.
- (2) Any such remuneration and allowances are to be paid from the assets of the Fund.

#### Commencement Information

**I141** Sch. 6 para. 4 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

#### *Resignation and removal of trustees*

- 5 (1) A person appointed as a trustee of the Fund by the IPSA under paragraph 2(1)(a)—
- (a) may resign by giving written notice to the IPSA, and
  - (b) may be removed by the IPSA after consulting the Minister for the Civil Service and all the other trustees of the Fund.
- (2) A person appointed as a trustee of the Fund by the Minister for the Civil Service under paragraph 2(1)(b)—
- (a) may resign by giving written notice to the Minister for the Civil Service, and
  - (b) may be removed by the Minister for the Civil Service after consulting the IPSA and all the other trustees of the Fund.
- (3) A person who is a member-nominated trustee—

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- (a) may resign by giving written notice to the other trustees of the Fund, and
- (b) may be removed by all the other trustees of the Fund acting together.

**Commencement Information**

**I142** Sch. 6 para. 5 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Proceedings*

- 6
- (1) Subject to any provisions contained in a scheme under paragraph 8 because of paragraph 8(1)(d), the trustees of the Fund may determine their own procedure.
  - (2) The validity of any proceedings of the trustees of the Fund is not affected by—
    - (a) a vacancy among the trustees, or
    - (b) a defect in the appointment of a trustee.

**Commencement Information**

**I143** Sch. 6 para. 6 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Powers of trustees*

- 7
- (1) The trustees of the Fund may invest the assets of the Fund, whether at the time in a state of investment or not, in any investment whatever and may also from time to time vary any such investments.
  - (2) The trustees of the Fund may settle or compromise any claim or dispute relating to the Fund, but—
    - (a) so far as the claim or dispute relates to a scheme under paragraph 8 or 12, they may do so only with the consent of the IPSA, and
    - (b) so far as the claim or dispute relates to a scheme under paragraph 16, they may do so only with the consent of the Minister for the Civil Service.
  - (3) The IPSA must consult the Minister for the Civil Service before giving its consent to the settlement or compromise of a claim or dispute relating to a scheme under paragraph 8.
  - (4) Section 35(1) to (4) of the Pensions Act 1995 (pension scheme trustees must prepare statement of investment principles) applies to the trustees of the Fund despite any provision in regulations under section 35 of that Act which would (apart from this sub-paragraph) prevent it applying.
  - (5) Any provision in regulations under that section which would require the trustees of the Fund to consult the employer applies as if it required them to consult the IPSA and the Minister for the Civil Service.

**Commencement Information**

**I144** Sch. 6 para. 7 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

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### *Administration scheme*

- 8 (1) The IPSA may make a scheme containing provision about—
- (a) the administration of the Fund,
  - (b) the management of the Fund's assets,
  - (c) the indemnification of the trustees (and former trustees) of the Fund,
  - (d) the proceedings of the trustees of the Fund, and
  - (e) the application of the Fund's assets in connection with the matters in paragraphs (a) to (d).
- (2) A scheme under this paragraph may in particular—
- (a) include any or all of the provisions specified in paragraphs 31 to 33,
  - (b) make different provision in relation to different cases, circumstances or persons,
  - (c) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate.
- (3) In sub-paragraph (2)(c) the reference to subordinate legislation does not include a scheme under this paragraph.
- (4) No provision of a scheme under this paragraph is to be construed as restricting the powers of the trustees under paragraph 7(1).

#### **Commencement Information**

**I145** Sch. 6 para. 8 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

### *Procedure for administration scheme*

- 9 (1) The IPSA may make a scheme under paragraph 8 only with the consent of the trustees of the Fund.
- (2) Before making a scheme under paragraph 8 the IPSA must consult—
- (a) the Treasury,
  - (b) the Minister for the Civil Service,
  - (c) persons the IPSA considers to represent those likely to be affected by the scheme, and
  - (d) any other person the IPSA considers appropriate.
- (3) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons—
- (a) any scheme made by it under paragraph 8, and
  - (b) a statement of the reasons for making the scheme.
- (4) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.

#### **Commencement Information**

**I146** Sch. 6 para. 9 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

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### *Exchequer contribution to Fund*

- 10 (1) In respect of each financial year an Exchequer contribution is to be paid into the Fund out of money provided by Parliament.
- (2) Subject to any provision made by the IPSA under paragraph 11, the amount of the contribution for any financial year is to be calculated in accordance with recommendations for that year contained in a report made by the Government Actuary under this paragraph.
- (3) The Government Actuary must make a report under this paragraph as soon as practicable after the beginning of—
- (a) the period of three years beginning with the relevant date, and
  - (b) each succeeding period of three years.
- (4) The “relevant date” means the date immediately following the end of the three year period which is current for the purposes of section 3 of the Parliamentary and other Pensions Act 1987 when this paragraph comes into force.
- (5) The report is to be made to—
- (a) the trustees of the Fund,
  - (b) the IPSA,
  - (c) the Minister for the Civil Service, and
  - (d) the Treasury.
- (6) The report must—
- (a) report on the general financial position of the Fund at the beginning of the period of three years in which the report is made, and
  - (b) make a recommendation as to the rate at which (subject to any subsequent report under this paragraph) Exchequer contributions should be paid into the Fund in respect of any financial year beginning after the report is made.
- (7) The rate is to be expressed by reference to such matters as the Government Actuary considers appropriate.
- (8) A copy of every report made by the Government Actuary under this paragraph is to be laid before the House of Commons.

