Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULE 1 S

(introduced by section 1)

DEER COMMISSION FOR SCOTLAND: MODIFICATIONS OF ENACTMENTS

Natural Heritage (Scotland) Act 1991 (c. 28)

1 The Natural Heritage (Scotland) Act 1991 is amended as follows.

Commencement Information

I1 Sch. 1 para. 1 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

2 In section 1 (establishment of Scottish Natural Heritage)—

(a) in subsection (1), after "be" where it third occurs insert—

"(a) in relation to natural heritage, those specified in subsection (1A) below,

(b) in relation to deer, those specified in section 1(1) of the Deer (Scotland) Act 1996 (c. 58).

(1A) SNH's general aims and purposes in relation to natural heritage are—",

(b) after subsection (3) insert—

"(4) In this Act, "natural heritage functions", in relation to SNH, does not include the functions in relation to deer conferred on it by or under the Deer (Scotland) Act 1996 (c. 58) or any other enactment other than one in this Act.".

Commencement Information

I2 Sch. 1 para. 2 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

3 In section 2 (general functions of SNH), in subsection (1)—

(a) in paragraph (b), after "its" where it second occurs insert " natural heritage ",

(b) in paragraph (c)—

(i) for "research", where it first and second occurs, substitute " any research, inquiry or investigation ",

(ii) after "its" where it second and third occurs insert " natural heritage ",

(iii) for "itself" substitute " , inquiry or investigation itself or in collaboration with any other person ".

Commencement Information

I3 Sch. 1 para. 3 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

4 In section 3 (duty to take account of certain matters), in subsection (1), after "its" insert " natural heritage ".

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I4 Sch. 1 para. 4 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Deer (Scotland) Act 1996 (c. 58)

5 The Deer (Scotland) Act 1996 is amended as follows.

Commencement Information
I5 Sch. 1 para. 5 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

6 For "the Commission" and "the Commission's", wherever those words occur (except in sections 24 and 27 and in the entry relating to section 24(b) in Schedule 3), substitute respectively " SNH " and " SNH's ".

Commencement Information
I6 Sch. 1 para. 6 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

7 For the title of Part 1 substitute " Scottish Natural Heritage's deer functions ".

Commencement Information
I7 Sch. 1 para. 7 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

8 (1) Section 1 (the Deer Commission for Scotland) is amended as follows.

(2) In subsection (1)—

(a) for the words from the beginning to "shall" where it second occurs substitute " Scottish Natural Heritage (in this Act referred to as "SNH") has the following general aims and purposes in relation to deer ",

(b) in paragraph (a), after "Act," insert " to ",

(c) in paragraph (b), at the beginning insert " to " and for "them" substitute " it ".

(3) After subsection (1) insert—

"(1A) In this Act references to SNH's deer functions are to the functions relating to deer conferred on it by or under this Act or any other enactment.".

(4) In subsection (2), for "their" substitute " its deer ".

(5) Subsections (3) to (7) are repealed.

Commencement Information
I8 Sch. 1 para. 8 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

9 In section 2 (advice and annual reports)—

(a) in subsection (1)(a), for "them" substitute " it ",

(b) subsections (2) and (3) are repealed.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I9 Sch. 1 para. 9 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

10 In section 3 (power to facilitate exercise of functions)—
(a) in subsection (1), before "functions" insert " deer ",
(b) in subsection (2), for "their" substitute " its ".

Commencement Information
I10 Sch. 1 para. 10 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

11 In section 4 (appointment of panels)—
(a) in subsection (1), for "they consider" insert " it considers ",
(b) in subsection (2)—
(i) for "they think" substitute " it thinks ",
(ii) for "their" substitute " its ",
(c) in subsection (3)—
(i) for "have" substitute " has ",
(ii) for "they" substitute " it ",
(d) in subsection (6), before "functions" insert " deer ".

Commencement Information
I11 Sch. 1 para. 11 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

12 In section 5 (close seasons)—
(a) in subsection (3), for "they" in both places substitute " it ",
(b) in subsection (4), for "have" substitute " has ",
(c) in subsection (6), for "they are" substitute " it is ".

Commencement Information
I12 Sch. 1 para. 12 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

13 In section 7 (control agreements)—
(a) in subsection (1)—
(i) for "are" where it first occurs substitute " is ",
(ii) for "they" substitute " it ",
(b) in subsection (3), for "they" substitute " it ",
(c) in subsection (4)—
(i) for "they have" substitute " it has ",
(ii) for "consider" substitute " considers ".

Commencement Information
I13 Sch. 1 para. 13 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

14 In section 8 (control schemes)—

(a) in subsection (1)—

(i) for "are" where it first occurs substitute " is ",

(ii) for "they" where it first occurs substitute " it ",

(iii) for "they consider" substitute " it considers ",

(b) in subsection (8)—

(i) for "are" in both places substitute " is ",

(ii) for "they" in both places substitute " it ".

Commencement Information

I14 Sch. 1 para. 14 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

15 In section 9 (recovery of control scheme expenses)—

(a) in subsection (1)—

(i) for "their" substitute " its ",

(ii) for "them" substitute " it ",

(b) in subsections (2) and (5), for "their" substitute " its ".

Commencement Information

I15 Sch. 1 para. 15 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

16 In section 10 (emergency measures)—

(a) in subsection (1)—

(i) for "are" where it first occurs substitute " is ",

(ii) in paragraph (b), for "their" substitute " its ",

(b) in subsection (2), for "are" substitute " is ",

(c) in subsection (3), for "them" substitute " it ",

(d) in subsection (4), for "their" substitute " its ",

(e) in subsection (5), for "them" substitute " it ",

(f) in subsection (7)—

(i) for "intend" substitute " intends ",

(ii) for "are" substitute " is ",

(iii) for "they" where it first occurs substitute " it ",

(iv) for "their" substitute " its ",

(v) for "they consider" substitute " it considers ",

(g) in subsection (8), for "their" insert " its ".

Commencement Information

I16 Sch. 1 para. 16 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

17 In section 11 (application of section 10 in relation to natural heritage), for "are" where it first and third occurs substitute " is ".

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I17 Sch. 1 para. 17 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

18 In section 12 (power to provide services and equipment etc.)—
(a) in subsection (3), for "decide" substitute " decides ",
(b) in subsection (4), for "them" substitute " it ".

Commencement Information
I18 Sch. 1 para. 18 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

19 In section 15 (power to enter on land), in subsection (3)(b), for "their" substitute " its ".

Commencement Information
I19 Sch. 1 para. 19 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

20 In section 16 (service of notices), in subsection (5), for "their" substitute " its ".

Commencement Information
I20 Sch. 1 para. 20 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

21 In section 18 (taking or killing deer at night), in subsection (2), for "they are" substitute " it is ".

Commencement Information
I21 Sch. 1 para. 21 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

22 In section 37 (restrictions on granting certain authorisations)—
(a) in subsection (1), for "they are" substitute " it is ",
(b) in subsection (4), for "think" substitute " thinks ",
(c) in subsection (5), for "they" substitute " it " and for "their" substitute " its ".

