

SCOTTISH PARLIAMENTARY COMMISSIONS AND COMMISSIONERS ETC. ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1

The Commission for Ethical Standards in Public Life in Scotland: the Public Standards Commissioner for Scotland and the Public Appointments Commissioner for Scotland

Section 1: Establishment, members and functions of the Commission for Ethical Standards in Public Life in Scotland

33. [Section 1](#) establishes a corporate body to be known as the “Commission for Ethical Standards in Public Life in Scotland” (“CESPLS”). The CESPLS is to have organisational and administrative functions much like the Parliamentary corporation provides to members of the Scottish Parliament. The Commission’s functions are provided for at subsection (7). These functions are administrative in nature and ensure that the Commission provides the Commissioners with the property, staff and services needed to fulfil their functions. This subsection also makes provision for the Commission to make reasonable and practical arrangements to co-ordinate the functions of the Commissioners, for example to obtain public relations services or organise events.
34. Subsection (2) provides that the Commission is to be composed of two members who are to be known as the Public Standards Commissioner for Scotland and the Public Appointments Commissioner for Scotland as per subsections (3) and (4). The members (the Commissioners) are to be appointed by the Parliamentary corporation with the agreement of the Parliament. Subsection (5) indicates that they have the functions transferred to them by sections 2(1) and (2).

Section 2: Functions of the Commissioners

35. [Section 2](#) provides for the transfer of functions from existing officeholders to the new Commissioners (at subsections (1) and (2)) and abolishes those existing offices (3).
36. Subsection (4) sets out certain abbreviations used throughout the Act. The Ethical Standards in Public Life etc. (Scotland) Act 2000 is referred to as the “Ethical Standards Act”; the Scottish Parliamentary Standards Commissioner Act 2002 as the “Parliamentary Standards Act” and the Public Appointments and Public Bodies etc. (Scotland) Act 2003 as the “Public Appointments Act”.
37. Subsection (5) introduces schedule 1 of the Act which contains further consequential amendments to other statutes following the establishment of the Commission, namely the [Ethical Standards Act](#), the [Parliamentary Standards Act](#), the [Public Appointments](#)

These notes relate to the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11) which received Royal Assent on 19 July 2010

Act the Scottish Public Services Ombudsman Act 2002 (asp 11), and the Public Services Reform (Scotland) Act 2010 (asp 8).

Section 3: Status of Commission and Commissioners

38. Section 3(1)(a) provides that the Commission, its staff and any assessors appointed by it, are not to be regarded as servants or agents of the Crown and that the Commission has no status, immunity or privilege of the Crown (section 3(1)(b)). Similarly, section 3(2) (a) provides that the Commissioners are not to be regarded as servants or agents of the Crown and that its members have no status, immunity or privilege of the Crown (section 3(2)(b)). This has legal implications in relation to immunities which servants or agents of the Crown benefit from and also in relation to particular statutory provisions which relate to Crown property.

Section 4: Independence of Commissioners

39. Section 4 makes provision for the Commissioners, in the exercise of their respective functions: the Public Standards Commissioner for Scotland (under the Ethical Standards Act and the Parliamentary Standards Act) or the Public Appointments Commissioner for Scotland (under the Public Appointments Act) are not subject to the direction or control of: any member of Parliament; any member of the Scottish Executive; or the Parliamentary corporation. For example, the Parliamentary corporation could not interfere in relation to investigations carried out by the Public Standards Commissioner for Scotland nor the Scottish Executive direct the Public Appointments Commissioner for Scotland in relation to the preparation of any codes which Ministers are expected to adhere to.

Section 5: Protection of Commission from actions for defamation

40. Section 5 provides that any statements made by the CESPLS in carrying out its functions have qualified privilege. Where a statement is subject to qualified privilege, a defamation action in respect of it is not completely excluded, but the maker of that statement is protected in such an action and has a defence if they can prove that the statement was not motivated by malice. "Statement" has the same meaning as in the Defamation Act 1996 (c.31) and therefore includes words, pictures, visual images, gestures or any other method of signifying meaning.

