Scottish Parliamentary Commissions and Commissioners etc. Act 2010

2010 asp 11

S

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 9th June 2010 and received Royal Assent on 19th July 2010

An Act of the Scottish Parliament to establish the Commission for Ethical Standards in Public Life in Scotland; to transfer to its members the functions of the Chief Investigating Officer, the Scottish Parliamentary Standards Commissioner and the Commissioner for Public Appointments in Scotland; to make amendments of the Ethical Standards in Public Life etc. (Scotland) Act 2000, the Scottish Public Services Ombudsman Act 2002, the Freedom of Information (Scotland) Act 2002, the Public Appointments and Public Bodies etc. (Scotland) Act 2003, the Commissioner for Children and Young People (Scotland) Act 2003 and the Scottish Commission for Human Rights Act 2006, including amendments standardising certain provisions of those Acts and extending and qualifying the functions of the Scottish Public Services Ombudsman; and for connected purposes.

PART 1 S

[F1 THE COMMISSIONER FOR ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND]

Textual Amendments

F1 Pt. 1 heading substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 31**

[F2 The Commissioner]

Textual Amendments

F2 Cross-heading preceding s. 1 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 8**

[F3 1 The Commissioner for Ethical Standards in Public Life in Scotland S

(1) There is to be a Commissioner for Ethical Standards in Public Life in Scotland (the "Commissioner").

(2) The Commissioner is to be an individual appointed by the Parliamentary corporation with the agreement of the Parliament.

(3) The functions of the Commissioner are those conferred on the Commissioner by the following enactments—

(a) the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) ,

(b) the Scottish Parliamentary Standards Commissioner Act 2002 (asp 16) , and

(c) the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) . **]**

Textual Amendments

F3 S. 1 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), arts. 1, **3(1)**

F4 2 Functions of the Commissioners S

. . . . . .

Textual Amendments

F4 S. 2 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 2**

[F5 3 Status of Commissioner and Commissioner's staff S

(1) Neither the Commissioner nor any member of the Commissioner's staff—

(a) is a servant or agent of the Crown,

(b) has any status, immunity or privilege of the Crown.

(2) The Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

(3) The Commissioner is, as such, to be regarded as a juristic person distinct from the natural person holding the office.**]**

Textual Amendments

F5 S. 3 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 3**

4 Independence of [F6Commissioner] S

In the performance of **[**F7the Commissioner's functions, the Commissioner is**]** not subject to the direction or control of—

(a) any member of the Parliament,

(b) any member of the Scottish **[**F8Government**]**, or

(c) the Parliamentary corporation.

Textual Amendments

F6 Word in s. 4 title substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 4(c)**

F7 Words in s. 4 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 4(a)**

F8 Word in s. 4(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 4(b)**

[F9**5** Protection from actions for defamation S

(1) For the purposes of the law of defamation—

(a) any statement made by the Commissioner or a member of the Commissioner's staff in pursuance of the Commissioner's functions under the Ethical Standards Act or the Parliamentary Standards Act is absolutely privileged,

(b) any statement made by the Commissioner or a member of the Commissioner's staff in pursuance of the Commissioner's other functions has qualified privilege, and

(c) any statement made to the Commissioner or any member of the Commissioner's staff in pursuance of the purposes of the Ethical Standards Act, the Parliamentary Standards Act or the Public Appointments Act has qualified privilege.

(2) In subsection (1), "statement" has the same meaning as in the Defamation Act 1996 (c.31) . **]**

Textual Amendments

F9 S. 5 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 5**

F10**6** Designation of Chief Commissioner S

. . . . . .

Textual Amendments

F10 S. 6 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 6**

7 Appointment of acting Commissioner S

(1) If the office of **[**[F11]the**]** Commissioner is vacant or **[**[F11]the**]** Commissioner is, for any reason and to any extent, unable to act, the Parliamentary corporation may appoint a person (an "acting Commissioner") to perform the functions of the Commissioner, either generally or in relation to such matters or class of matter as is specified in the terms and conditions of the appointment.

(2) An appointment of an acting Commissioner is for, or until, such time as is specified in the terms and conditions of appointment.

[F12](3) . . . . . .

(4) Subject to subsection (5), a person who is not eligible for appointment as **[**[F13]the**]** Commissioner is not eligible for appointment as an acting Commissioner.

(5) Members of the **[**[F14]Commissioner's**]** staff are eligible for appointment as an acting Commissioner.

[F15](6) . . . . . .

(7) An acting Commissioner—

(a) may at any time resign by notice given to the Parliamentary corporation,

(b) may at any time be removed from office by the Parliamentary corporation,

(c) subject to this section, holds office on such terms and conditions as the Parliamentary corporation determines, and

(d) is to be regarded for all purposes, except those of sections 9(1) to (4) and 10, as having the same status, functions and rights and being subject to the same restrictions as the Commissioner [F16]....

(8) The Parliamentary corporation may, in the terms and conditions of appointment of an acting Commissioner, specify the minimum period of notice for the purposes of subsection (7)(a).

Textual Amendments

F11 Word in s. 7(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(a)**

F12 S. 7(3) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(b)**

F13 Word in s. 7(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(c)**

F14 Word in s. 7(5) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(d)**

F15 S. 7(6) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(e)**

F16 Words in s. 7(7)(d) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 7(f)**

Office of Commissioner

8 Disqualification S

(1) A person is disqualified from appointment and from holding office as **[**[F17]the Commissioner**]** if the person—

(a) is a member of the Parliament or its staff,

(b) was a member of the Parliament at any time within two years before the date when the appointment might otherwise have been made,

(c) is disqualified from being a member of the Parliament,

(d) is a member of the House of Commons,

(e) is a member of the House of Lords entitled to vote there,

(f) is employed, or appointed in any other capacity, by the **[**[F18]Commissioner**]**,

(g) is a member, employee or appointee of—

(i) the Standards Commission for Scotland,

(ii) a specified authority, or

(iii) a devolved public body,

(h) is a specified authority (where the authority is an individual),

(i) is, or is an employee or appointee of, the Scottish Public Services Ombudsman,

(j) is a member of a council or any committee of a council,

(k) is disqualified from being a member of a council, or

(l) is a member of a joint board or joint committee.

(2) In this section—

(a) the following expressions have the following meanings—

"specified authority" means any of the specified authorities referred to in section 2(1) of the Public Appointments Act,

"council" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

"joint board" and "joint committee" have, respectively, the meanings given by section 235(1) of the Local Government (Scotland) Act 1973 (c. 65),

"devolved public body" has the meaning given by section 28(1) of the Ethical Standards Act,

(b) the reference to a member of a specified authority includes a reference to—

(i) a member, by co-option, of any committee of a specified authority,

(ii) a holder of a paid office appointed by a specified authority, and

(c) a paid office is one where the holder is entitled to remuneration, allowances or expenses or any combination of them.

Textual Amendments

F17 Words in s. 8(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 9(a)**

F18 Word in s. 8(1)(f) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 9(b)**

9 Terms of office and remuneration S

(1) **[**[F19]The**]** Commissioner—

(a) holds office for such period, not exceeding eight years, as the Parliamentary corporation, at the time of appointment, determines, but

(b) is ineligible for reappointment at any time.

(2) **[**[F20]The**]** Commissioner may, at any time, resign by notice given to the Parliamentary corporation.

(3) **[**[F21]The**]** Commissioner may be removed from office by the Parliamentary corporation if subsection (4) applies.

(4) This subsection applies if—

(a) the Parliamentary corporation is satisfied that the Commissioner has breached the Commissioner's terms and conditions of office and the Parliament resolves that the Commissioner should be removed from office for that breach, or

(b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform that Commissioner's functions,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.

(5) **[**[F22]The**]** Commissioner is entitled to such remuneration and allowances as the Parliamentary corporation determines.

(6) In other respects, **[**[F23]the**]** Commissioner holds office on such terms and conditions as the Parliamentary corporation determines.

(7) Those terms and conditions may, without prejudice to section 8—

(a) prohibit the Commissioner from holding any other specified office, employment or appointment or engaging in any other specified occupation,

(b) provide that the Commissioner's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.

(8) In subsection (7), "specified" means specified in the terms and conditions of office or within a description so specified.

(9) The Parliamentary corporation may, in the terms and conditions of office of **[**[F24]the**]** Commissioner, specify the minimum period of notice for the purposes of subsection (2).

Textual Amendments

F19 Word in s. 9(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(a)**

F20 Word in s. 9(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(b)**

F21 Word in s. 9(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(b)**

F22 Word in s. 9(5) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(a)**

F23 Word in s. 9(6) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(c)**

F24 Word in s. 9(9) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 10(d)**

10 Pensions etc. S

(1) **[**[F25]The Parliamentary corporation may**]** make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be **[**[F26]the**]** Commissioner.

(2) Those arrangements may include—

(a) the making of contributions or payments towards provision for such pensions, allowances or gratuities,

(b) the establishment and administration of one or more pension schemes.

(3) References in subsections (1) and (2) to pensions, allowances and gratuities include, respectively, references to pensions, allowances and gratuities by way of compensation for loss of office.

Textual Amendments

F25 Words in s. 10(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 11(a)**

F26 Word in s. 10(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 11(b)**

11 Subsequent appointments etc. of former Commissioner S

(1) A person who has ceased to be **[**[F27]the Commissioner**]** may not, without the approval of the Parliamentary corporation—

(a) be employed, or appointed in any other capacity, by the **[**[F28]Commissioner**]**,

(b) be a member, employee or appointee of—

(i) the Standards Commission for Scotland,

(ii) a specified authority, or

(iii) a devolved public body,

(c) be a specified authority (where the authority is an individual),

(d) be, or be an employee or appointee of, the Scottish Public Services Ombudsman, or

(e) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of section 9(7)(a), that person could not have held or, as the case may be, engaged in when **[**[F29]the**]** Commissioner.

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(2) The restriction in subsection (1)—

(a) starts when the person ceases to be **[**[F30]the**]** Commissioner, and

(b) ends on the expiry of the financial year following the one in which it started.