#### **Commencement Information**

**I147** Sch. 6 para. 10 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

### *Power to determine Exchequer contribution*

- 11 (1) The IPSA may, with the relevant consents, make provision for determining the Exchequer contribution in respect of any financial year.
- (2) The “relevant consents” means—
- (a) if the result of making the provision is that the amount of the Exchequer contribution in respect of any financial year is less than it otherwise would be, the consent of the Treasury, the Minister for the Civil Service and the trustees of the Fund, and
  - (b) otherwise, the consent of the Treasury and the Minister for the Civil Service.

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

- (3) The “Exchequer contribution” means the amount to be paid into the Fund under paragraph 10.
- (4) Before making provision under this paragraph the IPSA must consult—
- (a) (if sub-paragraph (2)(a) does not apply) the trustees of the Fund,
  - (b) the Government Actuary, and
  - (c) persons appearing to the IPSA to represent persons likely to be affected by the provision.
- (5) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons—
- (a) any representations made by the trustees of the Fund in response to consultation under this paragraph,
  - (b) any provision made by the IPSA under this paragraph, and
  - (c) a statement of the reasons for making the provision.
- (6) When the provision and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.
- (7) Provision under this paragraph may—
- (a) apply to a financial year which has already ended or which has begun before the making of the provision, and
  - (b) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate.

#### Commencement Information

**I148** Sch. 6 para. 11 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

### MPS' PENSION SCHEME

#### *MPS' pension scheme*

- 12 (1) The IPSA may make a scheme containing provision about the application of the assets of the Fund in or towards the provision of pensions for or in respect of persons with service as a member of the House of Commons, in respect of that service.

<sup>F7</sup>(2) .....

<sup>F7</sup>(3) .....

<sup>F7</sup>(4) .....

<sup>F7</sup>(5) .....

#### Textual Amendments

**F7** Sch. 6 para. 12(2)-(5) repealed (25.4.2013) by Public Service Pensions Act 2013 (c. 25), s. 41(1)(b), Sch. 11 para. 1(2) (with Sch. 11 para. 8)

**Status:** Point in time view as at 27/05/2013. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

#### Commencement Information

**I149** Sch. 6 para. 12 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i) (with art. 4)

#### *Meaning of “service as a member of the House of Commons”*

- 13 (1) For the purposes of this Schedule a person is to be treated as in service as a member of the House of Commons at any time if at that time a salary is or was payable to the person under—
- (a) section 4 of the Parliamentary Standards Act 2009, or
  - (b) in relation to a time before that section was in force, the resolutions of the House of Commons then in force relating to the remuneration of its members.
- (2) For the purposes of this Schedule service as a member of the House of Commons includes service as the holder of a qualifying office or position.
- (3) In relation to a time when a determination under section 4(4) of the Parliamentary Standards Act 2009 is in effect a “qualifying office or position” means an office or position in respect of which, because of section 4A(2) of that Act, a higher salary is payable than the salary payable to members of the House of Commons generally.
- (4) In relation to a time before the first determination under section 4(4) of the Parliamentary Standards Act 2009 comes into effect a “qualifying office or position” means—
- (a) the office of Chairman of Ways and Means and the office of Deputy Chairman of Ways and Means,
  - (b) an office or position in respect of which, under the resolutions of the House of Commons then in force relating to the remuneration of its members, a higher salary was payable than the salary payable to members of the House of Commons generally.

#### Commencement Information

**I150** Sch. 6 para. 13 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

#### *MPs' pension scheme: further provision*

- 14 (1) A scheme under paragraph 12 may in particular—
- (a) include any or all of the provisions specified in paragraphs 24 to 32, except for—
    - (i) the provision specified in paragraph 26(1), unless with the consent of the trustees of the Fund,
    - (ii) the provision specified in paragraph 31, unless with the consent of the trustees of the Fund, and
    - (iii) the provision specified in paragraph 29(2),
  - (b) make provision which has effect from a date earlier than the date the scheme is made,
  - (c) make provision in relation to service before the passing of this Act,
  - (d) make different provision in relation to different cases, circumstances or persons, and

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- (e) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate.

- (2) In sub-paragraph (1)(e) the reference to subordinate legislation does not include a scheme under paragraph 12.

**Commencement Information**

**I151** Sch. 6 para. 14 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Procedure for MPs' pension scheme*

- 15 (1) Before making a scheme under paragraph 12 the IPSA must consult—
- (a) the Treasury,
  - (b) the Minister for the Civil Service,
  - (c) the trustees of the Fund,
  - (d) persons the IPSA considers to represent those likely to be affected by the scheme,
  - (e) the Government Actuary,
  - (f) the Review Body on Senior Salaries, and
  - (g) any other person the IPSA considers appropriate.
- (2) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons—
- (a) any representations made to it by the trustees of the Fund in response to consultation under this paragraph,
  - (b) any scheme made by it under paragraph 12, and
  - (c) a statement of the reasons for making the scheme.
- (3) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.
- (4) The reference in sub-paragraph (1)(f) to the Review Body on Senior Salaries—
- (a) if the name of the body is changed, is to be treated as a reference to the body by its new name, and
  - (b) if the functions of the body (or substantially corresponding functions) become functions of a different body, is to be treated as a reference to the body by which those functions are exercisable.
- (5) Any question arising under sub-paragraph (4) is to be determined by the Speaker of the House of Commons.