Section 6: Designation of Chief Commissioner

41. The purpose of section 6 is to enhance and support the working arrangements of the CESPLS. This section makes provision for one of the Commissioners to be designated Chief Commissioner by the Parliamentary corporation; however a Chief Commissioner could not interfere with the other Commissioner's functions.
42. The process whereby a Commissioner is designated is provided for in subsection (1). In monitoring the effectiveness of the working arrangements of the Commission, the Parliamentary corporation has the power at any time to designate one of the Commissioners as the Chief Commissioner or revoke a previous designation and can give directions to the CESPLS accordingly. Parliamentary approval is not required allowing action to be taken quickly to ensure continued effectiveness of the working arrangements of the CESPLS, for example, in relation to decision making in respect of appointment of staff.
43. Subsection (2) ensures that such arrangements do not interfere with the terms and conditions of appointment of the Commissioner or the validity of the actions of the Commissioners or the Commission. In particular, under subsection (2)(c) the Chief Commissioner could not interfere with the undertaking of the respective functions of the Commissioners i.e. the Public Standards Commissioner for Scotland's functions under the Ethical Standards Act and the Parliamentary Standards Act; and the Public Appointments Commissioner for Scotland under the Public Appointments Act. The

Commissioners independence is further provided for in section 4 (see paragraph 40 of these notes).

Section 7: Appointment of acting Commissioner

44. This section provides for the appointment of an acting Commissioner under subsection (1). The provision provides flexibility to cover a range of situations and circumstances that may arise and is primarily directed at ensuring the efficient and continuing discharge of functions. An acting Commissioner may be appointed to deal with a number of different circumstances where for any reason and, to any extent, a Commissioner is unable to act or the office of a Commissioner is vacant. In relation to the Public Standards Commissioner for Scotland, for example, an acting Commissioner may be appointed to deal with an individual case. This could happen if investigating a complaint would result in a conflict of interest for the Commissioner. Alternatively an acting Commissioner could be appointed to deal with a number of cases, for example, if there is an exceptionally large number of cases at one particular time which the commissioner is unable to deal with. Finally, an acting Commissioner could be appointed to cover for a specified period of time, for example, leave office unexpectedly.
45. An acting Commissioner is appointed by the Parliamentary corporation under subsection (1). However, because appointment is intended to be for a limited duration, to avoid any delay in an investigation or investigations for instance, the agreement of the Parliament to the appointment is not required. In practice, it is anticipated that the Parliamentary corporation will consult the Standards, Procedures and Public Appointments Committee before appointing.
46. Subsection (2) clarifies that the duration of the appointment has to be set out in the terms and conditions of appointment. This may be for a specified period or until the occurrence of a future event e.g. the appointment of a new Commissioner.
47. Subsection (3) enables an acting Commissioner to perform the same duties as a Commissioner, but in relation to different matters, for example both could undertake investigations into complaints but not in relation to the same complaint.
48. Identical conditions regarding eligibility for appointment to the post of Commissioner apply to that of the post of acting Commissioner (subsection (4)). In other words, the restrictions on appointments set out in section 8 (see paragraph 53 to 56) equally apply to the appointment of a person to an acting post. Under subsection (5) a member of staff of the Commission may be appointed as an acting Commissioner as long as that person is eligible.
49. Subsection (6) provides that one of the Commissioners could be appointed as an acting Commissioner to carry out the functions of the other Commissioner by the Parliamentary corporation. This provides the Parliamentary corporation with additional flexibility to appoint speedily. The Parliamentary corporation would consider, as it would do when making any appointment, whether this is appropriate in light of all the circumstances.
50. Subsection (7) allows for resignation and removal of an acting Commissioner as well as stipulating that the conditions applying to the office are to be set by the Parliamentary corporation. The subsection makes clear that the acting Commissioner while holding office is to be treated for all purposes as the Commissioner. However certain provisions which relate to Commissioners do not apply to an acting Commissioner. These are: the term of appointment (section 9(1)); resignation (section 9(2)); removal from office (section 9(3) and (4)); and if appropriate payment of pensions, allowances and gratuities (section 10).
51. Subsection (8) provides for the Parliamentary corporation to set the minimum notice required to be given should an acting Commissioner wish to resign.

