



# Constitutional Reform and Governance Act 2010

## 2010 CHAPTER 25

VALID FROM 11/11/2010

### 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;
  - (e) the Northern Ireland Court Service.
- (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;

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- (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.

#### *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).

#### *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.

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- (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.

#### **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.

#### *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.

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- (8) A civil service code forms part of the terms and conditions of service of any civil servant covered by the code.

## **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.

## **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.

## **8 Special advisers code**

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

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- (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.

## **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
  - (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;

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- (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.

### *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.

#### **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.

#### **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).

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- (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;
  - (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.

### **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.

### **14 Monitoring by the Commission**

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish—



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- (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.

### *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;
- (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)



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- 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.

## **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.

### *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.

### *Final provisions*

## **18 Definitions etc**

- (1) In this Chapter—

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“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.

## 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.

VALID FROM 11/11/2010

## 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.

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- (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—
  - (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.

## **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.

## **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,

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- (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.

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

- (1) Section 20 does not apply to—
  - (a) a treaty covered by section 12 of the European Parliamentary Elections Act 2002 (treaty providing for increase in European Parliament's powers not to be ratified unless approved by Act of Parliament);
  - (b) a treaty covered by section 5 of the European Union (Amendment) Act 2008 (treaty amending founding Treaties not to be ratified unless approved by Act of Parliament).
- (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).
- (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.

### **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.

### **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—

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- (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.

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## PART 3

### PARLIAMENTARY STANDARDS ETC

#### *Amendments of the Parliamentary Standards Act 2009*

#### **26 Compliance Officer**

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

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

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

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

#### **Commencement Information**

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

VALID FROM 07/05/2010

#### **27 Membership of Speaker's Committee**

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

- (2) In paragraph 1—

- (a) omit “and” at the end of sub-paragraph (c), and
- (b) after sub-paragraph (d) insert “, and
- (e) three lay persons appointed by resolution of the House of Commons.”

- (3) For the heading of paragraph 2 substitute “ Appointed members ”.

- (4) After paragraph 2 insert—

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## 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

**I2** S. 27 in force at 7.5.2010 by [S.I. 2010/1277](#), art. 3(a)

VALID FROM 07/05/2010

## 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—

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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)*

“(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.”

VALID FROM 24/05/2011

## **29 MPs' salaries**

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

### **“4 MPs' salaries**

- (1) Members of the House of Commons are to receive a salary for the relevant period.
- (2) The salaries are to be paid by the IPSA.
- (3) Salaries are to be paid on a monthly basis in arrears.
- (4) The amounts of the salaries are to be determined by the IPSA (see section 4A).
- (5) “Relevant period”, in relation to a person who is a member of the House of Commons, means the period beginning with the day after the day of the poll for the parliamentary election at which the member was elected and ending with—
  - (a) if the person is a member immediately before Parliament is dissolved, the day of the poll for the parliamentary general election which follows the dissolution;



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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)*

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

- (6) No payment of salary is to be made to a member before the member has made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation).
- (7) The duty of the IPSA to pay a salary to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons.

#### **4A Determination of MPs' salaries**

- (1) This section is about determinations under section 4(4).
- (2) A determination may provide for higher salaries to be payable to members while holding an office or position specified for the purposes of this subsection in a resolution of the House of Commons.
- (3) A determination by virtue of subsection (2) may make different provision for different offices or positions or different classes of member (and may include exceptions).
- (4) A determination may include a formula or other mechanism for adjusting salaries from time to time.
- (5) A determination (other than the first determination) may have retrospective effect.
- (6) The IPSA must review the current determination (and make a new determination as appropriate)—
- (a) in the first year of each Parliament;
  - (b) at any other time it considers appropriate.
- (7) In reviewing a determination (and before making the first determination) the IPSA must consult—
- (a) the Review Body on Senior Salaries,
  - (b) persons appearing to the IPSA to represent persons likely to be affected by the determination or the review,
  - (c) the Minister for the Civil Service,
  - (d) the Treasury, and
  - (e) any other person the IPSA considers appropriate.
- (8) After making a determination, the IPSA must publish in a way it considers appropriate—
- (a) the determination, and
  - (b) a statement of how it arrived at the determination.
- (9) If the IPSA reviews the current determination but decides not to make a new determination, it must publish in a way it considers appropriate a statement of how it arrived at that decision.
- (10) The IPSA may delegate to the Review Body on Senior Salaries its function of reviewing a determination (but not its function of deciding whether or not to make a new determination).”