**Commencement Information**

**I152** Sch. 6 para. 15 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)



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## MINISTERS' ETC PENSION SCHEME

### *Ministers' etc pension scheme*

- 16 (1) The Minister for the Civil Service may make a scheme containing provision about the application of the assets of the Fund in or towards the provision of pensions for or in respect of persons with service to which this paragraph applies, in respect of that service.
- (2) This paragraph applies to service as—
- (a) the holder of an office specified in Parts 1 to 4 of Schedule 1 to the Ministerial and other Salaries Act 1975 (ministerial offices),
  - (b) the holder of an office specified in Part 1 of Schedule 2 to that Act (Opposition leaders and whips),
  - [<sup>F8</sup>(ba) Lord Chancellor,
  - (bb) Speaker of the House of Commons,]
  - (c) Speaker of the House of Lords,
  - (d) Chairman of Committees of the House of Lords,
  - (e) Deputy Chairman of Committees of the House of Lords.
- <sup>F9</sup>(3) .....

#### Textual Amendments

**F8** Sch. 6 para. 16(2)(ba)(bb) inserted (25.4.2013) by [Public Service Pensions Act 2013 \(c. 25\)](#), s. 41(1)(b), [Sch. 11 para. 1\(3\)\(a\)](#) (with [Sch. 11 para. 8](#))

**F9** Sch. 6 para. 16(3) repealed (25.4.2013) by [Public Service Pensions Act 2013 \(c. 25\)](#), s. 41(1)(b), [Sch. 11 para. 1\(3\)\(b\)](#) (with [Sch. 11 para. 8](#))

#### Commencement Information

**I153** Sch. 6 para. 16 in force at 24.10.2011 by [S.I. 2011/2485](#), [art. 2\(1\)\(2\)\(b\)\(i\)](#)

### *Ministers' etc pension scheme: further provision*

- 17 (1) A scheme under paragraph 16 may in particular—
- (a) include any or all of the provisions specified in paragraphs 24 to 32 and 34, except the provisions specified in paragraphs 26(1) and 31 unless with the consent of the trustees of the Fund,
  - (b) make provision which has effect from a date earlier than the date the scheme is made,
  - (c) make provision in relation to service before the passing of this Act (including, in relation to service within paragraph 16(2)(a) or (b), service before the passing of the Ministerial and other Salaries Act 1975),
  - (d) make different provision in relation to different cases, circumstances or persons, and
  - (e) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the Minister considers appropriate.
- (2) In sub-paragraph (1)(e) the reference to subordinate legislation does not include a scheme under paragraph 16.

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#### Commencement Information

**I154** Sch. 6 para. 17 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

#### *Procedure for Ministers' etc pension scheme*

- 18 (1) Before making a scheme under paragraph 16 the Minister for the Civil Service must consult—
- (a) the IPSA,
  - (b) the Government Actuary,
  - (c) the trustees of the Fund, and
  - (d) any other person the Minister considers appropriate.
- (2) The Minister for the Civil Service must lay before each House of Parliament—
- (a) any representations made to the Minister by the trustees of the Fund in response to consultation under this paragraph,
  - (b) any scheme made by the Minister under paragraph 16, and
  - (c) a statement of the reasons for making the scheme.
- (3) When the scheme and the statement of reasons have been laid, the Minister must publish them in a way the Minister considers appropriate.

#### Commencement Information

**I155** Sch. 6 para. 18 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

### SUPPLEMENTARY PROVISION

#### *Protection of accrued rights*

- 19 (1) This paragraph applies where—
- (a) the IPSA makes a scheme under paragraph 12, or
  - (b) the Minister for the Civil Service makes a scheme under paragraph 16, (the “new scheme”).
- (2) The new scheme must not make any provision in relation to an accrued right which puts (or might put) a person in a worse position than the person would have been in apart from the provision.
- (3) Sub-paragraph (2) does not apply if—
- (a) the trustees of the Fund consent to the new scheme making the provision, and
  - (b) the person making the new scheme is satisfied that the consent requirement is met.
- (4) The consent requirement is met if under the new scheme the provision has effect in relation to an accrued right only with the written consent, given in accordance with sub-paragraph (5), of—
- (a) the person (“P”) in respect of whose service the right has accrued, or

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- (b) if P is dead, the persons (“the survivors”) who because of the accrued right are entitled, or may become entitled, to a pension or the benefit of any pension.
- (5) Consent is given in accordance with this sub-paragraph if it is given after the person making the scheme has given P (or the survivors)—
- (a) information in writing which adequately explains the nature of the provision and its effect,
  - (b) notice in writing that they may make representations about the provision,
  - (c) an adequate opportunity to make such representations, and
  - (d) notice in writing that the provision has effect in relation to the accrued right only with their written consent.
- (6) Consent may be given by a person acting on behalf of P (or the survivors); and the references in sub-paragraph (5) to P (or the survivors) include a person acting on their behalf.
- (7) In sub-paragraph (4)(a) “service” means—
- (a) where the new scheme is a scheme under paragraph 12, service as a member of the House of Commons, and
  - (b) where the new scheme is a scheme under paragraph 16, service to which that paragraph applies.