Commencement Information
I22 Sch. 1 para. 22 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

23 In section 39 (disposal of deer killed under authority), for "their" substitute " its ".

Commencement Information
I23 Sch. 1 para. 23 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

24 In section 40 (returns of number of deer killed), in subsection (1), for "their" substitute " its deer ".

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I24 Sch. 1 para. 24 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

25 Section 46 (financial provisions) is repealed.

Commencement Information
I25 Sch. 1 para. 25 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

26 (1) Schedule 1 (Deer Commission for Scotland: supplementary provisions) is repealed.

(2) Despite the repeal of paragraph 4 of Schedule 1, that paragraph continues to have effect in relation to the persons who were members of the Commission immediately before the date when section 1 comes into force.

Commencement Information
I26 Sch. 1 para. 26 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

27 In Schedule 2 (control schemes), in paragraph 1—

(a) for “decide” substitute “ decides ”,

(b) for “they” substitute “ it ”.

Commencement Information
I27 Sch. 1 para. 27 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

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

28 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies), the entry relating to the Deer Commission for Scotland is repealed.

Commencement Information
I28 Sch. 1 para. 28 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Scottish Public Services Ombudsman Act 2002 (asp 11)

29 In schedule 2 to the Scottish Public Services Ombudsman Act 2002 (listed authorities), in Part 2, the entry relating to the Deer Commission for Scotland is repealed.

Commencement Information
I29 Sch. 1 para. 29 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Freedom of Information (Scotland) Act 2002 (asp 13)

30 In schedule 1 to the Freedom of Information (Scotland) Act 2002 (Scottish public authorities), in Part 7, the entry relating to the Deer Commission for Scotland is repealed.

Commencement Information

I30 Sch. 1 para. 30 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

31 In schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the specified authorities), the entry relating to the Deer Commission for Scotland is repealed.

Commencement Information

I31 Sch. 1 para. 31 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

SCHEDULE 2 S

(introduced by section 3(6))

TRANSFER OF WATERWATCH SCOTLAND FUNCTIONS: MODIFICATIONS OF ENACTMENTS

PART 1 S

AMENDMENTS

Water Industry (Scotland) Act 2002 (asp 3)

1 The Water Industry (Scotland) Act 2002 is amended as follows.

Commencement Information

I32 Sch. 2 para. 1 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

2 After section 2 (Water Customer Consultation Panels) insert—

"**2A National Consumer Council representations**

(1) This section applies where the National Consumer Council ("the Council") has exercised a function under section 8(1) of the Consumers, Estate Agents and Redress Act 2007 (c. 17) (representative functions) in relation to the activities of Scottish Water.

(2) The persons listed in subsection (4) must have regard to any advice, information, proposal or representation made to them by the Council under section 8(1) of that Act.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Any persons listed in subsection (4) to whom a proposal is made under section 8(1)(b) of that Act must, within 6 months of receipt, publish a summary of their responses to the proposal.

(4) The persons are—

(a) the Scottish Ministers,

(b) Scottish Water,

(c) the Water Industry Commission,

(d) the Drinking Water Quality Regulator for Scotland,

(e) the Scottish Environment Protection Agency.”.

Commencement Information

I33 Sch. 2 para. 2 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

3 In section 4 (power of the Commission to require information) after subsection (3) insert—

“(4) Scottish Water must comply with any direction given to it by the Commission under section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (enforcement by regulator of notice to provide the National Consumer Council with information).”.

Commencement Information

I34 Sch. 2 para. 3 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

4 In section 5 (annual reports by, and information from, the Commission), in subsection (2)—

(a) in paragraph (a)(i), for “representations made to it by a Customer Panel” substitute “ advice, information or representation made to it by the National Consumer Council under section 8(1)(a) or (c) of the Consumers, Estate Agents and Redress Act 2007 (representative functions) ”,

(b) in paragraph (a)(ii), for “recommendations made to it under section 2(4)” substitute “ proposals made to it under section 8(1)(b) of that Act ”,

(c) in paragraph (b)—

(i) after “such” insert “ advice, information, proposal or ”,

(ii) the words “or recommendation” are repealed.

Commencement Information

I35 Sch. 2 para. 4 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

5 In section 6 (funding of the Commission), after subsection (2) insert—

“(2A) Scottish Water must make to the National Consumer Council, in respect of the Council's expenses (as respects its activities relating to Scottish Water), payments of such amounts, and at such times, as the Scottish Ministers may direct.

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2B) Before making a direction under subsection (2A), the Scottish Ministers must consult the Council.”.

Commencement Information
I36 Sch. 2 para. 5 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

6 In the title to section 6 (funding of the Commission), after “Commission” insert “ and the National Consumer Council ”.

Commencement Information
I37 Sch. 2 para. 6 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

7 In the title to Part 1 (Water Industry Commission and Customer Panels), for “Customer Panels” substitute “ the representation of consumers ”.

Commencement Information
I38 Sch. 2 para. 7 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

8 In section 27 (approval of customer standards code)—

(a) in subsection (1), for “each Water Customer Consultation Panel” substitute “ the National Consumer Council ”,

(b) in subsection (4), for “each Water Customer Consultation Panel” substitute “ the National Consumer Council ”.

Commencement Information
I39 Sch. 2 para. 8 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

9 In section 28 (consultation code), in subsection (3)(a)—

(a) for “each Water Customer Consultation Panel” substitute “ the National Consumer Council ”,

(b) for “any Panel” substitute “ the Council ”.

Commencement Information
I40 Sch. 2 para. 9 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

10 In section 29B (determination of maximum charges), in subsection (4)(a), for sub-paragraph (iii) substitute—

“(iii) the National Consumer Council,”.

Commencement Information
I41 Sch. 2 para. 10 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

11 In section 29D(5) (statements regarding charges), for paragraph (b) substitute—

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"(b) the National Consumer Council,".

Commencement Information

I42 Sch. 2 para. 11 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

12 In section 56A (directions may set objectives), in subsection (4), for the words "Convener" to "whole)" substitute " National Consumer Council ".

Commencement Information

I43 Sch. 2 para. 12 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

13 In section 57 (information and reports), in subsection (6)(a), for "Convener of the Water Customer Consultation Panels" substitute " National Consumer Council ".

Commencement Information

I44 Sch. 2 para. 13 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

Water Services etc. (Scotland) Act 2005 (asp 3)

14 In section 19 of the Water Services etc. (Scotland) Act 2005 (disconnections code), in subsection (4), for paragraph (c) substitute—

"(c) the National Consumer Council;".

Commencement Information

I45 Sch. 2 para. 14 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

Consumers, Estate Agents and Redress Act 2007 (c. 17)

15 The Consumers, Estate Agents and Redress Act 2007 is amended as follows.

Commencement Information

I46 Sch. 2 para. 15 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

[F1]16 . . . . . .