(3) In this section—

(a) the following expressions have the following meanings—

"specified authority" means any of the specified authorities referred to in section 2(1) of the Public Appointments Act,

"devolved public body" has the meaning given by section 28(1) of the Ethical Standards Act,

(b) the reference to a member of a specified authority includes a reference to—

(i) a member, by co-option, of any committee of a specified authority,

(ii) a holder of a paid office appointed by a specified authority, and

(c) a paid office is one where the holder is entitled to remuneration, allowances or expenses or any combination of them.

Textual Amendments

F27 Words in s. 11(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 12(a)(i)**

F28 Word in s. 11(1)(a) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 12(a)(ii)**

F29 Word in s. 11(1)(e) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 12(a)(iii)**

F30 Word in s. 11(2)(a) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 12(b)**

*General functions, procedures etc. of **[**[F31]Commissioner**]***

Textual Amendments

F31 Word in cross-heading preceding s. 12 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 18**

12 General powers S

(1) The **[**[F32]Commissioner**]** may do anything which appears—

(a) necessary or expedient for the purpose of or in connection with, or

(b) conducive to,

the performance of **[**[F33]the Commissioner's**]** functions or the efficiency of **[**[F33]the Commissioner's**]** administration.

(2) In particular, the **[**[F34]Commissioner**]** may—

(a) enter into contracts,

(b) acquire and dispose of land and other property.

(3) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation.

(4) The **[**[F35]Commissioner**]** may determine and charge reasonable sums for anything done or provided by **[**[F36], or on behalf of, the Commissioner in the performance of, or in connection with, the Commissioner's functions.**]**

(5) The **[**[F37]Commissioner**]** must retain any sums received [F38]... by virtue of subsection (4) and apply them to meet expenditure incurred in doing or providing whatever is charged for.

Textual Amendments

F32 Word in s. 12(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(a)(i)**

F33 Words in s. 12(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(a)(ii)**

F34 Word in s. 12(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(b)**

F35 Word in s. 12(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(c)(i)**

F36 Words in s. 12(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(c)(ii)**

F37 Word in s. 12(5) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(d)(i)**

F38 Words in s. 12(5) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 13(d)(ii)**

13 Payment of witnesses' expenses S

The **[**[F39]Commissioner**]** may pay to persons giving evidence, producing documents or providing information under section 13 of the Ethical Standards Act or section 13 of the Parliamentary Standards Act such allowances or expenses as **[**[F40]the Commissioner**]** may, with the approval of the Parliamentary corporation, determine.

Textual Amendments

F39 Word in s. 13 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 14(a)**

F40 Words in s. 13 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 14(b)**

14 Strategic plans S

(1) The **[**[F41]Commissioner**]** must, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a "strategic plan") setting out how the **[**[F42]Commissioner proposes to perform the Commissioner's**]** functions during the 4 year period.

(2) A strategic plan must, in particular, set out—

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(a) the [F43]... Commissioner's objectives and priorities during the 4 year period,
(b) how the **[**[F44]Commissioner proposes**]** to achieve them,
(c) timetables for doing so, and
(d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the **[**[F45]Commissioner**]** must provide a draft of it to and invite, and (if any are given) consider, comments on it from—
(a) the Parliamentary corporation, and
(b) such other persons as the **[**[F46]Commissioner thinks**]** appropriate.

(4) The reference in subsection (3)(b) to other persons includes a reference to a committee of the Parliament.

(5) The **[**[F47]Commissioner**]** must lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The **[**[F48]Commissioner**]** must arrange for the publication of each strategic plan laid before the Parliament.

(7) The **[**[F49]Commissioner**]** may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Subsections (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, "4 year period" means the period of four years beginning on 1 April next following the coming into force of this section and each subsequent period of four years.

Textual Amendments

F41 Word in s. 14(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(a)(i)**

F42 Words in s. 14(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(a)(ii)**

F43 Words in s. 14(2)(a) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(b)(i)**

F44 Words in s. 14(2)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(b)(ii)**

F45 Word in s. 14(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(c)(i)**

F46 Words in s. 14(3)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(c)(ii)**

F47 Word in s. 14(5) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(d)**

F48 Word in s. 14(6) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(d)**

F49 Word in s. 14(7) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 15(d)**

15 [F50Validity] of acts S

F51(1) . . . . . .

F52(2) . . . . . .

(3) The validity of acts of [F53the] Commissioner is not affected by—

(a) any defect in the appointment of the Commissioner, or

(b) any disqualification from appointment as [F53the] Commissioner of the person bearing to be the Commissioner.

F54(4) . . . . . .

Textual Amendments

F50 Words in s. 15 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 16(c)**

F51 S. 15(1) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 16(a)**

F52 S. 15(2) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 16(a)**

F53 Word in s. 15(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 16(b)**

F54 S. 15(4) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 16(a)**

16 Delegation S

F55(1) . . . . . .

F55(2) . . . . . .

(3) Any function of [F56the Commissioner] may be performed on the Commissioner's behalf by any person (whether or not F57... a member of the [F58Commissioner's] staff) authorised by the Commissioner to do so, and to the extent so authorised.

(4) Subsection (3) does not affect the responsibility of [F59the Commissioner] for the performance of [F60the] Commissioner's functions.

Textual Amendments

F55 S. 16(1)(2) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(a)**

F56 Words in s. 16(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(b)(i)**

F57 Words in s. 16(3) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(b)(ii)**

F58 Word in s. 16(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(b)(iii)**

F59 Words in s. 16(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(c)(i)**

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

F60 Word in s. 16(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 17(c)(ii)**

Staff, advisers etc.

17 Staff S

(1) The **[**[F61]Commissioner**]** may[F62]... appoint staff on such terms and conditions as **[**[F63]the Commissioner**]** determines.

(2) The **[**[F64]Commissioner**]** may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of **[**[F65]the Commissioner's**]** staff.

(3) Those arrangements may include—
  (a) the making of contributions or payments towards provision for such pensions, allowances or gratuities, and
  (b) the establishment and administration of one or more pension schemes.

(4) References in subsections (2) and (3) to pensions, allowances or gratuities include, respectively, references to pensions, allowances or gratuities by way of compensation for loss of employment.

(5) The exercise of a power in this section is subject to the approval of the Parliamentary corporation.

Textual Amendments

F61 Word in s. 17(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 19(a)(i)**

F62 Words in s. 17(1) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 19(a)(ii)**

F63 Words in s. 17(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 19(a)(iii)**

F64 Word in s. 17(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 19(b)(i)**

F65 Words in s. 17(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 19(b)(ii)**

18 Advisers, assessors and other services S

(1) The **[**[F66]Commissioner may obtain**]** advice, assistance or any other service from any person who, in the opinion of the **[**[F67]Commissioner**]**, is qualified to give it.

(2) The **[**[F68]Commissioner**]** may pay to that person such fees and allowances as **[**[F69]the Commissioner**]** determines.

(3) Any payment under subsection (2) is subject to the approval of the Parliamentary corporation.

Textual Amendments

F66 Words in s. 18(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 20(a)(i)**

F67 Word in s. 18(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 20(a)(ii)**

F68 Word in s. 18(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 20(b)(i)**

F69 Words in s. 18(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 20(b)(ii)**

Finance

19 Accountable officer S

(1) The Parliamentary corporation must designate **[**[F70]the Commissioner**]** or a member of the **[**[F71]Commissioner's**]** staff as the accountable officer for the purposes of this section.

(2) The functions of the accountable officer are—

(a) signing the accounts of the expenditure and receipts of the **[**[F72]Commissioner**]**,

(b) ensuring the propriety and regularity of the finances of the **[**[F72]Commissioner**]**,

(c) ensuring that the resources of the **[**[F72]Commissioner**]** are used economically, efficiently and effectively, and

(d) the duty in subsection (3).

(3) Where the accountable officer**[**[F73]is not the Commissioner and**]** is required to act in some way but considers that to do so would be inconsistent with the proper performance of a function set out in subsection (2)(a) to (c), the accountable officer must—

(a) obtain written authority from the **[**[F74]Commissioner**]** before taking the action, and

(b) as soon as possible, send a copy of the authority to the Auditor General for Scotland.

(4) The accountable officer is answerable to the Parliament for the performance of the functions in subsection (2).

Textual Amendments

F70 Words in s. 19(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 21(a)(i)**

F71 Word in s. 19(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 21(a)(ii)**

F72 Word in s. 19(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 21(b)**

F73 Words in s. 19(3) inserted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 21(c)(i)**

F74 Word in s. 19(3)(a) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 21(c)(ii)**

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

20 Budget S

(1) The [F75Commissioner] must, before the start of each financial year, prepare proposals for [F76the Commissioner's] use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The [F77Commissioner] may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or a revised budget, the [F78Commissioner] must ensure that the resources of the [F78Commissioner] will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the [F79Commissioner] has complied with the duty under subsection (3).

Textual Amendments

F75 Word in s. 20(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 22(a)(i)**

F76 Words in s. 20(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 22(a)(ii)**

F77 Word in s. 20(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 22(b)**

F78 Word in s. 20(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 22(b)**

F79 Word in s. 20(4) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 22(b)**

Modifications etc. (not altering text)

C1 S. 20(1) applied (with modifications) (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 4 para. 4**

21 Funding S

(1) The Parliamentary corporation is to—

(a) pay the remuneration and allowances of [F80the] Commissioner,

(b) pay any expenses properly incurred by the [F81Commissioner] in the performance of [F82the Commissioner's] functions, so far as not met out of sums received and applied by [F83the Commissioner] under section 12(5),

(c) indemnify the F84... Commissioner in respect of any liabilities incurred by [F85the] Commissioner in the performance of [F86the] Commissioner's functions.

(2) Subsection (1)(b) does not require the Parliamentary corporation to pay any expenses incurred by the [F87Commissioner] which exceed or are otherwise not covered by a budget or, as the case may be, a revised budget approved under section 20.

(3) However, the Parliamentary corporation may pay those expenses.

Textual Amendments

F80 Word in s. 21(1)(a) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(a)**

F81 Word in s. 21(1)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(b)(i)**

F82 Words in s. 21(1)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(b)(ii)**

F83 Words in s. 21(1)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(b)(iii)**

F84 Words in s. 21(1)(c) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(c)(i)**

F85 Word in s. 21(1)(c) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(c)(ii)**

F86 Word in s. 21(1)(c) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(c)(iii)**

F87 Word in s. 21(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 23(d)**

22 Accounts and audit S

(1) The **[**[F88]Commissioner**]** must, in accordance with any directions in that regard given by the Scottish Ministers—

(a) keep proper accounts and accounting records,

(b) prepare annual accounts in respect of each financial year, and

(c) send a copy of the annual accounts to the Auditor General for Scotland for auditing.

