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

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### SCHEDULE 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—

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- “(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) ”,
- (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.”

**Changes to legislation:**

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