**Commencement Information**

**I156** Sch. 6 para. 19 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Meaning of “accrued right”*

- 20 (1) This paragraph applies for the interpretation of paragraph 19.
- (2) “Accrued right”, in relation to a provision of the new scheme, means a right (including a contingent right) or entitlement to or in respect of a pension or future pension payable out of the Fund which has accrued in respect of service before the provision comes into force.
- (3) Where the new scheme is a scheme under paragraph 12, in this paragraph “service” means service as a member of the House of Commons.
- (4) Where the new scheme is a scheme under paragraph 16, in this paragraph “service” means service to which that paragraph applies.

**Commencement Information**

**I157** Sch. 6 para. 20 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

*Power to make consequential amendments*

- 21 (1) The Minister for the Civil Service may by order make such modifications of any enactment or subordinate legislation (whenever passed or made) as the Minister considers appropriate in consequence of any provision of a scheme made by the IPSA or the Minister for the Civil Service under this Part of this Schedule.

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- (2) In sub-paragraph (1) the reference to subordinate legislation does not include a scheme made by the IPSA or the Minister for the Civil Service under this Part of this Schedule.
- (3) An order under this paragraph is to be made by statutory instrument.
- (4) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament (subject to sub-paragraph (5)).
- (5) A statutory instrument containing an order made under this paragraph in consequence only of a scheme under paragraph 12 is subject to annulment in pursuance of a resolution of the House of Commons.

#### Commencement Information

**I158** Sch. 6 para. 21 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

#### *Interpretation etc*

- 22
- (1) A scheme made by the IPSA under paragraph 8 or 12 may amend or revoke any previous scheme made by the IPSA under that paragraph.
  - (2) A scheme made by the Minister for the Civil Service under paragraph 16 may amend or revoke any previous scheme made by the Minister under that paragraph.
  - (3) For the purposes of this Schedule “member”—
    - (a) in relation to a scheme under paragraph 12, means a person with service as a member of the House of Commons who, in respect of that service, has a right or entitlement under the scheme to a pension or future pension payable out of the Fund, and
    - (b) in relation to a scheme under paragraph 16, means a person with service to which that paragraph applies who, in respect of that service, has a right or entitlement under the scheme to a pension or future pension payable out of the Fund.
  - (4) In this Part of this Schedule—
    - “the Fund” means the Parliamentary Contributory Pension Fund;
    - “the IPSA” means the Independent Parliamentary Standards Authority;
    - “member-nominated trustee” has the meaning given by paragraph 2;
    - “modifications” includes additions, alterations and omissions (and related expressions are to be read accordingly);
    - “pension” includes gratuity;
    - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

#### Commencement Information

**I159** Sch. 6 para. 22 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(i)

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## PART 2

### PROVISION WHICH MAY BE INCLUDED IN SCHEMES

#### *Introductory*

- 23 (1) In this Part of this Schedule “relevant service”—
- (a) for the purposes of paragraph 14(1)(a), means service as a member of the House of Commons, and
  - (b) for the purposes of paragraph 17(1)(a), means service to which paragraph 16 applies.
- (2) Expressions defined in relation to Part 1 of this Schedule have the same meaning in this Part of this Schedule as in that Part.

#### **Commencement Information**

**I160** Sch. 6 para. 23 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Contributions*

- 24 Provision authorising or requiring contributions and other sums to be paid into the Fund by or on behalf of persons in relevant service, including provision for those contributions and sums to be paid—
- (a) by deductions from salary;
  - (b) in the case of a person who does not draw a salary, out of money provided by Parliament.

#### **Commencement Information**

**I161** Sch. 6 para. 24 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Conditions etc*

- 25 Provision as to—
- (a) the circumstances in which there is to be entitlement to a pension payable out of the Fund;
  - (b) the conditions of any such entitlement;
  - (c) the persons to or for the benefit of whom such a pension is payable;
  - (d) the calculation of the amount of any such pension;
  - (e) the payment or commutation of any such pension.

#### **Commencement Information**

**I162** Sch. 6 para. 25 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

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*Pensions not paid out of Fund*

- 26 (1) Provision for the application of assets of the Fund in or towards the provision of pensions to be paid otherwise than out of the Fund.
- (2) In connection with such provision, provision for the payment into the Fund out of money provided by Parliament of sums in addition to those paid into the Fund under paragraph 10.

**Commencement Information**

**I163** Sch. 6 para. 26 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

*Transfer values*

- 27 (1) Provision for the payment and receipt of transfer values by the trustees of the Fund (including provision for the payment of such values into the Consolidated Fund).
- (2) Provision for the transfer and receipt by the trustees of the Fund of funds or policies of insurance in lieu of transfer values.