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- (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

**I3** S. 29 in force at 24.5.2011 by S.I. 2011/1274, art. 2(a)

VALID FROM 07/05/2010

#### **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

**I4** S. 30 in force at 7.5.2010 by S.I. 2010/1277, art. 3(c)

VALID FROM 07/05/2010

#### **31** Allowances claims

- (1) Section 6 of the Parliamentary Standards Act 2009 (dealing with claims under the MPs' allowances scheme) is amended as follows.
- (2) Omit subsections (4) and (5).
- (3) In subsection (6) for paragraph (b) substitute—
  - “(b) provision for deducting amounts within subsection (6A) from allowances payable under the scheme or salaries payable under section 4;
  - (c) provision about how such deductions, and deductions under paragraph 5 or 12 of Schedule 4, are to be made.”
- (4) After subsection (6) insert—

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

(5) After section 6 of that Act insert—

**“6A Review of IPSA's determination**

- (1) This section applies if—
  - (a) the IPSA determines under section 6(3) that a claim is to be refused or that only part of the amount claimed is to be allowed, and
  - (b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration).
- (2) The Compliance Officer must—
  - (a) consider whether the determination (or the altered determination) is the determination that should have been made, and
  - (b) in light of that consideration, decide whether or not to confirm or alter it.
- (3) The Compliance Officer must give the IPSA a statement of any decision under subsection (2)(b), and may include a statement of the Compliance Officer's findings about the way in which the IPSA has dealt with the claim.
- (4) The IPSA must make any payments or adjustments necessary to give effect to the Compliance Officer's decision; but it must not do so until—
  - (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (5) A relevant appeal is—
  - (a) an appeal under subsection (6) brought before the end of the period mentioned in subsection (7), or
  - (b) a further appeal in relation to the Compliance Officer's decision which—
    - (i) is brought before the end of the usual period for bringing such an appeal, and
    - (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.
- (6) The member may appeal to the First-tier Tribunal against a decision of the Compliance Officer under subsection (2)(b).
- (7) The appeal must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (8) The appeal is by way of a rehearing.
- (9) On an appeal under subsection (6) the Tribunal may—
  - (a) allow the appeal in whole or in part, or

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- (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”.

VALID FROM 07/05/2010

### **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**

**I5** S. 32 in force at 7.5.2010 by S.I. 2010/1277, art. 3(e)

VALID FROM 27/07/2010

### **33 Investigations**

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

*Status: Point in time view as at 08/04/2010. 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)*

## “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.”

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#### **Commencement Information**

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

*Status: Point in time view as at 08/04/2010. 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)*

VALID FROM 27/07/2010

### 34 Enforcement

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

#### “9B Enforcement

- (1) Schedule 4 (which makes provision about the enforcement powers of the Compliance Officer) has effect.
- (2) The Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under Schedule 4 which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards.”

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

#### Commencement Information

I7 S. 34 in force at 27.7.2010 by S.I. 2010/1931, art. 3(d) (with arts. 4, 5)

VALID FROM 27/07/2010

### 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—



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- (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.”

**Commencement Information**

**I8** S. 35 in force at 27.7.2010 by [S.I. 2010/1931](#), **art. 3(e)**

VALID FROM 07/05/2010

**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**

**I9** S. 36 in force at 7.5.2010 by [S.I. 2010/1277](#), **art. 3(f)**

VALID FROM 07/05/2010

**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**

**I10** 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.

**Status:** Point in time view as at 08/04/2010. 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)

VALID FROM 24/05/2011

*Other provision*

**39 Resettlement grants for MEPs**

- (1) The European Parliament (Pay and Pensions) Act 1979 is amended as follows.
- (2) In section 3 (resettlement grants for persons ceasing to be MEPs) for subsections (1) to (3) substitute—
- “(1) The IPSA may make a scheme providing for allowances to be payable to persons to whom this section applies, in connection with their ceasing to be Representatives.
- (2) It may do so only if a scheme under section 5 of the Parliamentary Standards Act 2009 (MPs' allowances scheme) makes provision for allowances to be payable in connection with persons ceasing to be Members on a dissolution of Parliament.
- (3) A scheme under this section must make provision which is as nearly equivalent to the provision made by the scheme under section 5 of that Act as the IPSA considers practicable.
- (3A) The IPSA must send to the Speaker of the House of Commons for laying before both Houses of Parliament—
- (a) any scheme made by it under this section, and
- (b) a statement of the reasons for making the scheme.
- (3B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.
- (3C) This section applies to a person who is a Representative immediately before the end of a five-year period, and either—
- (a) does not stand for election to the European Parliament at the general election of representatives to the European Parliament held in that period, or
- (b) does so stand at that election (whether for the same or a different electoral region) and is not elected.
- (3D) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section.”
- (3) Omit section 3A (power to amend section 3).
- (4) In section 7(1)(b) (expenses and receipts) for “grant” substitute “allowance”.

**Commencement Information**

**111** S. 39 in force at 24.5.2011 by S.I. 2011/1274, art. 2(e)

**Status:** Point in time view as at 08/04/2010. 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)

VALID FROM 24/10/2011

#### **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.

#### **Commencement Information**

**112** 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.
- (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.

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- (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
  - (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,

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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.

VALID FROM 11/11/2010

## 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—

*“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.

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- (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
  - (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.”

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(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.”

#### **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
  - (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



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- (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—
- “(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.”

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VALID FROM 19/01/2011

## PART 6

### PUBLIC RECORDS AND FREEDOM OF INFORMATION

VALID FROM 30/11/2012

#### 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.
- (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.

#### 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

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- (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.

## 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—
  - (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—

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- (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.
- (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.

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- (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.
- (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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**Changes to legislation:**

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