Section 8: Disqualification

52. This section brings together the existing disqualification provisions in the Ethical Standards Act, the Parliamentary Standards Act and the Public Appointments Act. This provision prevents conflict of interests occurring and addresses any perception that the Commissioners actions can be influenced by other positions held.
53. **Section 8** sets out the circumstances which disqualify a person from holding appointment as a Commissioner. The same restrictions continue to apply during the Commissioner's term of office. No person may become a Commissioner if that person is a member of the Scottish Parliament (or its staff), the House of Commons or the House of Lords and is entitled to vote there. Persons who have been a member of the Scottish Parliament in the previous two years from when the appointment is to take effect are also disqualified. Similarly, no person who is employed or appointed in any other capacity by the Commission can be appointed as a Commissioner. Should a Commissioner be elected to the Parliament, for example, the person would immediately be disqualified from holding office as a Commissioner and would be required to relinquish office.
54. Other employment, appointments or memberships are listed. These include being: a member, employee or appointee of, the Standards Commission for Scotland; a specified authority (including where the specified authority is an individual); a devolved public body; an employee or appointee of the SPSO; a member of a council (or a council committee); disqualified from being a member of a council; or a member of a joint board or joint committee. For example, membership of a council could pose a conflict of interest for the Public Standards Commissioner for Scotland as the Commissioner may have to carry out an investigation into the council under the Ethical Standards Act. Similarly, the Public Appointments Commissioner for Scotland for instance could be perceived as having a conflict of interest in relation to a particular specified authority, as the authority, by virtue of being specified in schedule 2 to the Public Appointments Act would come within the Commissioner's remit.
55. Subsection (2) also defines various terms (specified authority, council joint board and joint committee and devolved public body) by reference to other statutes. It also defines paid office as being any one where the holder is entitled to any remuneration, allowances or expenses.

Section 9: Terms of office and remuneration

56. **Section 9** sets out the terms of office and remuneration which will apply to the Commissioners. Under subsection (1) each Commissioner may hold office for a single term of up to a period of 8 years. Subsection (2) allows a Commissioner to resign from office at anytime subject to giving of any minimum period of notice as provided for in subsection (9). A Commissioner may be removed from office by the Parliamentary corporation under subsection (3) but only if the circumstances set out in subsection (4).
57. Subsection (4)(a) states that a Commissioner may be removed from office if the Parliamentary corporation is satisfied that the Commissioner has breached their terms and conditions of appointment. Having come to that view, the Parliamentary corporation would ask the Parliament to resolve that the Commissioner should be removed for the breach.
58. Under subsection (4)(b), a Commissioner may be removed from office if the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform their functions.
59. In both circumstances, a resolution must be voted for by at least 86 members being a number not less than two thirds of the total number of seats of members of the Parliament.
60. **Section 9(5)** provides that each Commissioner is entitled to such remuneration and allowances as are determined by the Parliamentary corporation. These will be subject

to contractual arrangements between the parties. Commissioners other terms and conditions of holding office are also determined by the Parliamentary corporation, under subsection (6).

61. Under subsection (7) the Parliamentary corporation may determine whether the Commissioners should be permitted to hold any other office, employment or appointment or engagement during their term of office. For example, the holding of another position may compromise or be perceived to compromise the independence of the Commissioner.

Section 10: Pensions etc.

62. **Section 10** provides for the arrangements for the payment of pensions, allowances and gratuities to any person who has ceased to be a Commissioner. This could include, for example, death in service benefits. The Parliamentary corporation must approve all such arrangements. The references to pensions, allowances or gratuities arranged under this section may include compensation for loss of office.

Section 11: Subsequent appointments etc. of former Commissioner

63. This section makes some similar restrictions on subsequent appointments once a Commissioner has left office to those that applied to the original appointment under section 7 (see paragraphs 53 and 54 of these notes). As well as a restriction on employment with the CESPLS, a former Commissioner cannot be: a member, employee or appointee of the Standards Commission for Scotland; a specified authority; or a devolved public body. Restrictions also apply to a specified authority where the authority is an individual. A former Commissioner cannot be appointed as the SPSO or be an employee or appointee of the SPSO.
64. Under subsection (2) the restrictions run from the date of leaving office until the end of the financial year following the one in which the person ceased to be a Commissioner. Thus if a Commissioner leaves on 1 November 2010 the restriction would subsist until 1 April 2012.

Section 12: General powers

65. **Section 12** gives the CESPLS wide powers to do anything which appears necessary or expedient for the purpose of, or in connection with or conducive to, the exercise of its functions or efficiency of its administration. These powers include for example the power to enter into contracts. The exercise of the powers in relation to the acquisition or disposal of land are, however, subject to Parliamentary corporation approval under subsection (3).
66. Subsections (4) and (5) allow the CESPLS to charge reasonable sums for services it provides, or which are provided on its behalf. For example, this section would allow the CESPLS to organise training events or seminars and charge attendance fees. Any sums received must be retained by the CESPLS and used to meet the costs of the services provided and charged for, for example the training event.