**Commencement Information**

**I164** Sch. 6 para. 27 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

*Service*

- 28 Provision authorising service other than relevant service to be taken into account, in addition to relevant service, for the purposes of any provision of the scheme.

**Commencement Information**

**I165** Sch. 6 para. 28 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

*Repayments*

- 29 (1) Provision as to the circumstances and manner in which amounts equal to some or all of the contributions and other sums paid by or on behalf of a person into the Fund may be repaid or paid to that person.
- (2) Provision as to the circumstances and manner in which any such amounts are to be paid out of the Consolidated Fund in respect of transfer values paid into that Fund.
- (3) Provision under sub-paragraph (1) or (2) may include provision as to whether any repayment or payment made under that provision is to be made with or without interest.

**Commencement Information**

**I166** Sch. 6 para. 29 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

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#### *Assignment etc*

- 30 Provision rendering void—
- (a) any assignment (or, in Scotland, assignation) of a pension which is payable or may become payable out of the Fund;
  - (b) any charge on such a pension;
  - (c) any agreement to assign or charge such a pension.

#### **Commencement Information**

**I167** Sch. 6 para. 30 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Functions*

- 31 Provision conferring functions under the scheme on persons specified in or determined under the scheme.

#### **Commencement Information**

**I168** Sch. 6 para. 31 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Approvals*

- 32 Provision making the approval, satisfaction or opinion of persons on whom functions are conferred by or under the scheme material for the purposes of any provision of the scheme.

#### **Commencement Information**

**I169** Sch. 6 para. 32 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Payments without probate*

- 33 Provision authorising (in relation to such cases, circumstances or persons as may be specified in or determined under the scheme) any sum due to be paid out of the Fund in respect of a person who has died to be paid without probate or other proof of title.

#### **Commencement Information**

**I170** Sch. 6 para. 33 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

#### *Application of other provisions*

- 34 Provision which (with or without modifications) applies in relation to a pension payable out of the Fund so much of any enactment or subordinate legislation (whenever passed or made) as relates to another pension, being a pension payable out of money provided by Parliament.

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**Commencement Information**  
I171 Sch. 6 para. 34 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(b)(ii)

**PART 3**

AMENDMENTS, TRANSITIONAL PROVISION ETC

*Pensions (Increase) Act 1971 (c. 56)*

- 35 (1) Part 1 of Schedule 2 is amended as follows.
- (2) For paragraph 3A substitute—
  - “3A A pension which, under a scheme under paragraph 12 or 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010, is payable out of the Parliamentary Contributory Pension Fund.”
- (3) In paragraph 3B for “an order” substitute “ a scheme ”.

**Commencement Information**  
I172 Sch. 6 para. 35(1)(2) in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(i)

*Parliamentary and other Pensions Act 1972 (c. 48)*

F1036 .....

**Textual Amendments**  
F10 Sch. 6 paras. 36, 37 repealed (25.4.2013) by Public Service Pensions Act 2013 (c. 25), s. 41(1)(b), Sch. 11 para. 7 (with Sch. 11 para. 8)

F1037 .....

**Textual Amendments**  
F10 Sch. 6 paras. 36, 37 repealed (25.4.2013) by Public Service Pensions Act 2013 (c. 25), s. 41(1)(b), Sch. 11 para. 7 (with Sch. 11 para. 8)

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*European Parliament (Pay and Pensions) Act 1979 (c. 50)*

- 38 (1) Section 4 (pensions) is amended as follows.
- (2) In subsection (1)—
  - (a) for “Leader of the House of Commons may by order make” substitute “ IPSA may make a scheme containing ”, and



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(b) for “by the order” substitute “ in the scheme ”.

(3) In subsection (2)—

(a) for “orders” substitute “ a scheme ”, and

(b) for “order” substitute “ scheme ”.

(4) In subsection (3)—

(a) for “an order” substitute “ a scheme ”, and

(b) in paragraphs (d) and (g) for “order” substitute “ scheme ”.

(5) In subsection (3A), for “An order” substitute “ A scheme ”.

(6) For subsection (4) substitute—

“(4) Before making a scheme under this section the IPSA must consult—

(a) the Treasury,

(b) the Minister for the Civil Service,

(c) persons it considers to represent those likely to be affected by the scheme,

(d) the Government Actuary, and

(e) any other person it considers appropriate.

(4A) 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.

(4B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.”

(7) For subsection (5) substitute—

“(5) The IPSA must from time to time prepare a report on the operation of any provisions in force under this section, and send it to the Speaker of the House of Commons for laying before both Houses of Parliament.”

(8) After subsection (7) insert—

“(8) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section.”

#### Commencement Information

**I173** Sch. 6 para. 38 in force at 1.11.2013 by S.I. 2013/2826, art. 2(b)(ii) (with art. 3)

39 (1) Section 6 (block transfer into another pension scheme) is amended as follows.

(2) In subsection (1)—

(a) for “Leader of the House of Commons may by order” substitute “ IPSA may, with the consent of the Treasury and the Minister for the Civil Service ”, and

(b) for “the order” substitute “ the direction ”.