(2) If requested by any person, the **[**[F88]Commissioner**]** must make the audited accounts available, at any reasonable time, without charge and in printed or electronic form, so that they may be inspected by that person.

Textual Amendments

F88 Word in s. 22 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 24**

Location of office and sharing of resources

23 Location of office S

The **[**[F89]Commissioner**]** must comply with any direction given by the Parliamentary corporation as to the location of the **[**[F90]Commissioner's**]** office.

Textual Amendments

F89 Word in s. 23 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 25(a)**

F90 Word in s. 23 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 25(b)**

24 Sharing of premises, staff, services and other resources S

The **[**F91Commissioner**]** must comply with any direction given by the Parliamentary corporation as to the sharing of premises, staff, services or other resources with any other public body or any officeholder.

Textual Amendments

F91 Word in s. 24 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 26**

Annual reports

25 Annual reports S

(1) The **[**F92Commissioner**]** must lay before the Parliament annually a general report on the performance **[**F93of the Commissioner's**]** functions during the reporting year.

(2) The report must include, in relation to the performance of the **[**F94Commissioner's functions under the Ethical Standards Act and the Parliamentary Standards Act**]**—

(a) the numbers of complaints made to **[**F95the**]** Commissioner during the reporting year about, respectively—

(i) members of the Parliament,

(ii) councillors, and

(iii) members of devolved public bodies,

(b) the number of complaints made for the purposes of investigation under the Ethical Standards Act or the Parliamentary Standards Act which were withdrawn during the reporting year, broken down according to the stage of the investigation at which they were withdrawn,

(c) the numbers of investigations under the Ethical Standards Act—

(i) begun,

(ii) not proceeded with,

(iii) completed,

during the reporting year,

(d) the number of outcome reports submitted to the Standards Commission for Scotland under section 14 of that Act during the reporting year,

(e) the number of further investigations that the Commissioner has, during the reporting year, been directed under section 16 of that Act to carry out,

(f) in relation to Stage 1 investigations—

(i) the number completed,

(ii) the number of complaints dismissed, and

(iii) the number of complaints considered admissible or treated, under section 7(7)(b) of the Parliamentary Standards Act, as meeting all the specified requirements,

during the reporting year,

(g) in relation to Stage 2 investigations—

(i) the number completed,

(ii) the number of outcome reports made under section 9 of the Parliamentary Standards Act,

during the reporting year, and

(h) the number of further investigations that the Commissioner has been directed to carry out under section 10(2) of that Act during the reporting year.

(3) The report must include, in relation to the performance of the **[**[F96]Commissioner's functions under the Public Appointments Act**]**—

(a) a summary of any revisals made under section 2(3)(b) of the Public Appointments Act to the code of practice,

(b) a summary of any section 2(5)(b) complaints received by **[**[F97]the**]** Commissioner,

(c) a summary of any guidance to the Scottish Ministers issued under section 2(6) of the Public Appointments Act,

(d) the number of section 2(8)(a) reports made, and

(e) the number of section 2(8)(b) directions made,

during the reporting year.

[F98](4) . . . . . .

(5) The report must be laid before the Parliament within seven months after the end of the reporting year.

(6) The **[**[F99]Commissioner**]** must arrange for the publication of each report laid before the Parliament under this section.

(7) In preparing a report under this section, the **[**[F100]Commissioner**]** must comply with any direction given by the Parliamentary corporation as to the form and content of the report.

(8) In this section—

"reporting year" means the year beginning on 1 April,

"devolved public bodies" has the meaning given by section 28(1) of the Ethical Standards Act,

"Stage 1" and "Stage 2" are to be construed in accordance with section 5(1) of the Parliamentary Standards Act,

"section 2(5)(b) complaints" are complaints to which section 2(5)(b) of the Public Appointments Act applies (those arising from certain appointments, or recommendations for appointments, made by Scottish Ministers),

"section 2(8)(a) reports" are reports made under section 2(8)(a) of that Act (about continued non-compliance with the code of practice on appointments),

"section 2(8)(b) directions" are directions to Scottish Ministers under section 2(8)(b) of that Act (to delay appointment or recommendation pending consideration by the Parliament).

Textual Amendments

F92 Word in s. 25(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(a)(i)**

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

F93 Words in s. 25(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(a)(ii)** (with Sch. 4 para. 6)

F94 Words in s. 25(2) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(b)(i)** (with Sch. 4 para. 6)

F95 Word in s. 25(2)(a) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(b)(ii)** (with Sch. 4 para. 6)

F96 Words in s. 25(3) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(c)(i)** (with Sch. 4 para. 6)

F97 Word in s. 25(3)(b) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(c)(ii)** (with Sch. 4 para. 6)

F98 S. 25(4) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(d)** (with Sch. 4 para. 6)

F99 Word in s. 25(6) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(e)**

F100 Word in s. 25(7) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 27(e)**

Ombudsman's investigations and freedom of information

F101 26 Commission and Commissioners to be subject to investigations by Scottish Public Services Ombudsman S

. . . . . .

Textual Amendments

F101 S. 26 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 28**

F102 27 Commission and Public Appointments Commissioner for Scotland to be subject to Freedom of Information (Scotland) Act S

. . . . . .

Textual Amendments

F102 S. 27 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 29**

Interpretation

28 Interpretation of Part 1 S

In this Part, except where the context otherwise requires—

F103 …

[F104"Commissioner" means the Commissioner for Ethical Standards in Public Life in Scotland,

"the Ethical Standards Act" means the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7),]

"the Parliament" means the Scottish Parliament,

"Parliamentary corporation" means the Scottish Parliamentary Corporate Body.

[F105 "the Parliamentary Standards Act" means the Scottish Parliamentary Standards Commissioner Act 2002 (asp 16) , and

"the Public Appointments Act" means the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) .]

Textual Amendments

F103 Words in s. 28 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 30(a)**

F104 Words in s. 28 substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 30(b)**

F105 Words in s. 28 inserted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 30(c)**

PART 2 S

AMENDMENTS OF PROVISIONS RELATING TO OTHER COMMISSIONS AND OFFICEHOLDERS

29 Standardising and other amendments S

(1) The enactments referred to in subsections (2) to (11) have effect subject to the amendments there provided for, being amendments which—

(a) standardise certain provisions in those enactments,

(b) extend and qualify the functions of the Scottish Public Services Ombudsman, but

(c) are not limited to amendments for those purposes.

(2) The Ethical Standards Act is amended in accordance with schedule 2.

(3) The Scottish Public Services Ombudsman Act 2002 (asp 11) is amended in accordance with schedule 3.

(4) The Freedom of Information (Scotland) Act 2002 (asp 13) is amended in accordance with schedule 4.

(5) The Parliamentary Standards Act is amended in accordance with subsections (6) and (7).

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(6) Sections 13(8) (payment of witnesses' allowances and expenses) and 18 (annual report) are repealed.

[F106](7) . . . . . .

(8) The Public Appointments Act is amended in accordance with subsection (9).

(9) After section 3(2) (paragraph (b) of which gives Scottish Ministers power to confer functions on or remove them from the Public Appointments Commissioner for Scotland) there is inserted—

"(2A) Before making an order under subsection (2)(b), the Scottish Ministers must consult the Parliamentary corporation."

(10) The Commissioner for Children and Young People (Scotland) Act 2003 (asp 17) is amended in accordance with schedule 5.

(11) The Scottish Commission for Human Rights Act 2006 (asp 16) is amended in accordance with schedule 6.

[[F107](12) In this section, "the Ethical Standards Act", "the Parliamentary Standards Act" and "the Public Appointments Act" have the same meanings given by section 28.**]**

Textual Amendments

F106 S. 29(7) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 32(a)**

F107 S. 29(12) inserted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 32(b)**

PART 3 S

GENERAL

[F108]30 Interpretation S

. . . . . .

Textual Amendments

F108 S. 30 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 33**

31 Short title, commencement, transfers and transitionals S

(1) This Act may be cited as the Scottish Parliamentary Commissions and Commissioners etc. Act 2010.

(2) Section 30 and subsections (1) to (5) of this section come into force on Royal Assent.

(3) Paragraph 14 of schedule 2, to the extent that it inserts paragraph 10C (budget) into schedule 1 to the Ethical Standards Act, comes into force on 1 August 2010.

(4) Paragraph 20 of schedule 3 comes into force on 1 October 2010.

(5) The rest of this Act comes into force on 1 April 2011.

(6) The provisions relating to the transfer of staff, property and liabilities and transitional and saving provisions set out in schedule 7 have effect.

Commencement Information

I1 S. 31 partly in force; s. 31(1)-(5) in force at Royal Assent and s. 31(6) in force at 1.4.2011 see s. 31(2)(5)

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

[F109]SCHEDULE 1 S

(introduced by section 2(5))

. . . . . .

Textual Amendments

F109 Sch. 1 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 1 para. 2**

SCHEDULE 2 S

(introduced by section 29(2))

AMENDMENTS OF THE ETHICAL STANDARDS ACT

Procedure for appointments and orders conferring functions

1 In section 8 (establishment, functions and membership of the Standards Commission for Scotland)—

(a) in subsection (3) (appointment of members) for the passage from "Ministers", where first occurring, to the end there is substituted "the Parliamentary corporation—

(a) after consulting such association of councils and such other persons as the Parliamentary corporation thinks appropriate; and

(b) with the agreement of the Parliament.",

(b) after subsection (4) there is inserted—

"(4A) Ministers shall consult the Parliamentary corporation and the Commission before making an order under subsection (2)(b).",

(c) for subsection (6) (order conferring functions to be subject to negative procedure) there is substituted—

"(6) No statutory instrument may be made under this section unless a draft of it has been laid before and approved by the Parliament."

Witnesses' expenses

2 In section 17(8) (payment by Commission of witnesses' expenses etc.) for "thinks fit" there is substituted " , with the approval of the Parliamentary corporation, determines ".