Section 13: Payment of witnesses' expenses

67. In accordance with section 13, the CESPLS may pay allowances and expenses to any individual giving information of any kind in response to section 13 of the Ethical Standards Act or section 13 of the Parliamentary Standards Act, subject to the approval of the Parliamentary corporation. It is anticipated that the CESPLS and the Parliamentary corporation will agree delegated limits to avoid continual oversight on routine amount and payments. The relevant sections of the aforementioned Acts provide powers to compel the attendance of witnesses or the production of information for the purposes of an investigation under those Acts.

Section 14: Strategic plans

68. **Section 14** requires the CESPLS to produce a strategic plan and details arrangements for timing, content, consultation and review. Under subsection (1) the plan covers a four year period and sets out how the Commission and each Commissioner propose to perform their functions during the period.
69. Subsection (2) sets out broad details of what a plan must contain. In particular it is required to provide the objectives and the priorities during the period and state proposals for achieving them. In addition the plan must provide timetables and cost estimates.
70. Subsection (3) requires the CESPLS to consult on the plan before laying it before Parliament. Comment on a draft must be sought from the Parliamentary corporation and any other person the CESPLS thinks appropriate, which includes a Committee of the Parliament (subsection (4)).
71. Subsection (5) requires the CESPLS to lay each strategic plan before Parliament prior to the start of the four year period which is defined in subsection (10) as beginning on the next 1 April after commencement and each subsequent period of four years. Subsection (6) requires the Commission to publish each plan.
72. Under subsection (7) the CESPLS can review its strategic plan at any time during the four year period and lay a revised plan before the Parliament. Subsection (8) provides that, in that event, the provisions in subsection (2) to (7) about content, consultation, publication and review apply. Subsection (9) clarifies that a revised plan must be laid before the Parliament not later than the beginning of the period to which the revised strategic plan relates.

Section 15: Procedure and validity of acts

73. **Section 15** allows the CESPLS to regulate its own procedure, subject to any direction from the Parliamentary corporation given in that regard and the other provisions in Part 1 of the Act. Procedure may include such matters as internal methods of working, division of tasks etc.
74. Subsection (2) provides that the validity of any acts of the CESPLS is unaffected by any procedural defects in the appointments of any of the Commissioners, disqualification of a Commissioner or by any vacancy in the office of a Commissioner.
75. Subsection (3) makes similar provision to that of subsection (2) in relation to the validity of acts of a Commissioner.

Section 16: Delegation

76. Under this section the CESPLS or Commissioner can delegate any of their respective functions to any person it authorises to act upon its behalf. The CESPLS or Commissioner remains ultimately responsible for carrying out delegated functions. The responsibilities of the CESPLS' accountable officer are set out at section 19. The performance of these functions may not be delegated.

Section 17: Staff

77. **Section 17** allows the CESPLS to appoint staff on such terms and conditions as it determines subject to the approval of the Parliamentary corporation. In addition, the Commission must comply with any direction in this regard given by the Parliamentary corporation.
78. Subsection (2) makes provision for the payment of pensions, allowances and gratuities to former CESPLS staff. Subsection (3) makes provision for CESPLS to (a) make contributions or payments towards provisions for such pensions, allowances and (b) establish one or more pension schemes. As read with subsection (4) these provisions

give authority to the CESPLS to make arrangements which may include pensions, allowances or gratuities by way of compensation for loss of employment. Approval for such arrangements must be obtained from the Parliamentary corporation and the CESPLS must comply with any related direction. Provisions covering the arrangements for the payment of pensions etc. for Commissioners are set out in section 10.

Section 18: Advisers, assessors and other services

79. Under section 18 the CESPLS can obtain advice, assistance or any other service for use by itself or by a Commissioner. There may be circumstances where the Commission might want to secure separate advice for a Commissioner for example, in relation to legal issues arising out of a particular investigation. Such advice or services can be procured from anyone whom the CESPLS considers is qualified to provide it. Payment of fees and allowances is determined by the CESPLS. Any payment for providing services and payment in respect of that advice, assistance or service provided, is subject to approval by the Parliamentary corporation.

