

RECALL OF MPS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Schedule 1: Petition officers

37. *Paragraph 1* sets out the petition officer's general duty in relation to the conduct of a recall petition.
38. *Paragraph 2* provides that petition officers in England, Wales and Scotland may appoint deputies to perform their functions in relation to the recall petition. *Paragraph 2(3)* requires that a local authority whose area falls within the relevant constituency provides assistance to the petition officer by placing the services of its officers at the petition officer's disposal. *Paragraph 2(4)* defines "local authority".
39. *Paragraph 2(5)* provides that certain provisions of the Electoral Law Act (Northern Ireland) 1962 have effect in relation to the Chief Electoral Officer when acting as the petition officer in relation to a recall petition. The effect is that in the event that the Chief Electoral Officer is absent from Northern Ireland, is incapacitated or there is a vacancy, a person may be temporarily appointed to carry out his or her functions; the Chief Electoral Officer may delegate functions to persons appointed to provide assistance and to deputy returning officers for district council elections; and district council officers must perform those functions appointed to them by the Chief Electoral Officer.
40. *Paragraph 3* makes provision for payments to petition officers in relation to the recall petition. Under *paragraph 3(1)* petition officers may recover charges which were necessarily incurred for the efficient and effective performance of the petition officer's functions, provided that these charges do not exceed the overall maximum recoverable amount specified in regulations made by the Minister. The regulations, which must be made with the consent of the Treasury, may also specify, or make provision for determining, a maximum recoverable amount for services or expenses of a specified description (*sub-paragraph (2)*). However, the Minister may, with Treasury consent, authorise payments which exceed the amounts specified in the regulations if satisfied that it was reasonable for the petition officer to render the services or incur the expenses and the charges in question are reasonable (*sub-paragraphs (4) and (5)*).
41. The Minister, on an account being submitted, must pay to the petition officer the charges which the petition officer is entitled to recover (*sub-paragraph (6)*). However, the Minister can apply for the account to be taxed (*sub-paragraph (7)*).
42. *Paragraph 3(8)* empowers the Minister to make advance payments to the petition officer on request.
43. *Paragraph 3(9)* provides that the Minister may by regulations make provision as to the time when accounts are to be provided by the petition officer, and in what manner and form. The power to make such account regulations mirrors the wider practice of producing such guidance for returning officers at UK Parliamentary general elections.
44. *Paragraph 3(10)* provides that any sums paid by the Minister under paragraph 3 are to be charged on and paid out of the Consolidated Fund.

*These notes refer to the Recall of MPs Act 2015 (c.25)
which received Royal Assent on 26 March 2015*

45. *Paragraph 4* makes provision in respect of applications for a petition officer's account to be taxed. *Sub-paragraph (1)* specifies which court the application must be made to, depending on whether the petition officer acts for a constituency in England and Wales or Northern Ireland. In the case of a constituency in Scotland, the application is made to the Auditor of the Court of Session. *Sub-paragraph (2)* provides that the court or Auditor may tax the account as it thinks fit and finally determine the amount payable to the petition officer. *Sub-paragraph (3)* allows the petition officer to apply to the court or Auditor to examine any claim made by a person ("the claimant") against the officer in respect of any charges included in the account. The court or Auditor may allow, disallow or reduce the claim but must first give the claimant the opportunity to be heard and to tender evidence (*sub-paragraph (4)*).