Textual Amendments

F1 Sch. 2 paras. 16-18 omitted (1.4.2014) by virtue of The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631), art. 1(3), **Sch. 1 para. 19(3)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

[F1]17 . . . . . .

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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F1 18 . . . . . .

Textual Amendments

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19 In section 24(9) (provision of information to the Council), after paragraph (c) insert—

"(ca) the Water Industry Commission for Scotland;".

Commencement Information

I47 Sch. 2 para. 19 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

20 In section 25 (enforcement by regulator of Council notice requiring the provision of information), at the appropriate place in the table in subsection (3) insert—

"Scottish Water.	The Water Industry Commission for Scotland.".

Commencement Information

I48 Sch. 2 para. 20 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

PART 2 S

REPEALS

21 The enactments referred to in the first column of the following table are repealed to the extent specified in the second column.

Enactment	*Extent of repeal*
Water Industry (Scotland) Act 2002 (asp 3)	Section 2. Section 6A. Section 6B. Section 6C. In schedule 1, Part 2.
Scottish Public Services Ombudsman Act 2002 (asp 11)	In schedule 2, paragraph 21B.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Freedom of Information (Scotland) Act 2002 (asp 13)	In schedule 1, paragraph 62B.Section 3.
Water Services etc. (Scotland) Act 2005 (asp 3)	Section 3. In schedule 5, paragraph 7(3). In schedule 5, sub-paragraph (a) of paragraph 8. In schedule 5, sub-paragraph (a) of paragraph 9.

Commencement Information

I49 Sch. 2 para. 21 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(d)**

SCHEDULE 3 S

(introduced by section 3(7))

DISSOLUTION OF WATERWATCH SCOTLAND: ARRANGEMENTS FOR STAFF, PROPERTY ETC.

Transfer of staff

1 With effect from the date on which section 3 comes into force, any person—

(a) employed by Waterwatch Scotland Limited, and

(b) who is, in the opinion of the Convener of the Water Customer Consultation Panels (in this schedule referred to as "the Convener"), primarily involved in assisting with the exercise of the functions of the Convener described in section 6A of the Water Industry (Scotland) Act 2002 (Convener to investigate complaints),

is transferred to the employment of the Scottish Public Services Ombudsman.

Commencement Information

I50 Sch. 3 para. 1 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

2 (1) With effect from the date on which section 3 comes into force, any person—

(a) employed by Waterwatch Scotland Limited, and

(b) who is, in the opinion of the Convener, primarily involved in assisting with the exercise of the representative functions of the Convener,

is transferred to the employment of the National Consumer Council.

(2) For the purposes of sub-paragraph (1), the "representative functions" of the Convener are those functions relating to the representation of the views and interests of persons whose premises—

(a) are connected to the public water supply system or the public sewerage system (within the meaning of Part 2 of the Water Services etc. (Scotland) Act 2005 (asp 3)) or both, or

(b) might reasonably become connected to either or both of those systems.

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I51 Sch. 3 para. 2 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

3 (1) This paragraph applies to any person who—
(a) is (immediately before section 3 comes into force) employed by Waterwatch Scotland Limited, and
(b) in the opinion of the Convener, does not fall within the description of a person whose employment is to be transferred by virtue of paragraph 1 or 2(1).

(2) The Convener must specify whether the person's employment is to transfer to the Scottish Public Services Ombudsman or to the National Consumer Council.

(3) With effect from the date on which section 3 comes into force, the person is transferred to the employment of the employer specified by the Convener under sub-paragraph (2).

(4) For the purposes of paragraphs 4 to 6—
(a) a person who is transferred to the employment of the Scottish Public Service Ombudsman by virtue of this paragraph is to be treated as though the transfer was by virtue of paragraph 1, and
(b) a person who is transferred to the employment of the National Consumer Council by virtue of this paragraph is to be treated as though the transfer was by virtue of paragraph 2(1).

Commencement Information
I52 Sch. 3 para. 3 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

4 The contract of employment of a person transferred by virtue of paragraph 1 or 2(1)—
(a) is not terminated by the transfer, and
(b) has effect from the date of transfer as if originally made between the transferred person and the Scottish Public Services Ombudsman or, as the case may be, the National Consumer Council.

Commencement Information
I53 Sch. 3 para. 4 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

5 Without prejudice to paragraph 4, where a person is transferred—
(a) by virtue of paragraph 1—
(i) all the rights, powers, duties and liabilities of Waterwatch Scotland Limited under or in connection with the person's contract of employment are transferred to the Scottish Public Services Ombudsman on the date of the transfer, and
(ii) anything done before that date by or in relation to Waterwatch Scotland Limited in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Scottish Public Services Ombudsman,

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) by virtue of paragraph 2(1)—

(i) all the rights, powers, duties and liabilities of Waterwatch Scotland Limited under or in connection with the person's contract of employment are transferred to the National Consumer Council on the date of the transfer, and

(ii) anything done before that date by or in relation to Waterwatch Scotland Limited in respect of the person or the contract is to be treated from that date as having been done by or in relation to the National Consumer Council.

Commencement Information

I54 Sch. 3 para. 5 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

6 Paragraphs 1 to 5 do not affect any right of any person so transferred to terminate the person's contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but any such change is not to be taken to have occurred by reason only that the identity of the person's employer changes by virtue of those paragraphs.

Commencement Information

I55 Sch. 3 para. 6 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

Transfer of property etc.

7 (1) With effect from the date on which section 3(1) comes into force all property (including rights) and liabilities of Waterwatch Scotland Limited held, used or, as the case may be, incurred by Waterwatch Scotland Limited for the purposes of or in connection with the exercise of the Convener's functions under section 6A of the Water Industry (Scotland) Act 2002, are transferred to and vest in the Scottish Public Services Ombudsman.

(2) With effect from the date on which section 3(3) comes into force all property (including rights) and liabilities of Waterwatch Scotland Limited held, used or, as the case may be, incurred by Waterwatch Scotland Limited for the purposes of or in connection with the exercise of functions other than those of the Convener mentioned in sub-paragraph (1) are transferred to and vest in the National Consumer Council.

Commencement Information

I56 Sch. 3 para. 7 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

Transfer of undetermined complaints

8 (1) This paragraph applies in relation to any complaint ("an undetermined complaint")—

(a) made or referred to the Convener under section 6A of the Water Industry (Scotland) Act 2002,

(b) which has not been determined by the Convener before the date on which section 3(1) comes into force, and

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(c) which cannot otherwise be determined (but for sub-paragraph (2)) by the Scottish Public Services Ombudsman ("the Ombudsman") under the Scottish Public Services Ombudsman Act 2002.

(2) For the purpose of enabling an undetermined complaint to continue to be dealt with, section 6A of the Water Industry (Scotland) Act 2002 continues in force despite its repeal and has effect as it had effect immediately before its repeal but—

(a) as if any reference in it to the Convener were a reference to the Ombudsman, and

(b) subject to such further modifications (if any) as may be made by virtue of section 132.

