

# **SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 19 – Transitional provision***

99. Subsection (1) provides that the Standards Committee can direct the Commissioner to take over all existing complaints at the time the Act comes fully into force. This can apply whether the complaint has only recently been received or when it was under investigation by the existing Standards Adviser. The period between the passing of the Act and commencement will allow existing complaints to be finalised, enabling a transition of cases from the Standards Adviser to the Commissioner. The provisions here are similar to the provisions that have been made in section 12 in connection with complaints that are excluded from the initial jurisdiction of the Commissioner.
100. Subsection (2) enables the direction to require the Commissioner to take account of any information that the Parliament already has in connection with the complaint. This could cover information which has already been obtained by the Standards Adviser.
101. Subsection (3) makes clear that the direction from the Standards Committee to the Commissioner to investigate a pending complaint can also direct that the complaint be treated as admissible. In such a case, similar to the position with excluded complaints in section 12, the direction requires to specify the relevant conduct provisions that may have been breached. The current Adviser follows Stages 1 and 2 of the model of investigation that is set out in the 4th Report. This provision would therefore enable the Standards Committee to direct the Commissioner to commence a complaint at Stage 2 in a case where the previous Adviser had concluded Stage 1 of the process and had already decided that the complaint should be subject to a full investigation.
102. Where no direction as to admissibility is made, subsection (4) requires the Commissioner to treat the complaint as if it were a new one. Like the excluded complaints, this will ensure the provisions of section 7 as to Stage 1 procedure apply before any investigation at Stage 2 can be undertaken. This may be appropriate in a case where the previous Adviser has been able to undertake only limited inquiries into the complaint and has not yet reached any conclusions.