(3) In subsection (2)—

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- (a) for “making an order” substitute “ giving a direction ”,
- (b) for “Leader of the House of Commons” substitute “ IPSA ”,
- (c) for “he” (in both places) substitute “ it ”,
- (d) for “make such an order” substitute “ give such a direction ”, and
- (e) for “the order” substitute “ the direction ”.

(4) In subsection (4), in the definition of “the relevant pension provisions”—

- (a) for “an order” substitute “ a direction ”,
- (b) for “orders” substitute “ a scheme ”, and
- (c) for “order is made” substitute “ direction is given ”.

#### Commencement Information

**I174** Sch. 6 para. 39 in force at 1.11.2013 by S.I. 2013/2826, art. 2(b)(ii) (with art. 3)

- 40 (1) Section 7 (expenses and receipts) is amended as follows.
- (2) In subsection (1)(c) (expenses and receipts)—
- (a) for “any order” substitute “ a scheme ”, and
  - (b) omit the words from “or of any” to the end.
- (3) In subsection (1)(d) for “an order” substitute “ a direction ”.

#### Commencement Information

**I175** Sch. 6 para. 40 in force at 1.11.2013 by S.I. 2013/2826, art. 2(b)(ii) (with art. 3)

- 41 (1) Section 8 is amended as follows.
- (2) In subsection (1) (interpretation)—
- (a) after the definition of “electoral region” insert—
 

““the IPSA” means the Independent Parliamentary Standards Authority;”, and
  - (b) omit the definition of “the Leader of the House of Commons”.
- (3) Omit subsection (2).

#### Commencement Information

**I176** Sch. 6 para. 41 in force at 1.11.2013 by S.I. 2013/2826, art. 2(b)(ii) (with art. 3)

#### *House of Commons Members' Fund and Parliamentary Pensions Act 1981 (c. 7)*

- 42 In section 1 (entitlement to payments out of House of Commons Members' Fund)—
- (a) in subsection (5)(b) for “paragraph (b), (c) or (d) of section 2(2) of the Parliamentary and other Pensions Act 1987” substitute “ subsection (5A) ”, and
  - (b) after subsection (5) insert—
 

“(5A) The offices are—

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- (a) the offices mentioned in paragraph 16(2)(a), (b), (d) or (e) of Schedule 6 to the Constitutional Reform and Governance Act 2010;
- (b) the offices of Chairman of Ways and Means and Deputy Chairman of Ways and Means.”

**Commencement Information**

**I177** Sch. 6 para. 42 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(ii)

*Parliamentary and other Pensions Act 1987 (c. 45)*

- 43 Omit—
- (a) section 1,
  - (b) section 2(1) to (8) and (10),
  - (c) section 3, and
  - (d) Schedule 1.

**Commencement Information**

**I178** Sch. 6 para. 43 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(ii)

- 44 (1) The existing regulations have effect (subject to any provision in an order under section 51 of this Act)—
- (a) so far as they relate to matters which could be contained in a scheme made by the IPSA under paragraph 8, as if they were a scheme made by the IPSA under that paragraph,
  - (b) so far as they relate to matters which could be contained in a scheme made by the IPSA under paragraph 12, as if they were a scheme made by the IPSA under that paragraph, and
  - (c) so far as they relate to matters which could be contained in a scheme made by the Minister for the Civil Service under paragraph 16, as if they were a scheme made by the Minister under that paragraph.
- (2) An order under section 51 or 52 of this Act may provide for any provision of the existing regulations which—
- (a) relates to one or more of the matters listed in paragraph 8(1), but
  - (b) could not be contained in a scheme under paragraph 8,
- to have effect as if contained in a scheme under that paragraph.
- (3) If it does so a scheme under paragraph 8 may—
- (a) revoke the provision;
  - (b) amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).
- (4) An order under section 51 or 52 of this Act may provide for any provision of the existing regulations which—
- (a) relates to service as a member of the House of Commons, but
  - (b) could not be contained in a scheme under paragraph 12,

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to have effect as if contained in a scheme under that paragraph.

- (5) If it does so a scheme under paragraph 12 may—
- (a) revoke the provision;
  - (b) amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).
- (6) An order under section 51 or 52 of this Act may provide for any provision of the existing regulations which—
- (a) relates to service to which paragraph 16 applies, but
  - (b) could not be contained in a scheme under that paragraph,
- to have effect as if contained in a scheme under that paragraph.
- (7) If it does so a scheme under paragraph 16 may—
- (a) revoke the provision;
  - (b) amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).
- (8) “The existing regulations” means the regulations under section 2 of the Parliamentary and other Pensions Act 1987 in force immediately before the date specified in an order made by a Minister of the Crown by statutory instrument.
- (9) An order under sub-paragraph (8) may specify different dates for different purposes.

**Modifications etc. (not altering text)**

**C3** Sch. 6 para. 44(8): 24.10.2011 specified date by [S.I. 2011/2485](#), art.3

**Commencement Information**

**I179** Sch. 6 para. 44 in force at 24.10.2011 by [S.I. 2011/2485](#), **art. 2(1)(2)(c)(ii)** (with [art. 3](#))

*Ministerial and other Pensions and Salaries Act 1991 (c. 5)*

45 Omit section 6.

**Commencement Information**

**I180** Sch. 6 para. 45 in force at 24.10.2011 by [S.I. 2011/2485](#), **art. 2(1)(2)(c)(ii)**

*Pensions Act 2004 (c. 35)*

46 In section 249A(3)(c) (schemes to which section 249A does not apply) for “section 2 of the Parliamentary and other Pensions Act 1987 (c. 45)” substitute “paragraph 8, 12 or 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010”.