(3) For the purposes of this paragraph a complaint is determined by the Convener if the Convener—

(a) has decided to conduct an investigation in relation to the complaint and that investigation is concluded, or

(b) has decided not to investigate in relation to the complaint.

(4) Nothing in this paragraph affects the validity of anything done (or having effect as if done) by or in relation to an undetermined complaint by the Convener under the Water Industry (Scotland) Act 2002 before the repeal of section 6A of that Act by this Act.

(5) Anything (including legal proceedings) which, at that time, is in the process of being done by or in relation to the Convener may, so far as it relates to an undetermined complaint, be continued by or in relation to the Ombudsman.

(6) Anything done (or having effect as if done) by or in relation to the Convener in relation to an undetermined complaint has effect as if done by or in relation to the Ombudsman in so far as that is required for continuing its effect on or after that time.

Commencement Information

I57 Sch. 3 para. 8 in force at 15.8.2011 by S.S.I. 2011/278, **art. 2(e)**

SCHEDULE 4 S

(introduced by section 13)

REGULATION OF OFFICERS OF COURT: MODIFICATIONS OF ENACTMENTS

PART 1 S

AMENDMENTS

Debtors (Scotland) Act 1987 (c. 18)

1 Part 5 of the Debtors (Scotland) Act 1987 is amended as follows.

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Commencement Information

I58 Sch. 4 para. 1 in force at 31.1.2011 for specified purposes by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

I59 Sch. 4 para. 1 in force at 1.4.2011 for specified purposes by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

2 In section 75 (regulation of organisation, training, conduct and procedure of officers of court)—

(a) in subsection (1)—

(i) after paragraph (f) insert—

"(fa) regulate their conduct in exercising their extra-official functions;",

(ii) after paragraph (h) insert—

"(ha) prescribe the procedure in relation to an appeal under section 82 of this Act;",

(iii) in paragraph (j) for the words "for the keeping of accounts by them and the" substitute " about their accounts and finances including the keeping and ",

(iv) in paragraph (m) for "necessary or proper" substitute " appropriate ",

(b) in subsection (3) after "to" insert " , or revoke, ".

Commencement Information

I60 Sch. 4 para. 2 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

3 In section 76 (Advisory Council on Messengers-at Arms and Sheriff Officers)—

(a) in subsection (2)(a)—

(i) the word "and" immediately following sub-paragraph (iii) is repealed,

(ii) after sub-paragraph (iv) add "; and

(v) such other persons (not falling within sub-paragraphs (i) to (iv) above) as the Lord President considers appropriate.",

(b) in subsection (5)—

(i) after "under" insert " sub-paragraphs (i) to (iv) of ",

(ii) for "that paragraph" substitute " those sub-paragraphs. ",

(c) in subsection (7), for "subsection (2)(a)" substitute " subsection (2)(a)(i) to (iv) ".

Commencement Information

I61 Sch. 4 para. 3 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

4 In section 79 (investigation of alleged misconduct)—

(a) in subsection (1)—

(i) in paragraph (a) for "78(3) of this Act" substitute " 66(3) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (in this Part "the 2007 Act") ",

(ii) the word "or" immediately following paragraph (b) is repealed,

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(iii) after that paragraph insert—

"(ba) details of a complaint about an officer of court are sent to the Lord President of the Court of Session or a sheriff principal under section 64 of the 2007 Act;",

(iv) after paragraph (c) add "; or

(d) any judge of the Court of Session, or a sheriff principal—

(i) becomes aware (whether by notification under subsection (1) of section 62 of the 2007 Act or otherwise) that an event mentioned in subsection (2) of that section has occurred in respect of an officer of court; and

(ii) considers that the occurrence of that event or the circumstances surrounding it, although falling short of misconduct and not involving the commission of an offence, gives rise to concerns about the officer, the officer's exercise of official functions or the officer's undertaking of extra-official activities.",

(b) subsection (7) is repealed,

(c) in subsection (9)—

(i) the words from "conduct" to the end of that subsection become paragraph (a) of the subsection,

(ii) after that paragraph add—

"(b) failure to notify the Lord President of the Court of Session or the sheriff principal under subsection (1) of section 62 of the 2007 Act of the occurrence of an event mentioned in subsection (2) of that section;

(c) failure to provide information mentioned in subsection (1A) of section 63 of that Act required by virtue of regulations made under subsection (1) of that section;

(d) failure to comply with any code of practice or revised code of practice published under section 63A of that Act; and

(e) where a fee is due by virtue of rules made under subsection (1) of section 65A of that Act and a date as mentioned in subsection (2)(a) of that section has been specified by the rules, failure to pay the fee within 3 months of that date.".

Commencement Information

I62 Sch. 4 para. 4 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

5 In section 80 (courts' powers in relation to offences or misconduct)—

(a) in subsection (1)—

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(i) the words from "an" to the end of that subsection become paragraph (a) of the subsection,

(ii) after that paragraph add—

"(b) an order mentioned in paragraph (aa) or (c) of subsection (5) below.",

(b) in subsection (2)—

(i) the words from "an" to the end of that subsection become paragraph (a) of the subsection,

(ii) after that paragraph add—

"(b) an order in relation to the sheriff officer of a kind mentioned in paragraph (aa) or (c) of subsection (5) below.",

(c) after subsection (3) insert—

"(3A) Where—

(a) a solicitor is appointed to investigate a matter in respect of a messenger-at-arms under section 79(2) of this Act; or

(b) the Court of Session becomes aware that a messenger-at-arms has been charged with an offence,

the Court of Session may make an order finding that the messenger-at-arms should be suspended from practice for such period as may be specified in the order or in an order extending such period.

(3B) Where—

(a) a solicitor is appointed to investigate a matter in respect of a sheriff officer under section 79(2) of this Act; or

(b) the sheriff principal from whom a sheriff officer holds a commission becomes aware that the sheriff officer has been charged with an offence,

the sheriff principal may make an order suspending the officer from practice for such period as may be specified in the order or in an order extending such period in that sheriffdom.",

(d) after subsection (4) insert—

"(4A) Where the Court of Session at the end of disciplinary proceedings brought under subsection (3) of section 79 of this Act is satisfied that a concern mentioned in subsection (1)(d)(ii) of that section in relation to a messenger-at-arms is founded, the Court of Session may make an order under paragraph (a) or (aa) of subsection (5) below.",

(e) in subsection (5) after paragraph (a) insert—

"(aa) an order restricting—

(i) the functions which the messenger-at-arms may exercise; or

(ii) the activities which the messenger-at-arms may undertake,

for such period as may be specified in the order;",

(f) after subsection (6) insert—

"(6A) Where the sheriff principal at the end of disciplinary proceedings brought under subsection (3) of section 79 of this Act is satisfied

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that a concern mentioned in subsection (1)(d)(ii) of that section in relation to a sheriff officer is founded, the sheriff principal may make, in relation to the sheriff officer, an order—

(a) of a kind mentioned in paragraph (aa) of subsection (5) above; or

(b) under paragraph (a) of subsection (7) below.”,

(g) in subsection (7)(b) for “subsection (5)(b)” substitute “ subsection (5)(aa), (b), ”.