Section 19: Accountable officer

80. **Section 19** requires the Parliamentary corporation to designate a person as the accountable officer.
81. Subsection (1) requires that the accountable officer must either be a Commissioner or a member of the CESPLS' staff. Under subsection (4) the accountable officer is directly answerable to Parliament for the exercise of those functions specified in subsection (2).
82. The functions of the accountable officer are set out in subsection (2) and include: the signing of the CESPLS' accounts; ensuring that the CESPLS' finances are kept in good order; and ensuring that the CESPLS' resources are used economically, efficiently and effectively. That latter requirement links to section 20 (Budget), in terms of which the budget is approved by the Parliamentary corporation and the CESPLS is required to ensure that its resources are used economically, efficiently and effectively.
83. Subsection (3) provides a degree of protection for the accountable officer should they be required to act in any way which is inconsistent with their responsibilities. Before any such action can be taken the accountable officer must to obtain written authority from the CESPLS. Thereafter a copy of the authority must be sent as soon as possible to the Auditor General for Scotland.

Section 20: Budget

84. **Section 20** implements the recommendations of the Finance Committee's report by enacting existing administrative budgetary arrangements between officeholders and the Parliamentary corporation designed to ensure accountability for the use of public funds.
85. Subsection (1) requires the CESPLS to prepare budget proposals for each financial year, in advance of that year, for approval by the Parliamentary corporation. The Parliamentary corporation is given power to set a timetable for the submission and approval of the budget proposals which will allow them to be integrated within the Parliamentary corporations wider budgetary arrangements.
86. Under subsection (2) the CESPLS may seek to revise the budget during the year by submitting revised proposals to the Parliamentary corporation for approval.
87. Under subsection (3), in preparing a budget or a revised budget, the Commission is required to ensure that resources will be used economically, efficiently and effectively and must under subsection (4) so certify in any budget or revised budget proposal.

Section 21: Funding

88. [Section 21](#) sets out the financial arrangements to be adhered to by the Parliamentary corporation in relation to the CESPLS and the Commissioners.
89. Under subsection (1)(a) the Parliamentary corporation must pay the Commissioners' remuneration and allowances. Under subsection (1)(b), the Parliamentary corporation only needs to pay the CESPLS' expenses where properly incurred in undertaking its functions less any sums the CESPLS has received in payment for services provided under section 12(5), for example, in providing training. In practice this will mean that the costs of holding a conference, for example, will be offset by the income received in conference fees. The Parliamentary corporation is not compelled under subsection (2) to pay any expenses which exceed or were not included in the agreed budget (see section 20). It is anticipated however, in this situation that the Parliamentary corporation will take a decision in light of the relevant circumstances. Should the Parliamentary corporation wish to pay these expenses then power is provided in subsection (3) to do so.
90. Subsection (1)(c) provides that the Parliamentary corporation will indemnify the CESPLS and each Commissioner in respect of any liabilities incurred by it or by a Commissioner in the performance of their respective functions. An example of this would be where a Commissioner causes a traffic accident while driving to a meeting while on official business.

Section 22: Accounts and audit

91. [Section 22](#) sets out the accounting and auditing requirements that apply to the CESPLS. The CESPLS must keep proper accounts and accounting records and prepare annual accounts for each financial year. In so doing the CESPLS must comply with any directions given by the Scottish Ministers who are responsible for such matters under section 19 of the [Public Finance and Accountability Act 2000 \(asp 1\)](#). Under subsection (1)(c), a copy of the accounts are to be sent to the Auditor General for Scotland for auditing. Under subsection (4), the CESPLS must make a copy of its audited accounts available for inspection, free of charge, to anyone on request.

Section 23: Location of office

92. Under section 23 the CESPLS is required to comply with any directions by the Parliamentary corporation as to the location of its office.

Section 24: Sharing of premises, staff, services and other resources

93. [Section 24](#) allows the Parliamentary corporation to direct the CESPLS as to the sharing of premises, staff, services or other resources with any public body or any officeholder. The Parliamentary corporation could use this power to rationalise the number of premises occupied by the bodies covered by this Act or to direct that the provision of services such as human resources, payroll, finance or procurement should be carried out centrally.

Section 25: Annual report

94. [Section 25](#) requires the CESPLS to prepare and lay before Parliament an annual report. The section contains the details that a report must contain as set out in the original Scottish Parliamentary Standards Act and the Public Appointments Act. The Ethical Standards Act has no annual report provisions so this section creates provision for the CIO functions performed under that Act in line with those that applied to the SPSC. As well as certain specified information, the annual report must include a general report on the performance of the CESPLS' functions, and a report on the performance of each of the Commissioner's respective functions during the reporting year beginning 1 April (subsection (8)).