Protection from actions of defamation

3 In section 27(1) (protection from actions of defamation) for the passage from "by", where it first occurs, to the end there is substituted—

"(a) by the Commission or any of its employees, the Public Standards Commissioner for Scotland or any of the employees of the Commission for Ethical Standards in Public Life in Scotland shall be absolutely privileged;

(b) to that Commissioner or any of the employees of the Commission for Ethical Standards in Public Life in Scotland shall have qualified privilege."

Application of paragraphs 5 to 16

4 Paragraphs 5 to 16 relate to schedule 1 to the Ethical Standards Act.

Land, charges, location of office and sharing of resources

5 In paragraph 2—

(a) at the end of sub-paragraph (2) (Commission's general powers to include acquisition and disposal of land) there is inserted " , or other property ", and

(b) after that sub-paragraph there is inserted—

"(3) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation.

(4) The Commission may determine and charge reasonable sums for anything done or provided by it or on its behalf in the exercise of, or in connection with, its functions.

(5) The Commission shall retain any sums received by it by virtue of sub-paragraph (4) and apply them to meet expenditure incurred in doing or providing whatever is charged for."

6 After paragraph 2 there is inserted—

"Location of office

2A The Commission shall comply with any direction given by the Parliamentary corporation as to the location of the Commission's office.

Sharing of premises, staff, services and other resources

2B The Commission shall comply with any direction given by the Parliamentary corporation as to the sharing of premises, staff, services or other resources with any other public body or any officeholder."

Procedure for appointment of convener

7 In paragraph 4 (appointment of convener) for "Ministers" there is substituted " The Parliamentary corporation ".

Members' terms of office, subsequent appointments etc.

8 For paragraphs 5 (tenure of office of members) and 6 (remuneration etc.) there is substituted—

"Tenure of office, remuneration etc.

5 (1) Each member of the Commission shall hold office for such period, not exceeding eight years, as the Parliamentary corporation determines at the time of appointment.

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(2) A person who has ceased to be a member is ineligible for reappointment at any time.

(3) A member may resign office at any time by notice in writing given to the Parliamentary corporation.

(4) A member may be removed from office by the Parliamentary corporation if sub-paragraph (5) applies.

(5) This sub-paragraph applies if—

(a) the Parliamentary corporation is satisfied that the member has breached the member's terms and conditions of office and the Parliament resolves that the member should be removed from office for that breach; or

(b) the Parliament resolves that it has lost confidence in the member's willingness, suitability or ability to exercise that member's functions,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.

(6) The Parliamentary corporation may, in the terms and conditions of office of a member, specify the minimum period of notice for the purposes of sub-paragraph (3).

(7) Each member is entitled to—

(a) such remuneration; and

(b) such allowances,

as the Parliamentary corporation determines.

(8) In other respects, each member holds office on such terms and conditions as the Parliamentary corporation determines.

(9) Those terms and conditions may, without prejudice to paragraph 3—

(a) prohibit the member from holding any other specified office, employment or appointment or engaging in any other specified occupation;

(b) provide that the member's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation;

(c) for the purposes of this sub-paragraph, provide differently for the member appointed as convener and the other members.

(10) In sub-paragraph (9), "specified" means specified in the terms and conditions of office or within a description so specified."

9 After paragraph 5 (as inserted by paragraph 8 above) there is inserted—

"Subsequent appointments etc.

5A (1) A person who has ceased to be a member may not, without the approval of the Parliamentary corporation—

(a) be employed or appointed in any other capacity by the Commission;

(b) be a member or an employee or appointee of the Commission for Ethical Standards in Public Life in Scotland or be, or be an employee or appointee of, the Scottish Public Services Ombudsman;

(c) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of paragraph 5(9)(a), that person could not have held or, as the case may be, engaged in when a member.

(2) The restriction in sub-paragraph (1)—

(a) starts when the person ceases to be a member; and

(b) ends on the expiry of the financial year following the one in which it started."

Employees, remuneration and pensions, advisers etc.

10 In paragraph 7 (employees)—

(a) in sub-paragraphs (2) and (4) for "Ministers" in each place where it occurs, there is substituted " it ", and

(b) after sub-paragraph (4) there is inserted—

"(4A) The exercise of a power in this paragraph requires the approval of the Parliamentary corporation."

11 Paragraph 8 (remuneration, pensions etc. of Chief Investigating Officer and staff) is repealed.

12 Before paragraph 9 there is inserted—

"Advisers and other services

8A (1) The Commission may obtain advice, assistance or any other service from any person who, in the opinion of the Commission, is qualified to give it.

(2) The Commission may pay to that person such fees and allowances as the Commission determines.

(3) Any payment under sub-paragraph (2) is subject to the approval of the Parliamentary corporation."

Strategic plans

13 After paragraph 10 there is inserted—

"Strategic plans

10A (1) The Commission shall, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a "strategic plan") setting out how the Commission proposes to exercise the Commission's functions during the 4 year period.

(2) A strategic plan shall, in particular, set out—

(a) the Commission's objectives and priorities during the 4 year period;

(b) how the Commission proposes to achieve them;

(c) a timetable for doing so; and

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the Commission shall provide a draft of it to and invite, and (if any are given) consider, comments on it from—

(a) the Parliamentary corporation; and

(b) such other persons as the Commission thinks appropriate.

(4) The reference in sub-paragraph (3)(b) to other persons includes a committee of the Parliament.

(5) The Commission shall lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The Commission shall arrange for the publication of each strategic plan laid before the Parliament.

(7) The Commission may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Sub-paragraphs (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in sub-paragraph (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, "4 year period" means the period of 4 years beginning on 1 April next following the coming into force of this paragraph and each subsequent period of 4 years."

Finance

14 After paragraph 10A (as inserted by paragraph 13 above) there is inserted—

"Accountable officer

10B (1) The Parliamentary corporation shall designate a member or employee of the Commission as the accountable officer for the purposes of this paragraph.

(2) The functions of the accountable officer are—

(a) signing the accounts of the expenditure and receipts of the Commission;

(b) ensuring the propriety and regularity of the finances of the Commission;

(c) ensuring that the resources of the Commission are used economically, efficiently and effectively; and

(d) the duty set out in sub-paragraph (3).

(3) Where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper exercise of the functions specified in sub-paragraph (2)(a) to (c), the accountable officer shall—

(a) obtain written authority from the Commission before taking the action; and

(b) send a copy of the authority as soon as possible to the Auditor General for Scotland.

(4) The accountable officer is answerable to the Parliament for the performance of the functions in sub-paragraph (2).

Budget

10C (1) The Commission shall, before the start of each financial year, prepare proposals for its use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Commission may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or a revised budget, the Commission shall ensure that the resources of the Commission will be used economically, efficiently and effectively.

(4) A budget or revised budget shall contain a statement that the Commission has complied with the duty under sub-paragraph (3).

Commission's expenses and liabilities

10D (1) The Parliamentary corporation shall pay any expenses properly incurred by the Commission in the exercise of its functions so far as not met out of sums received and applied by it under paragraph 2(5).

(2) Sub-paragraph (1) does not require the Parliamentary corporation to pay any expenses incurred by the Commission which exceed or are otherwise not covered by a budget or, as the case may be, revised budget approved under paragraph 10C.

(3) However, the Parliamentary corporation may pay those expenses.

(4) The Parliamentary corporation shall indemnify the Commission in respect of any liability incurred by it in the exercise of its functions.

Accounts and audit

10E (1) The Commission shall, in accordance with such directions in that regard as the Scottish Ministers may give—

(a) keep proper accounts and accounting records;

(b) prepare annual accounts in respect of each financial year; and

(c) send a copy of the annual accounts to the Auditor General for Scotland for auditing.

(2) If requested by any person, the Commission shall make the audited accounts available, at any reasonable time, without charge and in printed or electronic form, so that they may be inspected by that person."

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

Commencement Information

I2 Sch. 2 para. 14 wholly in force at 1.4.2011; Sch. 2 para. 14 in force for specified purposes at 1.8. 2010 and otherwise at 1.4.2011, see s. 31(3)(5)

15 Paragraph 11 (expenses) is repealed.

Annual reports

16 After paragraph 10E (as inserted by paragraph 14 above) there is inserted—

"Annual reports

10F (1) The Commission shall lay before the Parliament annually a general report on the exercise of its functions during the reporting year.

(2) The report shall, in particular, include—

(a) a summary of any hearings held by the Commission during the reporting year; and

(b) a summary of any other activities undertaken by it during that year in pursuance of its functions.

(3) The report shall be laid before the Parliament within seven months after the end of the reporting year.

(4) The Commission shall arrange for the publication of each report laid before the Parliament under this paragraph.

(5) In preparing a report under this paragraph, the Commission shall comply with any direction given by the Parliamentary corporation as to the form and content of the report.

(6) In this section "reporting year" means the year beginning on 1 April."

Terms and conditions of office, staff and status of Chief Investigating Officer

17 Schedule 2 (terms and conditions of office, staff and status of Chief Investigating Officer) is repealed.

SCHEDULE 3 S

(introduced by section 29(3))

AMENDMENTS OF THE SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002 (ASP 11)

Investigations and reports

1 In section 5(1)(a) (matters which may be investigated) after "or", where it second occurs, there is inserted " on ".

2 In section 11 (decisions not to investigate)—

(a) in subsection (1) the passage from "after" to "complaint", where it second occurs, becomes paragraph (a) of the subsection and after it there is inserted ", or

(b) decides to discontinue an investigation following a complaint,",

(b) after subsection (3) there is inserted—

"(3A) Where the Ombudsman decides to discontinue an investigation following a complaint, any reference in paragraphs (b), (f) and (g) of subsection (2) to the listed authority in question or to the listed authority is to be construed as including a reference to a listed authority—

(a) which was not mentioned in the complaint, but

(b) whose action was investigated by the Ombudsman in connection with the investigation.",

(c) after subsection (4) there is inserted—

"(5) Subsection (4) applies where the Ombudsman decides to discontinue an investigation following a request as it applies where the Ombudsman decides not to conduct such an investigation.",

(d) accordingly, the title to the section becomes "**Decisions not to investigate or to discontinue investigations**".

