

Status: Point in time view as at 01/04/2011.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, SCHEDULE 7. (See end of Document for details)

SCHEDULE 7

(introduced by section 31(6))

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

PART 1

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 - (b) has effect from the coming into force of this schedule as if originally made between the person and the Commission.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

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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

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).

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- (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-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

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- (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).

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- (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.

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.

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