Commencement Information

I63 Sch. 4 para. 5 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

6 In section 81 (provisions supplementary to section 80)—

(a) in subsection (1)—

(i) for “section 80(1), (4)” substitute “ section 80(1)(a), (3A), (4), (4A) ”,

(ii) after paragraph (b) add—

“(c) the professional association designated under section 63(1) of the 2007 Act.”,

(b) in subsection (2)—

(i) for “section 80(2), (6)” substitute “ section 80(2)(a), (3B), (6), (6A) ”,

(ii) the word “and” immediately following paragraph (a) is repealed,

(iii) after paragraph (b) add “, and

(c) the professional association designated under section 63(1) of the 2007 Act.”,

(c) in subsection (3)—

(i) for “section 80(1), (2)” substitute “ section 80(1)(a), (2)(a), (3A), (3B) ”,

(ii) after “thereof” insert “ or of an order under subsection (4A) or (6A) of that section specified respectively in subsection (5)(a) or (7)(a) thereof ”.

Commencement Information

I64 Sch. 4 para. 6 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

7 (1) In section 82 (appeals from certain decisions)—

(a) the words from “An” to “Act” become subsection (1) of that section,

(b) after “under” insert “ section 77(1), ”,

(c) for the words “(4) or (6)” substitute “ (3A), (3B), (4), (4A), (6), (6A) or (8)(b) ”,

(d) the words from “but” to the end of the section are repealed,

(e) after subsection (1) (created under paragraph (a)) insert—

“(2) The decision of the Inner House on an appeal under subsection (1) shall be final.”.

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(2) In the sidenote to section 82, for "79(5) and 80" substitute " 77, 79 and 80 ".

Commencement Information
I65 Sch. 4 para. 7 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

8 After section 86 insert—

"**86A Electronic communications**

In this Part, any reference to an admission in writing includes a reference to that admission being an electronic communication (within the meaning given by section 15(1) of the Electronic Communications Act 2000 (c. 7)).".

Commencement Information
I66 Sch. 4 para. 8 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)

9 The Bankruptcy and Diligence etc. (Scotland) Act 2007 is amended as follows.

Commencement Information
I67 Sch. 4 para. 9 in force at 31.1.2011 for specified purposes by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**
I68 Sch. 4 para. 9 in force at 1.4.2011 for specified purposes by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

10 For the title of Part 3 ("Enforcement") substitute " Officers of court ".

Commencement Information
I69 Sch. 4 para. 10 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

11 (1) In section 51 (information and annual report)—

(a) subsection (1) is repealed,

(b) in subsection (2) for "The Commission" substitute " The Advisory Council on Messengers-at-Arms and Sheriff Officers (the "Advisory Council") ",

(c) in subsection (3)—

(i) paragraph (a) is repealed,

(ii) in paragraph (b) for "judicial officers" substitute " officers of court ",

(iii) in that paragraph for "Commission" substitute " Advisory Council ",

(d) in subsection (4)—

(i) for "Commission" substitute " Advisory Council ",

(ii) for "a judicial officer" substitute " the professional association designated by regulations under section 63(1)(a) ",

(iii) for "it" substitute " provided by virtue of regulations under section 63(1A) which the Advisory Council ",

(e) in subsection (5) for "Commission" substitute " Advisory Council ",

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(f) subsection (6) is repealed.

(2) In the title to section 51 for the words "Information and" substitute " Advisory Council's ".

(3) Immediately above section 51 insert the italic heading " Advisory Council on Messengers-at-Arms and Sheriff Officers ".

Commencement Information
I70 Sch. 4 para. 11 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

12 In section 53 (published information not to enable identification)—

(a) paragraph (b) and the word "or" immediately preceding it are repealed,

(b) for "judicial officers" substitute " officers of court ".

Commencement Information
I71 Sch. 4 para. 12 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

13 (1) In section 61 (regulation of judicial officers)—

(a) in subsections (1) and (2)(a) for "judicial officers" substitute " officers of court ",

(b) in subsection (2) paragraph (d) is repealed,

(c) in subsection (3) for "the Commission" substitute "—

(a) the Lord President of the Court of Session; and

(b) each sheriff principal.".

(2) In the title to section 61 and the italic heading immediately preceding it for "judicial officers" substitute " officers of court ".

Commencement Information
I72 Sch. 4 para. 13 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

14 (1) In section 62 (duty to notify Commission of bankruptcy etc.)—

(a) in subsection (1)—

(i) for "a judicial officer" substitute " an officer of court ",

(ii) for "notify the Commission in writing of it" substitute—

"(a) in the case of a messenger-at-arms, notify the Lord President of the Court of Session in writing of the event;

(b) in the case of a sheriff officer, notify the sheriff principal from whom the officer holds a commission in writing of the event.",

(b) in subsection (2)(a), (f) and (g) for "judicial officer" substitute " officer of court ".

(2) In the title to section 62 for "Commission" substitute " Lord President and sheriff principal ".

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Commencement Information
I73 Sch. 4 para. 14 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

15 (1) In section 63 (judicial officers' professional association)—
(a) in paragraph (a) of subsection (1)—
(i) after "association", where it first occurs, insert " (in this Part, the "professional association") ",
(ii) for "judicial officers" substitute " officers of court ",
(b) after subsection (1) insert—
"(1A) Regulations under subsection (1) may require an officer of court to provide such information as the professional association reasonably considers necessary.",
(c) for subsection (2)(a) substitute—
"(a) the Lord President of the Court of Session;
(aa) each sheriff principal;",
(d) in subsection (3) for "a judicial officer" substitute " an officer of court ".

(2) In the title to section 63 and the italic heading immediately preceding it for "Judicial officers'" substitute " Officers of court's ".

Commencement Information
I74 Sch. 4 para. 15 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

16 After section 63 insert—

"**63A Code of practice**

(1) The professional association—
(a) must prepare and publish a code of practice in relation to the functions of officers of court; and
(b) may prepare and publish such a code in relation to the undertaking of activities by such officers.

(2) The professional association may revise the whole or any part of a code published under this section.

(3) Where a code or any part of a code is revised under subsection (2), the professional association—
(a) in a case where the revision results in substantial changes, must publish the revised code;
(b) in any other case, may publish the revised code.

(4) The professional association must not publish a code of practice or a revised code of practice under this section without the prior approval of the Lord President of the Court of Session.

(5) The professional association must send a copy of each code of practice published under this section to—
(a) the Scottish Ministers;

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(b) the Lord President of the Court of Session;
(c) each sheriff principal; and
(d) each officer of court.”.