3 After subsection (6) of section 12 (investigation procedure) there is inserted—

"(7) Any reference in subsections (2)(a) and (6)(a) and (b) to the listed authority in question or to the listed authority includes, in relation to an investigation following a complaint, references to a listed authority—

(a) which is not mentioned in the complaint, but

(b) whose action is investigated by the Ombudsman in connection with the investigation."

4 In section 13 (evidence) after subsection (9) there is inserted—

"(10) Any reference in subsections (1) to (3) to the listed authority in question or to the listed authority includes, in relation to an investigation following a complaint, a reference to a listed authority—

(a) which is not mentioned in the complaint, but

(b) whose action is investigated by the Ombudsman in connection with the investigation."

5 In section 15 (reports on investigations)—

(a) at the beginning of subsection (1) there is inserted " Subject to subsection (1A), ",

(b) after that subsection there is inserted—

"(1A) Where the Ombudsman decides to discontinue an investigation, the Ombudsman may—

(a) send a report of the investigation to the Scottish Ministers, and

(b) lay a copy of the report before the Parliament.",

(c) in subsection (4)(a)(i) after "report" there is inserted " sent to it by virtue of subsection (1) ",

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(d) after subsection (7) there is inserted—

"(8) Any reference in subsections (3) to (5) to the listed authority in question or to the listed authority includes, in relation to a complaint following which the investigation was conducted, a reference to a listed authority—

(a) which was not mentioned in the complaint, but

(b) whose action was investigated by the Ombudsman in connection with the investigation."

Annual reports

6 In section 17—

(a) at the end of subsection (1) (duty to lay annual reports) there is inserted " during the reporting year ",

(b) in subsection (2) (Ombudsman's recommendations) for "period in question" there is substituted " reporting year ",

(c) after subsection (2) there is inserted—

"(2A) A report under subsection (1) must be laid before the Parliament within seven months after the end of the reporting year.",

(d) in subsection (3) (directions as to form and content of reports) for "Parliament" there is substituted " Parliamentary corporation ",

(e) after that subsection there is inserted—

"(3A) The Ombudsman must arrange for the publication of each report under subsection (1).",

(f) after subsection (4) there is inserted—

"(5) In this section, "reporting year" means the year beginning on 1 April."

Strategic plans

7 After section 17 there is inserted—

"**17A Strategic plans**

(1) The Ombudsman must, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a "strategic plan") setting out how the Ombudsman proposes to perform the Ombudsman's functions during the 4 year period.

(2) A strategic plan must, in particular, set out—

(a) the Ombudsman's objectives and priorities during the 4 year period,

(b) how the Ombudsman proposes to achieve them,

(c) a timetable for doing so, and

(d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the Ombudsman must provide a draft of it to and invite, and (if any are given) consider, comments on it from—

(a) the Parliamentary corporation, and
(b) such other persons as the Ombudsman thinks appropriate.

(4) The reference in subsection (3)(b) to other persons includes a reference to a committee of the Parliament.

(5) The Ombudsman must lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The Ombudsman must arrange for the publication of each strategic plan laid before the Parliament.

(7) The Ombudsman may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Subsections (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, "4 year period" means the period of 4 years beginning on 1 April next following the coming into force of this section and each subsequent period of 4 years."

Confidentiality of information

8 In section 19 (confidentiality of information)—

(a) in subsection (3)—

(i) for "patients", where it first occurs, there is substituted " individuals (in particular or in general) ",

(ii) for "and" there is substituted " or ",

(iii) for "patients", where it second occurs, there is substituted " the particular individuals or, as the case may be, individuals in general ",

(b) after subsection (4) there is inserted—

"(4A) The duty under subsection (4)(a) to inform a person about the identity of a person to whom information has been disclosed does not apply where informing the former person is likely to constitute a threat to the health or safety of the latter person."

9 In section 23(1) (interpretation) the definition of "patient" is repealed.

Application of paragraphs 11 to 19

10 Paragraphs 11 to 19 relate to schedule 1 to the Scottish Public Services Ombudsman Act 2002 (asp 11).

Disqualification, terms of office, status, removal etc.

11 For paragraph 1(3) (disqualification of former Ombudsman from certain posts) there is substituted—

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

"(3) A person who has ceased to hold office as Ombudsman or deputy Ombudsman may not, without the approval of the Parliamentary corporation—

(a) be appointed or, as the case may be, elected as—

(i) the holder of any office which is a listed authority, or

(ii) a member, officer or member of staff of a listed authority,

(b) be appointed to any paid office by a listed authority, or

(c) hold any other office, employment, or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of paragraph 4(2E)(a), that person could not have held or, as the case may be, engaged in when Ombudsman or, as the case may be, Deputy Ombudsman.

(3A) The restriction in sub-paragraph (3)—

(a) starts when the person ceases to hold office as Ombudsman or, as the case may be, deputy Ombudsman, and

(b) ends on the expiry of the financial year following the one in which it started.

(3B) In sub-paragraph (3), a "paid office" is one where the holder is entitled to remuneration or expenses or any combination of them."

12 In paragraph 2 (status of Ombudsman)—

(a) after sub-paragraph (2) there is inserted—

"(2A) The Ombudsman is, as such, to be regarded as a juristic person distinct from the natural person holding the office.",

(b) in sub-paragraph (3) (respects in which Ombudsman is subject to direction or control) for "paragraph" there is substituted " paragraphs 9(4), 10(3), 12(3), 12A, 12B, 12D and ".

13 In paragraph 4 (period of office, tenure etc.)—

(a) in sub-paragraph (1)—

(i) in paragraph (a) for "five" there is substituted " eight ", and

(ii) for paragraph (d) there is substituted—

"(d) may be removed from office by Her Majesty if sub-paragraph (2C) applies,",

(b) for sub-paragraphs (2) and (3) there is substituted—

"(2A) A person who has held office as Ombudsman or deputy Ombudsman is ineligible for reappointment at any time.

(2B) Such a person is, however, eligible for appointment to the other office, but may not hold that office beyond the expiry of the period for which the person was first appointed.",

(c) after sub-paragraph (2B) (as inserted by this paragraph) there is inserted—

"(2C) This sub-paragraph applies if—

(a) the Parliamentary corporation is satisfied that the Ombudsman has breached the terms and conditions of office and the Parliament resolves that the Ombudsman should be removed from office for that breach, or

(b) the Parliament resolves that it has lost confidence in the Ombudsman's willingness, suitability or ability to perform the functions of the Ombudsman,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.

(2D) Sub-paragraph (2C) applies in respect of a deputy Ombudsman as it applies in respect of the Ombudsman.

(2E) The terms and conditions of office referred to in sub-paragraph (1)(e) may, without prejudice to paragraph 1—

(a) prohibit the Ombudsman or deputy Ombudsman from holding any other specified office, employment or appointment or engaging in any other specified occupation,

(b) provide that the Ombudsman's or deputy Ombudman's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.

(2F) In sub-paragraph (2E), "specified" means specified in the terms and conditions of office or within a description so specified."

Advisers and other services

14 For paragraph 10 there is substituted—

"Advisers and other services

10 (1) The Ombudsman may obtain advice, assistance or any other service from any person who, in the opinion of the Ombudsman, is qualified to give it.

(2) The Ombudsman may pay to that person such fees and allowances as the Ombudsman determines.

(3) Any payment under sub-paragraph (2) is subject to the approval of the Parliamentary corporation."

Land, location of office, sharing of resources and charges

15 At the end of paragraph 12 (Ombudsman's general powers) there is inserted—

"(3) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation."

16 After paragraph 12 there is inserted—

"Location of office

12A The Ombudsman must comply with any direction given by the Parliamentary corporation as to the location of the Ombudsman's office.

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

Sharing of premises, staff, services and other resources

12B The Ombudsman must comply with any direction given by the Parliamentary corporation as to the sharing of premises, staff, services or other resources with any other officeholder or any public body.

Charges for services

12C (1) The Ombudsman may determine and charge reasonable sums for anything done or provided by the Ombudsman in the performance of, or in connection with, the Ombudsman's functions.

(2) Any sums received by the Ombudsman by virtue of sub-paragraph (1) are to be retained by the Ombudsman and applied to meet expenditure incurred in doing or providing whatever is charged for."

Budget

17 After paragraph 12C (as inserted by paragraph 16 above) there is inserted—

"Budget

12D (1) The Ombudsman must, before the start of each financial year, prepare proposals for the Ombudsman's use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Ombudsman may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or revised budget, the Ombudsman must ensure that the resources of the Ombudsman will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the Ombudsman has complied with the duty under sub-paragraph (3)."

Finance

18 In paragraph 13(b) (Parliamentary corporation to pay Ombudsman's expenses)—

(a) before "incurred" there is inserted " properly ", and

(b) at the end there is inserted " so far as those expenses are not met out of sums received and applied by the Ombudsman under paragraph 12C(2) ".

19 Paragraph 13 (as amended by paragraph 18 above) is renumbered as sub-paragraph (1) of paragraph 13 and after it there is inserted—

"(2) Sub-paragraph (1)(b) does not require the Parliamentary corporation to pay any expenses which exceed or are otherwise not covered by a budget or, as the case may be, a revised budget approved under paragraph 12D.

(3) However, the Parliamentary corporation may pay those expenses.

(4) The Parliamentary corporation is to indemnify the Ombudsman in respect of any liabilities incurred in the exercise of the functions of the Ombudsman."

Prison management etc.

20 In Part 1 of schedule 2 (list of persons liable to investigation), after paragraph 17 there is inserted—

"Prisons

17A Any person who is, or was at the time of the matter complained of—

(a) the governor of a prison appointed under section 3 of the Prisons (Scotland) Act 1989 (c. 45),

(b) a medical officer of a prison appointed under section 3A or (if appointed before 1 January 1998) section 3(1) of that Act, or

(c) in relation to a contracted out prison (within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994 (c. 33)—

(i) the director appointed under section 107(1) of that Act, or

(ii) a registered medical practitioner or other person providing appropriate medical services under section 107(6) of that Act,

(but only to the extent that the action taken by or on behalf of that person is not a matter liable to investigation under this Act by virtue of paragraph 2 of this schedule)."