**Commencement Information**

**I181** Sch. 6 para. 46 in force at 24.10.2011 by [S.I. 2011/2485](#), **art. 2(1)(2)(c)(ii)**

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*Parliamentary Standards Act 2009 (c. 13)*

- 47 (1) In section 5(9) (MPs' allowances scheme does not affect pensions) for “the Parliamentary and other Pensions Act 1987 (c. 45)” substitute “ Schedule 6 to the Constitutional Reform and Governance Act 2010 ”.
- (2) In paragraph 18 of Schedule 1 (IPSA's administration and regulation functions), after sub-paragraph (2) insert—
- “ (3) The IPSA's functions under the following provisions are also regulation functions—
- (a) sections 3, 4 and 6 of the European Parliament (Pay and Pensions) Act 1979 (but not any function relating to the administration of a scheme under section 3 or 4);
- (b) paragraphs 2 to 5, 8, 9, 11, 12 and 15 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (but not any function relating to the administration of a scheme under paragraph 8 or 12).”
- (3) In paragraph 29(2) of Schedule 1 (interpretation) in the definition of “regulation functions” after “18(2)” insert “ and (3) ”.

**Commencement Information**

**I182** Sch. 6 para. 47(1) in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(iii)

**I183** Sch. 6 para. 47(2) in force at 24.10.2011 for specified purposes by S.I. 2011/2485, art. 2(1)(2)(c)(iv)

**I184** Sch. 6 para. 47(3) in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(v)

- 48 (1) An order under section 13 of the Parliamentary Standards Act 2009 may make the provision mentioned in section 13(6) (provision for transfer schemes) in connection with this Schedule (as well as in connection with that Act).
- (2) But for this purpose—
- (a) the reference in section 13(6)(a) to matters dealt with by the rules is to be treated as a reference to matters which could be dealt with by a scheme under paragraph 8 or 12;
- (b) section 13(6)(b) and (c) does not apply to property, rights and liabilities, or documents and information, held by or on behalf of the trustees of the Fund.
- (3) Section 13(7) of that Act applies to a scheme made by virtue of section 13(6) and this paragraph.

**Commencement Information**

**I185** Sch. 6 para. 48 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(vi)

*Trustees of the Fund*

- 49 (1) This paragraph applies if, under an order under section 52, paragraph 2 comes into force for the purpose of making an appointment under paragraph 2(1)(a) or (b) before it comes into force for other purposes.

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- (2) The reference in paragraph 2(1)(a) or (b) to the persons who are already trustees of the Fund is to the persons who are trustees of the Fund by virtue of section 1 of the Parliamentary and other Pensions Act 1987.

**Commencement Information**

**I186** Sch. 6 para. 49 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(vi)

- 50 (1) In this paragraph “the transitional period” means the period of six months beginning with the day on which paragraph 2 comes into force (other than for the purpose of making an appointment under paragraph 2(1)(a) or (b)).
- (2) During the transitional period—
- (a) paragraph 2(1) applies as if for paragraph (c) there were substituted—
- “ (c) the persons who (by virtue of section 1 of the Parliamentary and other Pensions Act 1987) are the trustees of the Fund immediately before the beginning of the transitional period.”, and
- (b) paragraph 5 applies to persons who are trustees of the Fund because of paragraph (a) as if they were member-nominated trustees.
- (3) But if a person who is a trustee of the Fund immediately before the beginning of the transitional period is appointed under paragraph 2(1)(a) or (b) that person is not to be treated as being a trustee of the Fund because of sub-paragraph (2)(a).
- (4) The trustees of the Fund must make arrangements (the “transitional arrangements”) for 8 persons to be nominated and selected as member-nominated trustees before the end of the transitional period.
- (5) Those persons become member-nominated trustees immediately after the end of the transitional period.
- (6) Only persons who are trustees of the Fund immediately before the beginning of the transitional period may be nominated and selected as member-nominated trustees under the transitional arrangements.
- (7) But if it is not possible to secure 8 member-nominated trustees from among those persons, the deficiency may be supplied by other persons.
- (8) At the end of the transitional period any persons who—
- (a) immediately before the end of that period, are trustees of the Fund because of sub-paragraph (2)(a), but
- (b) have not been nominated and selected as member-nominated trustees, cease to be trustees of the Fund.

**Commencement Information**

**I187** Sch. 6 para. 50 in force at 24.10.2011 by S.I. 2011/2485, art. 2(1)(2)(c)(vi)

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## SCHEDULE 7

Section 46

### AMENDMENTS OF FREEDOM OF INFORMATION ACT 2000

1 The Freedom of Information Act 2000 is amended as follows.

#### Commencement Information

**I188** Sch. 7 para. 1 in force at 19.1.2011 by S.I. 2011/46, art. 3(b)(i) (with art. 4)

2 In section 2(3) (exemptions not subject to public interest test) after paragraph (e) insert—

“(ea) in section 37, paragraphs (a) to (ab) of subsection (1), and subsection (2) so far as relating to those paragraphs,”.