Commencement Information
I75 Sch. 4 para. 16 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

17 (1) In section 64 (duty of professional association to forward complaints to Commission) —

(a) for “a judicial officer” substitute “ an officer of court ”,
(b) for “to the Commission” substitute—

“(a) to the Lord President of the Court of Session;
(b) in the case of a complaint about a messenger-at-arms, to the sheriff principal from whom the messenger-at-arms holds a commission as a sheriff officer; and
(c) in the case of a complaint about a sheriff officer, to the sheriff principal from whom the sheriff officer holds a commission.”.

(2) In the title to section 64 the words “to Commission” are repealed.

Commencement Information
I76 Sch. 4 para. 17 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

18 In section 65 (information from professional association)—

(a) for “Commission”, where it first occurs, substitute “ Lord President of the Court of Session or any sheriff principal ”,
(b) for “Commission”, where it second occurs, substitute “ Lord President or, as the case may be, sheriff principal ”,
(c) in paragraph (b) for “67 of this Act” substitute “ 79(2) of the 1987 Act ”,
(d) for paragraph (c) substitute—

“(c) any disciplinary proceedings brought under section 79(3) of that Act.”.

Commencement Information
I77 Sch. 4 para. 18 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

19 After section 65 insert—

“Annual fee for officers of court

65A Annual fee

(1) The professional association may make rules requiring every officer of court holding a commission to pay an annual fee to the association.

(2) Rules made under subsection (1) above may include provision—

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(a) specifying the date by which the fee must be paid each year;
(b) specifying the manner in which it must be paid; and
(c) about any other matters in relation to the fee that the professional association considers appropriate.

(3) Rules under this section may be made only with the approval of the Lord President of the Court of Session.”.

Commencement Information
I78 Sch. 4 para. 19 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), **Sch. 2**

20 (1) In section 66 (inspection of judicial officer)—
(a) in subsection (1)—
(i) for “Commission” substitute “ Lord President of the Court of Session or any sheriff principal ”,
(ii) for “a judicial officer” substitute “ an officer of court ”,
(b) in subsection (2)—
(i) for “Commission” substitute “ Lord President or, as the case may be, the sheriff principal ”,
(ii) for “judicial officer” substitute “ officer of court ”,
(c) in subsection (3) for “Commission” substitute “ Lord President or, as the case may be, the sheriff principal ”,
(d) in subsection (4) for “Commission” substitute “ Scottish Ministers ”.

(2) In the title to section 66 for “judicial officer” substitute “ officer of court ”.

(3) In the italic heading immediately preceding section 66 for “judicial officers” substitute “ officers of court ”.

Commencement Information
I79 Sch. 4 para. 20 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

21 (1) In section 75 (judicial officer's action void where officer has interest)—
(a) in subsections (1), (4)(a) and (7) for “a judicial officer” substitute “ an officer of court ”,
(b) in subsection (2), for “A judicial officer” substitute “ An officer of court ”,
(c) in subsections (3)(a) and (6) for “judicial officer” substitute “ officer of court ”,
(d) in subsection (5), for “a judicial officer's” substitute “ an officer of court's ”.

(2) In the title to section 75 for “Judicial officer's” substitute “ Officer of court's ”.

Commencement Information
I80 Sch. 4 para. 21 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

22 In section 77 (effect of code of practice)—
(a) in subsection (1)—

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(i) for "A judicial officer" substitute " An officer of court ",

(ii) for the words "55 or 56" substitute " 63A ",

(b) in subsection (2), for "a judicial officer" substitute " an officer of court ",

(c) for paragraph (b) of subsection (4) substitute—

"(b) a relevant court (within the meaning of subsection (8) of section 79 of the 1987 Act (investigation of alleged misconduct)) in disciplinary proceedings under that section;".

Commencement Information

I81 Sch. 4 para. 22 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

23 In section 78 (electronic publications and communications) the words "admission or representation", in both places where they occur, are repealed.

Commencement Information

I82 Sch. 4 para. 23 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

24 (1) In the provisions listed in sub-paragraph (2) for "judicial officer" substitute " officer of court ".

(2) The provisions referred to in sub-paragraph (1) are sections 83(5), 176(2), 177(1) and (3) to (8), 178(1) to (4), 179(1) to (4), 180(1), 181(1)(b) and (4), 182(1), (2), (4) and (6)(b), 183(4)(b), (11)(b) and (12)(b), 184(1), (2), (4) and (5)(c), 185(2)(b), (4)(b), (5) and (7), 186(2)(b), (3)(b) and (5)(c), 187(1)(b), (2)(a)(ii) and (3), 188(4), 189(1), (2)(a), (3)(b), (5) and (6), 191(2)(b)(i) and (4), 216(3) and 217(2).

Commencement Information

I83 Sch. 4 para. 24 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

25 In—

(a) sections 117(4), 121(1), 139(1)(c), 157(1)(b) and 183(1)(a), and

(b) paragraph 1(j) of schedule 3,

for "a judicial officer" substitute " an officer of court ".

Commencement Information

I84 Sch. 4 para. 25 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

26 In section 128(1) (interpretation of Chapter 2 of Part 4), after the definition of "notice of land attachment" insert—

""officer of court" means the officer of court appointed by the creditor;".

Commencement Information

I85 Sch. 4 para. 26 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

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27 In section 145(1) (interpretation of Chapter 3 of Part 4), after the definition of "dwellinghouse" insert—

""officer of court" means the officer of court appointed by the creditor;".

Commencement Information
I86 Sch. 4 para. 27 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

28 In section 178(1) (presumption of ownership), for "A judicial officer" substitute " An officer of court ".

Commencement Information
I87 Sch. 4 para. 28 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

29 In section 198(1) (interpretation of Part 8), after the definition of "money" insert—

""officer of court" means the officer of court appointed by the creditor;".

Commencement Information
I88 Sch. 4 para. 29 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

30 In section 221 (interpretation), after the definition of "electronic communication" insert—

""officer of court" means a messenger-at-arms or a sheriff officer;".

Commencement Information
I89 Sch. 4 para. 30 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

31 In schedule 5 (minor and consequential amendments), in sub-sub-paragraph (c) of paragraph 7(2), for the words from "for" to the end of the sub-sub-paragraph, substitute "for "law agent" substitute " solicitor "".

Commencement Information
I90 Sch. 4 para. 31 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

32 In Part 1 of schedule 6 (repeals and revocations), in the entry relating to the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), before the word "Schedule" in the second column, insert " In ".

Commencement Information
I91 Sch. 4 para. 32 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 2 S

REPEALS

33 The enactments mentioned in the first column of the following table are repealed to the extent specified in the second column.