Matters excluded from investigation

21 In schedule 4—

(a) paragraph 2 (exclusion of civil, criminal and international proceedings from investigation) is renumbered as sub-paragraph (1) of that paragraph and after it there is inserted—

"(2) The reference in sub-paragraph (1) to civil proceedings includes a reference to inquiries under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c. 14).", and

(b) in paragraph 7(1) (exclusion of certain contractual and commercial transactions) for "relating to" there is substituted " arising from concluded ".

SCHEDULE 4 S

(introduced by section 29(4))

AMENDMENTS OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (ASP 13)

The Commissioner: terms and period of office, removal and independence

1 In section 42 (the Scottish Information Commissioner)—

(a) after subsection (1) there is inserted—

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

"(1A) A person is disqualified from appointment as the Commissioner if the person is, or holds office in, or is an employee or appointee of, another Scottish public authority.

(1B) The Commissioner may not, without the approval of the Parliamentary corporation, also be, or hold office in, or be an employee or appointee of, another Scottish public authority.",

(b) in subsection (3) (period of office of Commissioner) for "five" there is substituted " eight ",

(c) after subsection (3) there is inserted—

"(3A) The Commissioner is to hold office otherwise on such terms and conditions as the Parliamentary corporation may determine.

(3B) Those terms and conditions may, without prejudice to subsection (1A)—

(a) prohibit the Commissioner from holding any other specified office, employment or appointment or engaging in any other specified occupation,

(b) provide that the Commissioner's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.

(3C) In subsection (3B), "specified" means specified in the terms and conditions of office or within a description so specified.",

(d) in subsection (4)(c) for the passage from "in" onward there is substituted " if subsection (4A) applies ",

(e) subsection (4)(d) and the word "and" immediately before it are repealed,

(f) after subsection (4) there is inserted—

"(4A) This subsection applies if—

(a) the Parliamentary corporation is satisfied that the Commissioner has breached the terms and conditions of office and the Parliament resolves that the Commissioner should be removed from office for that breach, or

(b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform the functions of the Commissioner,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.",

(g) for subsection (5) there is substituted—

"(5) A person who has held office as Commissioner is ineligible for reappointment at any time.",

(h) in subsection (7) (independence of Commissioner: exceptions) for "paragraph 3(4)" there is substituted " sections 42(9C) and 46(2A) and paragraphs 3(4), 4A, 6(2), 7 and 8 ".

Advice and other services

2 After subsection (9) of section 42 there is inserted—

"(9A) The Commissioner may obtain advice, assistance or any other service from any person who, in the opinion of the Commissioner, is qualified to give it.

(9B) The Commissioner may pay to that person such fees and allowances as the Commissioner determines.

(9C) Any payment under subsection (9B) is subject to the approval of the Parliamentary corporation."

Expenses

3 In subsection (11)(b) of section 42 (payment of Commissioner's expenses)—

(a) before "incurred" there is inserted " properly ", and

(b) after "Act" there is inserted " so far as those expenses are not met out of sums received and applied by that officer under section 43(6) ".

4 After subsection (11) of that section there is inserted—

"(11A) Subsection (11)(b) does not require the Parliamentary corporation to pay any expenses incurred by the Commissioner which exceed or are otherwise not covered by a budget or, as the case may be, revised budget approved under paragraph 4A of schedule 2.

(11B) However, the Parliamentary corporation may pay those expenses.

(11C) The Parliamentary corporation is to indemnify the Commissioner in respect of any liabilities incurred by the Commissioner in the exercise of the Commissioner's functions under this Act."

Charges

5 In section 43 (general functions)—

(a) in subsection (5) (charges for services provided by Commissioner) for "sums for services provided under this section" there is substituted " reasonable sums for anything done or provided by the Commissioner in the performance of, or in connection with, the Commissioner's functions ", and

(b) in subsection (6) (sums charged to be applied towards related expenditure) for "respect of the services so provided" there is substituted " doing or providing whatever is charged for ".

Annual reports

6 In section 46 (reports)—

(a) in subsection (1) after "exercise" there is inserted " during the reporting year ",

(b) after that subsection there is inserted—

"(1A) Each report must be so laid within 7 months after the end of the reporting year.

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(1B) In this section, "reporting year" means the year beginning on 1 April.",

(c) after subsection (2) there is inserted—

"(2A) In preparing a report under subsection (1), the Commissioner must comply with any direction given by the Parliamentary corporation as to the form and content of the report.",

(d) after subsection (3) there is inserted—

"(3A) The Commissioner must arrange for the publication of each report laid before the Parliament under this section.";

and the title of section 46 becomes "**Laying and publication of reports**".

Strategic plans

7 After section 46 there is inserted—

"**46A Strategic plans**

(1) The Commissioner must, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a "strategic plan") setting out how the Commissioner proposes to perform the Commissioner's functions during the 4 year period.

(2) A strategic plan must, in particular, set out—

(a) the Commissioner's objectives and priorities during the 4 year period,

(b) how the Commissioner proposes to achieve them,

(c) a timetable for doing so, and

(d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the Commissioner must provide a draft of it to and invite, and (if any are given) consider, comments on it from—

(a) the Parliamentary corporation,

(b) the Keeper of the Records of Scotland, and

(c) such other persons as the Commissioner thinks appropriate.

(4) The reference in subsection (3)(c) to other persons includes a committee of the Parliament.

(5) The Commissioner must lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The Commissioner must arrange for the publication of each strategic plan laid before the Parliament.

(7) The Commissioner may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Subsections (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, "4 year period" means the period of 4 years beginning on 1 April next following the coming into force of this section and each subsequent period of 4 years."

Application of paragraph 9 onward

8 Paragraph 9 onward relates to schedule 2 to the Freedom of Information (Scotland) Act 2002 (asp 13).

Legal status

9 Paragraph 1 is renumbered as sub-paragraph (1) of that paragraph and after it there is inserted—

"(2) The Commissioner is, as such, to be regarded as a juristic person distinct from the natural person holding the office."

Staff

10 For paragraph 3(4) (approval by Parliamentary corporation of appointments etc. of staff) there is substituted—

"(4) The exercise of a power in sub-paragraph (1) or (2) is subject to the approval of the Parliamentary corporation."

Budget

11 After paragraph 4 there is inserted—

"Budget

4A (1) The Commissioner must, before the start of each financial year, prepare proposals for the Commissioner's use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Commissioner may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or revised budget, the Commissioner must ensure that the resources of the Commissioner will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the Commissioner has complied with the duty under sub-paragraph (3)."

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

Land, location of office, sharing of resources

12 Paragraph 6 (Commissioner's general powers, including acquisition and disposal of property) is renumbered as sub-paragraph (1) of that paragraph and after it there is inserted—

"(2) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation."

13 After paragraph 6 there is inserted—

"Location of office

7 The Commissioner must comply with any direction given by the Parliamentary corporation as to the location of the Commissioner's office.

Sharing of premises, staff, services and other resources

8 The Commissioner must comply with any direction given by the Parliamentary corporation as to the sharing of premises, staff, services or other resources with any other officeholder or any public body."

Subsequent appointments

14 After paragraph 8 (as inserted by paragraph 13 above) there is inserted—

"Restrictions on subsequent appointments etc.

9 (1) A person who has ceased being the Commissioner may not, without the approval of the Parliamentary corporation—

(a) be employed or appointed in any other capacity by the Commissioner,

(b) be a Scottish public authority or hold office in, or be an employee or appointee of, a Scottish public authority, or

(c) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of section 42(3B)(a), that person could not have held or, as the case may be, engaged in when Commissioner.

(2) The restriction in sub-paragraph (1)—

(a) starts when the person ceases to be the Commissioner, and

(b) ends on the expiry of the financial year next following the one in which it started."

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

SCHEDULE 5 S

(introduced by section 29(10))

AMENDMENTS OF THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2003 (ASP 17)

The Commissioner: period of appointment, removal etc.

1 In section 2 (appointment of Commissioner)—

(a) in subsection (3) (period of appointment) for "five" there is substituted " eight ",

(b) for subsection (4) (re-appointment) there is substituted—

"(4) A person who has been appointed Commissioner is ineligible for re-appointment at any time."

2 In section 3 (removal of Commissioner) for subsections (1)(b) and (2) there is substituted—

"(b) subsection (2) applies.

(2) This subsection applies if—

(a) the Parliamentary corporation is satisfied that the Commissioner has breached the terms and conditions of appointment and the Parliament resolves that the Commissioner should be removed from office for that breach, or

(b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform the functions of the Commissioner,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament."

Annual reports

3 In section 10 (annual reports)—

(a) at the end of subsection (1) there is inserted " during the reporting year ",

(b) in subsection (2) for "the period covered by the report", in both places where those words occur, and for "that period" there is substituted, in each case, " the reporting year ", and

(c) after subsection (2) there is inserted—

"(3) The report must be laid before the Parliament within 7 months after the end of the reporting year.

(4) In preparing the report, the Commissioner must comply with any direction given by the Parliamentary corporation as to the form and content of the report.

(5) In this section "reporting year" means the year beginning on 1 April."

Strategic plans

4 After section 14 there is inserted—

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

"**14A Strategic plans**

(1) The Commissioner must, in respect of each 4 year period, lay before the Parliament a plan (referred to in this section as a "strategic plan") setting out how the Commissioner proposes to perform the Commissioner's functions during the 4 year period.

(2) A strategic plan must, in particular, set out—
  (a) the Commissioner's objectives and priorities during the 4 year period,
  (b) how the Commissioner proposes to achieve them,
  (c) a timetable for doing so, and
  (d) estimates of the costs of doing so.

(3) Before laying a strategic plan before the Parliament, the Commissioner must provide a draft of it to and invite, and (if any are given) consider, comments on it from—
  (a) the Parliamentary corporation, and
  (b) such other persons as the Commissioner thinks appropriate.

(4) The reference in subsection (3)(b) to other persons includes a committee of the Parliament.

(5) The Commissioner must lay each strategic plan before the Parliament not later than the beginning of the 4 year period to which the plan relates.

(6) The Commissioner must arrange for the publication of each strategic plan laid before the Parliament.

(7) The Commissioner may, at any time during a 4 year period, review the strategic plan for the period and lay a revised strategic plan before the Parliament.

(8) Subsections (2) to (7) apply to a revised strategic plan as they apply to a strategic plan.

(9) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates.