#### Commencement Information

**I189** Sch. 7 para. 2 in force at 19.1.2011 by S.I. 2011/46, art. 3(b)(i) (with art. 4)

3 In section 37(1) (communications with Her Majesty, etc.), for paragraph (a) substitute—

- “(a) communications with the Sovereign,
- (aa) communications with the heir to, or the person who is for the time being second in line of succession to, the Throne,
- (ab) communications with a person who has subsequently acceded to the Throne or become heir to, or second in line to, the Throne,
- (ac) communications with other members of the Royal Family (other than communications which fall within any of paragraphs (a) to (ab) because they are made or received on behalf of a person falling within any of those paragraphs), and
- (ad) communications with the Royal Household (other than communications which fall within any of paragraphs (a) to (ac) because they are made or received on behalf of a person falling within any of those paragraphs), or”.

#### Commencement Information

**I190** Sch. 7 para. 3 in force at 19.1.2011 by S.I. 2011/46, art. 3(b)(i) (with art. 4)

4 (1) Section 62 (interpretation of Part 6) is amended as follows.

(2) In subsection (1) (meaning of “historical record”), for “thirty years” substitute “twenty years”.

(3) After subsection (2) insert—

“(2A) Until the end of the period of 10 years beginning with the commencement of paragraph 4 of Schedule 7 to the Constitutional Reform and Governance Act 2010, subsection (1) has effect subject to any order made under section 46(2) of that Act.”



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### Commencement Information

**II91** Sch. 7 para. 4 in force at 1.1.2013 by S.I. 2012/3001, art. 3(1)(b)

- 5 (1) Section 63 (removal of exemptions: historical records generally) is amended as follows.
- (2) In subsection (1)—
- (a) omit “28,”, and
  - (b) for “36, 37(1)(a), 42 or 43” substitute “ or 42 ”.
- (3) In subsection (2)—
- (a) omit “28(3),”, and
  - (b) for “36(3), 42(2) or 43(3)” substitute “ or 42(2) ”.
- (4) After subsection (2) insert—
- “(2A) Information contained in a historical record cannot be exempt information by virtue of section 36 except—
- (a) in a case falling within subsection (2)(a)(ii) of that section, or
  - (b) in a case falling within subsection (2)(c) of that section where the prejudice or likely prejudice relates to the effective conduct of public affairs in Northern Ireland.
- (2B) Compliance with section 1(1)(a) in relation to a historical record is not to be taken to have any of the effects referred to in subsection (3) of section 36, except where the effect—
- (a) falls within subsection (2)(a)(ii) of that section, or
  - (b) falls within subsection (2)(c) of that section and relates to the effective conduct of public affairs in Northern Ireland.
- (2C) Information cannot be exempt information—
- (a) by virtue of section 28 or 43, or
  - (b) by virtue of section 36 in the excepted cases mentioned in subsection (2A),
- after the end of the period of thirty years beginning with the year following that in which the record containing the information was created.
- (2D) Compliance with section 1(1)(a) in relation to any record is not to be taken, at any time after the end of the period of thirty years beginning with the year following that in which the record was created, to be capable—
- (a) of prejudicing any of the matters referred to in section 28(1) or 43(2), or
  - (b) of having any of the effects referred to in section 36(3) in the excepted cases mentioned in subsection (2B).
- (2E) Information cannot be exempt information by virtue of any of paragraphs (a) to (ad) of section 37(1) after whichever is the later of—
- (a) the end of the period of five years beginning with the date of the relevant death, and
  - (b) the end of the period of twenty years beginning with the date on which the record containing the information was created.



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- (2F) In subsection (2E)(a) “the relevant death” means—
- (a) for the purposes of any of paragraphs (a) to (ac) of section 37(1), the death of the person referred to in the paragraph concerned, or
  - (b) for the purposes of section 37(1)(ad), the death of the Sovereign reigning when the record containing the information was created.”

**Commencement Information**

- I192** Sch. 7 para. 5(1)(2)(a)(3) in force at 1.1.2013 by S.I. 2012/3001, **art. 3(1)(b)**
- I193** Sch. 7 para. 5(2)(b)(4) in force at 1.1.2013 in so far as not already in force by S.I. 2012/3001, **art. 3(1)(b)**
- I194** Sch. 7 para. 5(4) in force at 19.1.2011 for specified purposes by S.I. 2011/46, **art. 3(b)(iii)** (with art. 4)

**F116** .....

**Textual Amendments**

- F11** Sch. 7 para. 6 repealed (1.7.2012) by Protection of Freedoms Act 2012 (c. 9), **ss. 104(1)(b)**, 120 (with s. 97); S.I. 2012/1205, **art. 3(x)**

**Commencement Information**

- I195** Sch. 7 para. 6 in force at 19.1.2011 for specified purposes by S.I. 2011/46, **art. 3(b)(iv)** (with art. 4)
- I196** Sch. 7 para. 6 in force at 1.1.2013 in so far as not already in force by S.I. 2012/3001, **art. 3(1)(b)**

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