Enactment	*Extent of repeal*
Debtors (Scotland) Act 1987 (c. 18)	Section 78. Section 83.
Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)	In section 45, in the definition of "officer", the words from "for", where it first occurs, to the end of that definition.
Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)	Section 50. Section 52. Sections 54 to 60. Section 61(4) to (7). Sections 67 to 74. Section 76. In section 128(1), the definition of "judicial officer". In section 145(1), the definition of "judicial officer". Section 189(7). In section 198(1), the definition of "judicial officer". Section 212(7). In section 221, the definition of the "Commission"; and the definition of "judicial officer". In schedule 1, paragraph 41(a). Schedule 2. In schedule 5, paragraphs 6(4), 7(2)(a), (b)(i) and (ii), (3)(a) and (4), 11, 16(14)(c), 21, 25, 27, 28, 30(8)(b) and (13), 31 and 33. In schedule 6, in the entry relating to the Sheriff Courts (Scotland) Act 1907, the words "In section 40, the word "officers,""; in the entry relating to the Execution of Diligence (Scotland) Act 1926,the words "Section 1"; and in the entry relating to the Debtors (Scotland) Act 1987, the words "Part V".

Commencement Information

I92 Sch. 4 para. 33 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), **Sch. 1**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F2]SCHEDULE 5 S

(introduced by section 15)

IMPROVEMENT OF PUBLIC FUNCTIONS: LISTED BODIES

Textual Amendments

F2 Sch. 5 ceases to have effect (2.8.2015) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), **s. 134(2)(3)** (with s. 134(4)(5)); however, Sch. 5 continues to have effect, initially until 4.6.2020 by virtue of The Public Services Reform (Scotland) Act 2010 (Part 2 Extension) Order 2015 (S.S.I. 2015/234), arts. 1, **2**, and then until 5.5.2025 by The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2020 (S.S.I. 2020/140), arts. 1, **2**

Commencement Information

I93 Sch. 5 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Scottish Administration

Scottish public authorities with mixed functions or no reserved functions

Skills Development Scotland Co. Ltd

Textual Amendments

F3 Words in Sch. 5 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **Sch. 2 para. 5(2)**

F4 Words in sch. 5 inserted (14.5.2021) by Scottish Elections (Reform) Act 2020 (asp 12), s. 35, **sch. para. 7(2)(a)**; S.S.I. 2021/124, reg. 2, sch.

F5 Sch. 5 entry inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 26(2)** (with arts. 4-6)

F6 Sch. 5 entry inserted (24.6.2013) by The Public Services Reform (Scotland) Act 2010 Modification Order 2013 (S.S.I. 2013/192), arts. 1(2), **2(b)**

F7 Sch. 5 entries repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 20(a)** (with s. 31(6), Sch. 7)

F8 Sch. 5 entries omitted (24.6.2013) by virtue of The Public Services Reform (Scotland) Act 2010 Modification Order 2013 (S.S.I. 2013/192), arts. 1(2), **2(a)**

F9 Sch. 5 entry 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. 2 para. 17(a)**

F10 Sch. 5 entry inserted (1.4.2022) by Consumer Scotland Act 2020 (asp 11), s. 29(2), **sch. 2 para. 5(a)**; S.S.I. 2021/464, **reg. 2**

F11 Sch. 5 entry inserted (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), arts. 1, **3(2)(b)**

F12 Sch. 5 entry inserted (1.4.2015) by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications and Saving) Order 2015 (S.S.I. 2015/157), art. 1(1), **Sch. para. 10(4)**

F13 Sch. 5 entry inserted (27.2.2015) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **Sch. 6 para. 5(a)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, Sch.

F14 Words in sch. 5 repealed (14.5.2021) by Scottish Elections (Reform) Act 2020 (asp 12), s. 35, **sch. para. 7(2)(b)**; S.S.I. 2021/124, reg. 2, sch.

F15 Sch. 5 entry substituted (1.2.2013) by National Library of Scotland Act 2012 (asp 3), s. 12(3), **Sch. 2 para. 9(a)**; S.S.I. 2013/1, art. 2

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F16 Words in sch. 5 inserted (27.4.2024) by The National Smart Ticketing Advisory Board (Public Services Reform) (Scotland) Order 2024 (S.S.I. 2024/129), arts. 1, **2**

F17 Words in sch. 5 inserted (1.5.2024) by Patient Safety Commissioner for Scotland Act 2023 (asp 6), s. 24(2), **sch. 2 para. 3(2)**; S.S.I. 2024/110, reg. 2(1)

F18 Sch. 5 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(4)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F19 Words in Sch. 5 inserted (1.7.2019) by Child Poverty (Scotland) Act 2017 (asp 6), s. 16(2), **Sch. para. 13(4)**

F20 Sch. 5 entry inserted (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), arts. 1, **3(2)(c)**

F21 Sch. 5 entry omitted (1.12.2016) by virtue of The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 7(2)** (with Sch. 1)

F22 Sch. 5 entry repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **Sch. 2 para. 3(2)** (with Sch. 1 para. 5)

F23 Sch. 5 entry 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. 2 para. 17(b)**

F24 Sch. 5 entry 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. 2 para. 17(c)**

F25 Words in sch. 5 inserted (28.6.2021) by Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (asp 15), s. 109(2), **sch. 1 para. 21(a)**; S.S.I. 2021/234, reg. 2, sch.

F26 Sch. 5 entry repealed (1.10.2015) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **Sch. 6 para. 5(a)(ii)** (with ss. 29, 30); S.S.I. 2015/196, art. 2, Sch.

F27 Words in sch. 5 inserted (1.12.2020) by Scottish Biometrics Commissioner Act 2020 (asp 8), s. 40(2), **sch. 2 para. 3(a)**; S.S.I. 2020/250, reg. 2

F28 Words in Sch. 5 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Scottish Charity Appeals Panel) Regulations 2018 (S.S.I. 2018/1), reg. 1(1), **Sch. 2 para. 3(2)**

F29 Words in Sch. 5 inserted (21.1.2019) by Social Security (Scotland) Act 2018 (asp 9), s. 99(2), **Sch. 1 para. 21**; S.S.I. 2018/393, reg. 2 (with reg. 3)

F30 Sch. 5 entry inserted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(2)**; S.S.I. 2012/253, art. 2, Sch.