(10) In this section, "4 year period" means the period of 4 years beginning on 1 April next following the coming into force of this section and each subsequent period of 4 years."

Application of paragraph 6 onward

5 Paragraph 6 onward relates to schedule 1 to the Commissioner for Children and Young People (Scotland) Act 2003 (asp 17).

Status and independence

6 At the end of paragraph 1 (legal status of Commissioner) there is inserted—

"(3) The Commissioner is, as such, to be regarded as a juristic person distinct from the natural person holding the office."

7 In paragraph 2(2) (respects in which the Commissioner is subject to direction or control) for the passage from "and 3(1)(b)" to "7" there is substituted " , 3(1)(b) and 10(4) and paragraphs 4, 6(2A) and (3), 6A, 7, 7A, 7B(3), 9A ".

Disqualification

8 In paragraph 4—

(a) after sub-paragraph (1) there is inserted—

"(1A) The Commissioner ceases to hold office as Commissioner on becoming—

(a) a member of the Parliament,

(b) a member of the House of Commons, or

(c) a member of the European Parliament.",

(b) in sub-paragraph (2), after "terms" there is inserted " and conditions ",

(c) for sub-paragraph (3) there is substituted—

"(3) The terms and conditions may, without prejudice to section 2(2) or sub-paragraph (1A) of this paragraph—

(a) prohibit the Commissioner from holding any other specified office, employment or appointment or engaging in any other specified occupation,

(b) provide that the Commissioner's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.

(4) In sub-paragraph (3)(b), "specified" means specified in the terms and conditions or within a description so specified."

Subsequent appointments

9 After paragraph 5 there is inserted—

"Subsequent appointments etc.

5A (1) A person who has ceased being the Commissioner ("the former Commissioner") may not, without the approval of the Parliamentary corporation—

(a) be employed or appointed in any other capacity by the Commissioner,

(b) be an employee or appointee of—

(i) any person in relation to whom, or

(ii) any body in relation to which,

an investigation under this Act has been carried out or continued by the former Commissioner when Commissioner, or hold office in any such body, or

(c) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of paragraph 4(3)(a), that former

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

Commissioner could not have held or, as the case may be, engaged in when Commissioner.

(2) The restriction in sub-paragraph (1)—

(a) starts when the person ceases to be the Commissioner, and

(b) ends on the expiry of the financial year next following the one in which it started.”

Land, charges, location of office, sharing of resources, staff and advisers and other services

10 In paragraph 6 (general powers)—

(a) in sub-paragraph (2) (Commissioner's general powers to include power to acquire and dispose of property) after “of” there is inserted “ land and other ”,

(b) after that sub-paragraph there is inserted—

“(2A) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation.”,

(c) in sub-paragraph (3) (charges for certain services specified by order by Scottish Ministers), for the passage from “charge” to the end there is substituted “ determine and charge reasonable sums for anything done or provided by the Commissioner in the performance of, or in connection with, the Commissioner's functions. ”,

(d) after sub-paragraph (3) there is inserted—

“(3A) Any sums received by the Commissioner by virtue of sub-paragraph (3) are to be retained by the Commissioner and applied to meet expenditure incurred in doing or providing whatever is charged for.”, and

(e) sub-paragraph (4) (which is about the statutory instrument containing an order under sub-paragraph (3)) is repealed.

11 After paragraph 6 there is inserted—

“Location of office

6A The Commissioner must comply with any direction given by the Parliamentary corporation as to the location of the Commissioner's office.”

12 In paragraph 7(2) (terms of appointment of staff) after “terms” there is inserted “ and conditions ”.

13 After paragraph 7 there is inserted—

“Sharing of premises, staff, services and other resources

7A The Commissioner must comply with any direction given by the Parliamentary corporation as to the sharing of premises, staff, services or other resources with any other officeholder or any public body.

Advisers and other services

7B (1) The Commissioner may obtain advice, assistance or any other service from any person who, in the opinion of the Commissioner, is qualified to give it.

(2) The Commissioner may pay to that person such fees and allowances as the Commissioner determines.

(3) Any payment under sub-paragraph (2) is subject to the approval of the Parliamentary corporation."

Finance and budget

14 Paragraph 9 (payment of Commissioner's salary, expenses etc.) is renumbered as sub-paragraph (1) of that paragraph and—

(a) at the end of that sub-paragraph (as so renumbered) there is inserted " so far as not met out of sums received and applied by the Commissioner under paragraph 6(3A), and

(b) after that sub-paragraph there is inserted—

"(2) Sub-paragraph (1)(b) does not require the Parliamentary corporation to pay any expenses incurred by the Commissioner which exceed or are otherwise not covered by a budget or, as the case may be, revised budget approved under paragraph 9A.

(3) However, the Parliamentary corporation may pay those expenses.

(4) The Parliamentary corporation is to indemnify the Commissioner in respect of any liabilities incurred by the Commissioner in the exercise of the Commissioner's functions."

15 After paragraph 9 there is inserted—

"Budget

9A (1) The Commissioner must, before the start of each financial year, prepare proposals for the Commissioner's use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Commissioner may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or revised budget, the Commissioner must ensure that the resources of the Commissioner will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the Commissioner has complied with the duty under sub-paragraph (3)."

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

SCHEDULE 6 S

(introduced by section 29(11))

AMENDMENTS OF THE SCOTTISH COMMISSION FOR HUMAN RIGHTS ACT 2006 (ASP 16)

Strategic plans

1 In section 7 (strategic plans)—

(a) in subsection (2)—

(i) the word "and" between paragraphs (c) and (d) is repealed, and

(ii) after paragraph (d) there is inserted ", and

(e) estimates of the costs of achieving those objectives and priorities and undertaking those reviews and activities.",

(b) after subsection (6) there is inserted—

"(6A) In that application, the reference in subsection (5) to the 4 year period is a reference to the period to which the revised strategic plan relates."

Annual report

2 In section 15 (Commission's annual report)—

(a) in subsection (1) for "year to which the report relates ("the reporting year")" there is substituted " reporting year ",

(b) after subsection (2) there is inserted—

"(2A) The report must be laid before the Parliament within 7 months after the end of the reporting year.", and

(c) at the end there is inserted—

"(4) In this section "reporting year" means the year beginning on 1 April."

Application of paragraph 4 onward

3 Paragraph 4 onward relates to schedule 1 to the Scottish Commission for Human Rights Act 2006 (asp 16).

Independence: exceptions

4 In paragraph 3(2) (exceptional matters in which Commission subject to direction or control)—

(a) for "8(2)(b)" there is substituted " 8(3) ", and

(b) after "11" there is inserted " , 11A(3), 12(3), 13A ".

Members of the Commission: period of office, removal, and other and subsequent appointments

5 In paragraph 5 (terms of office etc. of Commission members)—

(a) in sub-paragraph (1)(a) (period of office) for "five" there is substituted " eight ",

(b) for sub-paragraph (1)(b) and "and" immediately preceding it there is substituted "but

(b) is ineligible for reappointment at any time.",

(c) in sub-paragraph (5) (Parliamentary resolution for removal of members) for "member" there is substituted " member's willingness, suitability or ability to perform that member's functions ",

(d) in sub-paragraph (6) (voting on a resolution) for the passage from "if" onward there is substituted " must be voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament ",

(e) after sub-paragraph (8) there is inserted—

"(9) Those terms and conditions may, without prejudice to paragraph 4—

(a) prohibit the member from holding any other specified office, employment or appointment or engaging in any other specified occupation,

(b) provide that a member's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation,

(c) for the purposes of this sub-paragraph, provide differently for the member appointed to chair the Commission and the other members.

(10) In sub-paragraph (9), "specified" means specified in the terms and conditions or within a description so specified."

6 After paragraph 6 there is inserted—

"Subsequent appointments etc.

6A (1) A person who has ceased to be a member of the Commission may not, without the approval of the Parliamentary corporation—

(a) be employed or appointed in any other capacity by the Commission,

(b) hold office in or be an employee or appointee of any Scottish public authority in relation to which the Commission conducted an inquiry under section 8(1)(a) while that person was a member of the Commission, or

(c) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of paragraph 5(9)(a), that person could not have held or, as the case may be, engaged in when a member of the Commission.

(2) The restriction in sub-paragraph (1)—

(a) starts when the person ceases to be a member of the Commission, and

(b) ends on the expiry of the financial year next following the one in which it started."

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

Land, location of office, advisers and other services, sharing of resources and finance

7 In paragraph 8—

(a) for sub-paragraph (2)(b) (Commission's powers to include acquisition and disposal of land) there is substituted—

"(b) acquire and dispose of land and other property,", and

(b) after sub-paragraph (2) there is inserted—

"(3) The exercise of the power to acquire or dispose of land is subject to the approval of the Parliamentary corporation."

8 For paragraph 10 (location of office) there is substituted—

"Location of office

10 The Commission must comply with any direction given by the Parliamentary corporation as to the location of the Commission's office."

9 After paragraph 11 there is inserted—

"Advisers and other services

11A (1) The Commission may obtain advice, assistance or any other service from any person who, in the opinion of the Commission, is qualified to give it.

(2) The Commission may pay to that person such fees and allowances as it determines.

(3) Any payment under sub-paragraph (2) is subject to the approval of the Parliamentary corporation."

10 In paragraph 12 (sharing of premises, staff, services and other resources) after sub-paragraph (2) there is inserted—

"(3) The exercise of the power in sub-paragraph (1) is subject to the approval of the Parliamentary corporation."

11 After paragraph 13 there is inserted—

"Budget

13A (1) The Commission must, before the start of each financial year, prepare proposals for its use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.

(2) The Commission may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.

(3) In preparing a budget or a revised budget, the Commission must ensure that the resources of the Commission will be used economically, efficiently and effectively.

(4) A budget or revised budget must contain a statement that the Commission has complied with the duty under subsection (3)."

12 For paragraph 14(1) (payment of Commissioners' remuneration and Commission's expenses) there is substituted—

"(1) The Parliamentary corporation is to—

(a) pay the remuneration and allowances of each member of the Commission,

(b) pay any expenses properly incurred by the Commission in the exercise of its functions, so far as those expenses are not met out of sums retained and applied by it under section 3(3), and

(c) indemnify the Commission in respect of any liabilities incurred by it in the exercise of its functions."