These notes relate to the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11) which received Royal Assent on 19 July 2010

95. Subsection (2) lists the specific matters that must be reported upon in relation to the functions of the Public Standards Commissioner for Scotland.
96. The matters required under subsection (2) for the reporting year are:
- The number of complaints received about members of the Parliament; councillors and members of devolved public bodies;
 - The number of complaints withdrawn by the complainer together with information on the stage of investigation they had reached when they were withdrawn;
 - In relation to complaints under section 12 of the Ethical Standards Act made about councillors and members of devolved public bodies:
 - The number of investigations begun,
 - The number of investigations not proceeded with,
 - The number of investigations completed;
 - The number of reports submitted by the Public Standards Commissioner for Scotland to the Standards Commission under section 14 of the Ethical Standards Act on the outcome of investigations;
 - The number of further investigations under section 16 of the Ethical Standards Act that the Standards Commission for Scotland directed the Public Standards Commissioner for Scotland to carry out;
 - In relation to complaints made about Members of the Parliament:
 - The number of Stage 1 investigations completed into the admissibility of complaints,
 - The number of complaints dismissed at Stage 1 as not admissible,
 - The number of complaints found to be admissible or which the Commissioner was directed by the Scottish Parliament to treat as admissible,
 - The number of Stage 2 investigations completed,
 - The number of reports made on the conclusion of an investigation under section 9 (Stage 2) of the Parliamentary Standards Act to the Scottish Parliament.
 - The number of further investigations that the Public Standards Commissioner for Scotland was directed by the Scottish Parliament to carry out under section 10(2) of the Parliamentary Standards Act.
97. Subsection (3) lists specific matters that must be reported upon in relation to the functions of the Public Appointments Commissioner for Scotland.
98. The matters required under subsection (3) for the reporting year are:
- A summary of any revisions made to the code of practice for the making of appointments;
 - A summary of any complaints received arising about the making by the Scottish Ministers of any appointment or recommendation for appointment;
 - A summary of any guidance issued to the Scottish Ministers under section 2(6) of the Public Appointments Act as to compliance with the code of practice;
 - The number of cases reported to the Parliament under section 2(8)(a) where it appears the code of practice has not been complied with in a material regard in terms of section 2(7) of the Public Appointments Act;

These notes relate to the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11) which received Royal Assent on 19 July 2010

- The number of cases where the Public Appointments Commissioner for Scotland has directed the Scottish Ministers to delay making an appointment or recommendation for appointment in terms of section 2(8)(b) of the Public Appointments Act.
 - Subsection (4) requires that the report must also include a summary of other activities undertaken by the CESPLS, not covered by the other reporting requirements.
99. Under subsection (5) the report must be laid before the Scottish Parliament within 7 months of the end of the reporting year and be published. The report must be published under subsection (6). Publication method is not specified but may be in hard copy or by making it available and accessible on a website.
100. Subsection (7) obliges the CESPLS to comply with any directions given by the Parliamentary corporation regarding the form and content of the report.

Section 26: Commission and Commissioners to be subject to investigations by Scottish Public Services Ombudsman

101. The actings of the CIO are currently subject to investigation by the SPSO being a body listed in schedule 2 to the SPSO Act. An amendment is currently pending to add the OCPAS to schedule 2 – it has not come into force yet. Section 25 adds the CESPLS and the Public Appointments Commissioner for Scotland to that list. In addition the Public Standards Commissioner for Scotland is added in relation to the performance of functions under the Ethical Standards Act only. Functions performed by the Commissioner under the Parliamentary Standards Act continue to fall outwith the SPSO’s jurisdiction.
102. The existing entry in the SPSO Act relating to the CIO is repealed in Schedule 1, Part 2.

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

103. An amendment is currently pending to add the OCPAS to the listed bodies set out in Part 7 of schedule 1 to FOISA– it has not come into force yet. That schedule lists those Scottish public authorities who must provide information on request as set out in FOISA. Section 27 adds the CESPLS and the Public Appointments Commissioner for Scotland to the list in Schedule 1. Functions performed by the Public Standards Commissioner for Scotland under the Parliamentary Standards Act and the Ethical Standards Act continue to fall out-with the scope of the FOISA.

Section 28: Interpretation of Part 1

104. This section explains the terms used in Part 1 which relate to the establishment of the CESPLS and its Commissioners.