

*These notes relate to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) which received Royal Assent on 11 March 2003*

# **PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***General provisions***

#### ***Schedule 1 - The Commissioner***

#### ***Paragraph 1 – Disqualification***

62. *Sub-paragraph (1)* sets out various persons who are disqualified from appointment, or from holding office, as Commissioner for Public Appointments in Scotland.
63. *Sub-paragraph (2)* sets out various offices and appointments which a person is disqualified from while holding office as the Commissioner for Public Appointments in Scotland.
64. *Sub-paragraph (3)* continues that disqualification for a period of 3 years after the Commissioner has ceased to hold that office unless the Parliament determines otherwise.

#### ***Paragraph 2 – Status***

65. Provision is made under this paragraph as to the status of the Commissioner for Public Appointments in Scotland and staff of the Commissioner's office. Specific provision is made for the Commissioner for Public Appointments not to be subject to the control or direction of any member of the Parliament, of any member of the Scottish Executive or of the Parliamentary Corporation, unless otherwise indicated in the Act.

#### ***Paragraph 3 – Validity of actings***

66. This provision ensures that the exercise by the Commissioner of his/her functions cannot be challenged on the grounds that there was a defect in the appointment, or the eligibility for appointment, of the Commissioner.

#### ***Paragraph 4 – Term of office and tenure***

67. This provides that the Commissioner for Public Appointments in Scotland will hold office for a term determined by the Parliament which will not exceed 5 years, and for no more than 3 periods of office, with, as *sub-paragraph (2)(b)* states, appointment for a third term only if it is desirable in the public interest. The Commissioner may resign and may be removed from office. The Parliamentary corporation will determine the Commissioner for Public Appointments' other terms and conditions.

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***Paragraph 5 – Vacancy in the office of the Commissioner***

68. Provision is made for the Parliamentary corporation to appoint an acting Commissioner for Public Appointments where the office of the Commissioner is vacant.

***Paragraph 6 – Remuneration***

69. The Commissioner will receive a salary and allowances, the amount of which will be determined by the Parliament.

***Paragraph 7 – Pensions etc***

70. The Parliament may make arrangements for the payments of a pension, allowances or gratuity to a Commissioner on ceasing to hold office.

***Paragraph 8 – Staff***

71. The Commissioner has power, with the approval of the Parliament, to appoint staff. The Commissioner determines the terms and conditions of employment and may with the approval of the Parliament, make arrangements for the payment of pensions, allowances and gratuities to such staff when they cease to hold office.

***Paragraph 9 – Assessors***

72. *Sub-paragraph (1)* The Commissioner may appoint assessors to assist in the exercise of his/her functions.
73. *Sub-paragraph (2)* makes provisions that these assessors may be paid, with the approval of the Parliamentary Corporation.

***Paragraph 10 – Delegation***

74. This provides that any function of the Commissioner for Public Appointments may be exercised by another person (for example an assessor) with the authorisation of the Commissioner.

***Paragraph 11 – Financial provision***

75. This provides that the Parliamentary corporation pays the salary, allowances and expenses of the Commissioner for Public Appointments or Acting Commissioner.

***Paragraph 12 – Accountable officer***

76. Provision is made for the Parliamentary corporation to designate an accountable officer. This paragraph also describes the functions and duties of the accountable officer.

***Paragraph 13 – Accounts and reports***

77. This paragraph sets out the accounts and reports which should be prepared by the Commissioner.

***Paragraph 14 – Functions: supplementary provision***

78. *Paragraph 14* gives the Commissioner powers to enter into contracts and acquire or dispose of land or property in connection with his/her functions.