



# Scottish Parliamentary Commissions and Commissioners etc. Act 2010

2010 asp 11

## 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

*Office of Commissioner*

### 8 Disqualification

- (1) A person is disqualified from appointment and from holding office as a 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 Commission,
  - (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—

*Status: Point in time view as at 01/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010, Cross Heading: Office of Commissioner. (See end of Document for details)*

- (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.

## 9 Terms of office and remuneration

- (1) Each 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) A Commissioner may, at any time, resign by notice given to the Parliamentary corporation.
- (3) A 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) Each Commissioner is entitled to such remuneration and allowances as the Parliamentary corporation determines.
- (6) In other respects, each 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.

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- (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 a Commissioner, specify the minimum period of notice for the purposes of subsection (2).

## **10 Pensions etc.**

- (1) The Commission may, with the approval of the Parliamentary corporation, make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a 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.

## **11 Subsequent appointments etc. of former Commissioner**

- (1) A person who has ceased to be a Commissioner 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, 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 a Commissioner.
- (2) The restriction in subsection (1)—
  - (a) starts when the person ceases to be a 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,

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- (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.

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