SCHEDULE 7 S

(introduced by section 31(6))

TRANSFER OF STAFF, PROPERTY AND LIABILITIES AND TRANSITIONAL AND SAVING PROVISIONS

PART 1 S

TRANSFER OF STAFF, PROPERTY AND LIABILITIES TO COMMISSION FOR ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND

Staff

1 (1) On the coming into force of this schedule, each person who was, immediately before then, one of the—

(a) employees appointed by the Chief Investigating Officer under section 9(4) of the Ethical Standards Act, or

(b) staff appointed by—

(i) the Scottish Parliamentary Standards Commissioner under paragraph 2 of the schedule to the Parliamentary Standards Act, or

(ii) the Commissioner for Public Appointments in Scotland under paragraph 8 of schedule 1 to the Public Appointments Act,

transfers to and becomes a member of the staff of the Commission for Ethical Standards in Public Life in Scotland (in this paragraph and paragraph 2, "the Commission").

(2) The contract of employment of a person who becomes a member of staff of the Commission by virtue of sub-paragraph (1)—

(a) is not terminated by the transfer, and

(b) has effect from the coming into force of this schedule as if originally made between the person and the Commission.

(3) Without prejudice to sub-paragraph (2)—

(a) all the previous employer's rights, powers, duties and liabilities under or in connection with the person's contract of employment are, on the coming into force of this schedule, transferred to the Commission, and

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

(b) anything done by the previous employer before then in respect of that contract or that person is to be treated from then as having been done by the Commission.

(4) In sub-paragraph (3), the "previous employer" is the Chief Investigating Officer, the Scottish Parliamentary Standards Commissioner or, as the case may be, the Commissioner for Public Appointments in Scotland.

(5) This paragraph does not prejudice any right of any person to terminate that person's contract of employment if the terms and conditions of employment are changed substantially to the detriment of that person; but a change is not to be taken to have occurred by reason only that the identity of the person's employer changes by virtue of this paragraph.

Property and liabilities

2 (1) On the coming into force of this schedule, all property (including rights) to which, immediately before then, a previous officeholder was entitled and liabilities to which, immediately before then, a previous officeholder was subject transfer to and vest in the Commission.

(2) Sub-paragraph (1) has effect in relation to the property (including rights) and liabilities referred to in it despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer.

(3) In sub-paragraph (1), a "previous officeholder" is any of the officeholders referred to in paragraph 1(4).

PART 2 S

TRANSITIONAL AND SAVING PROVISIONS

Undetermined processes under Ethical Standards, Parliamentary Standards and Public Appointments Acts

3 (1) Anything done or being done by or in relation to the Chief Investigating Officer under the Ethical Standards Act or the Scottish Parliamentary Standards Commissioner under the Parliamentary Standards Act when this schedule comes into force is to be regarded, for the purposes set out in sub-paragraph (2), as done or being done by or in relation to the Public Standards Commissioner for Scotland.

(2) Those purposes are the continuation of any process under either of those Acts begun but not determined or completed when this schedule comes into force.

(3) Anything done or being done by or in relation to the Commissioner for Public Appointments in Scotland under the Public Appointments Act when this schedule comes into force is to be regarded, for the purposes set out in sub-paragraph (4), as done or being done by or in relation to the Public Appointments Commissioner for Scotland.

(4) Those purposes are the continuation of any process under that Act begun but not determined or completed when this schedule comes into force.

Current appointments of assessors by the Commissioner for Public Appointments in Scotland

4 An appointment of an assessor by the Commissioner for Public Appointments in Scotland under paragraph 9 of schedule 1 to the Public Appointments Act that is current immediately before this schedule comes into force is to be regarded as having been made under section 18 of this Act by the Commission for Ethical Standards in Public Life in Scotland on the same terms and conditions and with the approval referred to in subsection (3) of that section.

New Commission's first budget

5 (1) Section 20(1) applies in respect of the financial year ending with 31 March 2012 with the modification set out in sub-paragraph (2).

(2) For "before the start of each financial year" there is substituted " as soon as possible after the start of the financial year ending with 31 March 2012 and, in any event, before 30 June 2011 ".

Scottish Parliamentary Standards Commissioner's last annual report

6 (1) Despite section 2 and the repeal of section 18 of the Parliamentary Standards Act (annual report), the Scottish Parliamentary Standards Commissioner remains under obligation on and after the coming into force of this schedule to lay the annual report for the year 2010 required by section 18 of that Act.

(2) For the purposes of sub-paragraph (1), section 18 of that Act has effect in relation to the period beginning on 1 January 2011 and ending with 31 March 2011 as if it were part of the year 2010.

Other annual reports

7 (1) Nothing in any reporting provision requires a body or officeholder to lay before the Parliament an annual or general report in respect only of a transitional part of a reporting period.

(2) In sub-paragraph (1)—

"reporting provision" means a provision—

(a) of an Act specified in section 29 (other than the Parliamentary Standards Act), and

(b) having effect before the coming into force of this schedule in relation to annual or general reports,

"transitional part of a reporting period", in relation to a reporting provision, is any part of any reporting period for the purposes of that provision which begins on or after 2 April 2010 and ends on or before 31 March 2011.

(3) Instead, the information and other matters which would have been contained in such a report are to be included in the annual report by the body or officeholder for the reporting year beginning on 1 April 2011.

The Scottish Parliamentary Standards Commissioner

8 (1) The person who, immediately before this schedule comes into force, holds office as the Scottish Parliamentary Standards Commissioner is, by operation of this sub-

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

paragraph (and not section 1), appointed as the Public Standards Commissioner for Scotland on the coming into force of this schedule.

(2) An appointment under sub-paragraph (1) is for a period equal to that for which the person was appointed, or (in the case of an appointment for a second period) last appointed, as the Scottish Parliamentary Standards Commissioner reduced by the time for which the person held that office (or in the case of a second appointment, the time for which that person held that office under that second appointment).

(3) But—

(a) sub-paragraph (1) does not operate so as to appoint a person as Public Standards Commissioner for Scotland if that person's previous term of office exceeds eight years, and

(b) where an appointment under that sub-paragraph would, but for this provision, be for a period which, combined with that person's previous term of office, would exceed eight years, that appointment is to be for a period which, when so combined, is eight years.

(4) In sub-paragraph (3), a person's "previous term of office" is the period for which the person held office as Scottish Parliamentary Standards Commissioner or, where the person was appointed for a second period, the aggregate of the periods for which the person held that office.

(5) Despite section 2 and the repeal of section 1 of the Parliamentary Standards Act, a person may, after the coming into force of this schedule, be appointed under that section of that Act as the Parliamentary Standards Commissioner for Scotland for a further period.

(6) An appointment by virtue of sub-paragraph (5) has effect as if made before the coming into force of this schedule; and the period for which the person is appointed, so far as extending beyond then, has effect only for the purposes of sub-paragraph (2).

Commissioner for Public Appointments in Scotland

9 (1) The person who, immediately before this schedule comes into force, holds office as the Commissioner for Public Appointments in Scotland is, by operation of this sub-paragraph (and not section 1), appointed as the Public Appointments Commissioner for Scotland on the coming into force of this schedule.

(2) An appointment under sub-paragraph (1) is for a period equal to that for which the person was appointed or (in the case of an appointment for a second or third period) last appointed, as the Commissioner reduced by the time for which the person held that office or (in the case of a second or third appointment) the time for which that person held that office under that second or, as the case may be, third appointment.

(3) But—

(a) sub-paragraph (1) does not operate so as to appoint a person as Public Appointments Commissioner for Scotland if that person's previous term of office exceeds eight years, and

(b) where an appointment under that sub-paragraph would, but for this provision, be for a period which, combined with that person's previous term of office, would exceed eight years, that appointment is to be for a period which, when so combined, is eight years.

(4) In sub-paragraph (3), a person's "previous term of office" is the period for which the person held office as Commissioner for Public Appointments in Scotland or, where the person was appointed for a second or third period, the aggregate of the periods for which the person held that office.

(5) Despite section 2 and the repeal of paragraph 4 of schedule 1 to the Public Appointments Act, a person may, after the coming into force of this schedule, be appointed under that paragraph as the Public Appointments Commissioner for Scotland for a further period.

(6) An appointment by virtue of sub-paragraph (5) has effect as if made before the coming into force of this schedule; and the period for which the person is appointed, so far as extending beyond then, has effect only for the purposes of sub-paragraph (2).

(7) Where the person referred to in sub-paragraph (1) also held office as Commissioner for Public Appointments in Scotland on 30 April 2010, the appointment of that person under that sub-paragraph is for the period ending with 31 May 2012.

Members of the Standards Commission

10 (1) A person who, on the coming into force of this schedule, holds office as a member of the Standards Commission for Scotland established by section 8 of the Ethical Standards Act is eligible for reappointment.

(2) A reappointment by virtue of sub-paragraph (1) is to be for a period not longer than eight years reduced by the period for which the person has held that office.

Commissioner for Children and Young People and the Public Services Ombudsman

11 (1) The person who, on the coming into force of this schedule, holds office as the Commissioner for Children and Young People in Scotland is eligible for reappointment.

(2) The person who then holds office as the Scottish Public Services Ombudsman is eligible for reappointment.

(3) A reappointment under sub-paragraph (1) or (2) is to be for a period not longer than eight years reduced by the period for which the person has held office as Commissioner or, as the case may be, Ombudsman.

Members of the Scottish Commission for Human Rights

12 (1) The person who, on the coming into force of this schedule, holds office as the member of the Scottish Commission for Human Rights appointed to chair it (the "chair") is eligible for reappointment.

(2) A person who then holds office as an other member of that Commission is eligible for reappointment.

(3) A reappointment by virtue of sub-paragraph (1) or (2) is to be for a period not longer than eight years reduced by the period for which the member has held office as the chair or, as the case may be, an other member.

Status: *Point in time view as at 01/07/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. (See end of Document for details)*

General provisions about reappointment

13 (1) A person is not eligible for reappointment to an office by virtue of this Part of this schedule if the person has held the office for eight years or longer.

(2) Other references in this Part of this schedule to reappointment do not include references to second or subsequent reappointments.

Status:
Point in time view as at 01/07/2013.

Changes to legislation:
There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010.