F31 Words in Sch. 5 inserted (6.5.2020) by The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (Scottish Fuel Poverty Advisory Panel and Consequential Amendments) Regulations 2020 (S.S.I. 2020/141), reg. 1(1), **Sch. para. 4**

F32 Sch. 5 entry inserted (1.4.2017) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 21(3)(a)**, 130(1) (with s. 128); S.S.I. 2016/250, reg. 2(3), Sch. 2

F33 Words in Sch. 5 inserted (16.9.2020) by Scottish National Investment Bank Act 2020 (asp 3), s. 35(2), **Sch. para. 4(2)**; S.S.I. 2020/272, reg. 2

F34 Sch. 5 entry inserted (8.8.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(1)(a), **Sch. 1 para. 17(2)**

F35 Sch. 5 entry repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F36 Words in Sch. 5 inserted (16.10.2019) by South of Scotland Enterprise Act 2019 (asp 9), s. 24(2), **Sch. 2 para. 6(2)**; S.S.I. 2019/308, reg. 2

F37 Sch. 5 entry repealed (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), arts. 1, **3(2)(a)**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Cross-border public authorities

SCHEDULE 6 S

(introduced by section 19)

PART 2 ORDER-MAKING POWERS (REQUEST AND CONSENT): LISTED BODIES

Commencement Information

I94 Sch. 6 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Textual Amendments

F38 Sch. 6 ceases to have effect (2.8.2015) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(2)(3) (with s. 134(4)(5)); however, Sch. 6 continues to have effect until 4.6.2020 by virtue of The Public Services Reform (Scotland) Act 2010 (Part 2 Extension) Order 2015 (S.S.I. 2015/234), arts. 1, 2; which continuation is further extended until 5.5.2025 by The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2020 (S.S.I. 2020/140), arts. 1, 2

F39 Sch. 6 entry 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. 2 para. 17(a)**

F40 Words in sch. 6 inserted (1.5.2024) by Patient Safety Commissioner for Scotland Act 2023 (asp 6), s. 24(2), **sch. 2 para. 3(3)**; S.S.I. 2024/110, reg. 2(1)

F41 Words in sch. 6 inserted (1.12.2020) by Scottish Biometrics Commissioner Act 2020 (asp 8), s. 40(2), **sch. 2 para. 3(b)**; S.S.I. 2020/250, reg. 2

F42 Sch. 6 entry 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. 2 para. 17(b)**

F43 Sch. 6 entry 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. 2 para. 17(c)**

F44 Sch. 6 entry repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 21(c)** (with s. 31(6), Sch. 7)

F45 Sch. 6 entry inserted (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 21(d)** (with s. 31(6), Sch. 7)

Textual Amendments

F38 Sch. 6 ceases to have effect (2.8.2015) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(2)(3) (with s. 134(4)(5)); however, Sch. 6 continues to have effect until 4.6.2020 by virtue of The Public Services Reform (Scotland) Act 2010 (Part 2 Extension) Order 2015 (S.S.I. 2015/234), arts. 1, 2; which continuation is further extended until 5.5.2025 by The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2020 (S.S.I. 2020/140), arts. 1, 2

F39 Sch. 6 entry 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. 2 para. 17(a)**

F40 Words in sch. 6 inserted (1.5.2024) by Patient Safety Commissioner for Scotland Act 2023 (asp 6), s. 24(2), **sch. 2 para. 3(3)**; S.S.I. 2024/110, reg. 2(1)

F41 Words in sch. 6 inserted (1.12.2020) by Scottish Biometrics Commissioner Act 2020 (asp 8), s. 40(2), **sch. 2 para. 3(b)**; S.S.I. 2020/250, reg. 2

F42 Sch. 6 entry 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. 2 para. 17(b)**

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F43 Sch. 6 entry 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. 2 para. 17(c)**

F44 Sch. 6 entry repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 21(c)** (with s. 31(6), Sch. 7)

F45 Sch. 6 entry inserted (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 21(d)** (with s. 31(6), Sch. 7)

SCHEDULE 7 S

(introduced by section 29)

ORDER-MAKING POWERS: MODIFICATIONS OF ENACTMENTS

[F46 Deregulation and Contracting Out Act 1994 (c. 40)

Textual Amendments

F46 Sch. 7 ceases to have effect (2.8.2015) by virtue of Public Services Reform (Scotland) Act 2010 (asp 8), **s. 134(2)(3)** (with s. 134(4)(5)); however, Sch. 7 continues to have effect until 4.6.2020 by virtue of The Public Services Reform (Scotland) Act 2010 (Part 2 Extension) Order 2015 (S.S.I. 2015/234), **arts. 1**, 2; which continuation is further extended until 5.5.2025 by The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2020 (S.S.I. 2020/140), **arts. 1**, 2

1 (1) The Deregulation and Contracting Out Act 1994 is amended as follows.

(2) Sections 1 to 5 and Schedule 1 are repealed.

(3) In section 6 (model provisions with respect to appeals), in subsection (7)—

(a) in the definition of "enactment"—

(i) the word "and" is omitted,

(ii) at the end insert " , an enactment contained in an Act of the Scottish Parliament (whenever passed) and an enactment contained in an instrument made under an Act of the Scottish Parliament (whenever made) ",

(b) for the definition of "enforcement action" substitute—

""enforcement action" means—

(a) in relation to any restriction, requirement or condition, any action taken with a view to or in connection with imposing any sanction (whether criminal or otherwise) for failure to observe or comply with it; and

(b) in relation to a restriction, requirement or condition relating to the grant or renewal of licences, includes any refusal to grant, renew or vary a licence, the imposition of any condition on the grant or renewal of a licence and any variation or revocation of a licence;",

(c) for the definition of "interested person" substitute—

""interested person" means—

(a) the person against whom enforcement action may be or has been taken;

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(b) any other person who will or may be required to meet, or to make a significant contribution towards, the cost of observing the restriction or complying with the requirement or condition; or

(c) where the enforcement action which may be or has been taken relates specifically to goods or services which are to be or have been supplied by a person other than the one against whom enforcement action may be or has been taken, that person;".

(4) Sub-paragraph (2) does not affect the continuation in force of any order under section 1 of that Act which was made on or before the day on which that sub-paragraph comes into force.

Commencement Information

I95 Sch. 7 para. 1 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)

2 In Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (minor and consequential amendments), paragraph 96 is repealed.**]**

Commencement Information

I96 Sch. 7 para. 2 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

SCHEDULE 8 S

(introduced by section 35)

INFORMATION ON EXERCISE OF PUBLIC FUNCTIONS: LISTED PUBLIC BODIES

Commencement Information

I97 Sch. 8 in force at 1.10.2010 by S.S.I. 2010/321, art. 3, **Sch.**

The Scottish Ministers
Accountant in Bankruptcy
Accounts Commission for Scotland
[F47]…
Architecture and Design Scotland
Audit Scotland
Board of Trustees for the National Galleries of Scotland
Board of Trustees of the National Museums of Scotland
Board of Trustees of the Royal Botanic Garden, Edinburgh
Bòrd na Gàidhlig
[[F48]Boundaries Scotland**]**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F49]British Waterways Board**]**
Caledonian Maritime Assets Ltd
[[F50]Children's Hearings Scotland**]**
[F51]…
[F52]…
[F52]…
[[F53]Commissioner for Ethical Standards in Public Life in Scotland**]**
Commissioner for Children and Young People in Scotland
[F51]…
Common Services Agency for the Scottish Health Service
[[F54]Community Justice Scotland**]**
[[F55]Consumer Scotland**]**
Creative Scotland
Crofters Commission
[[F56]Crown Estate Scotland**]**
David MacBrayne Ltd
Drinking Water Quality Regulator for Scotland
[[F57]Environmental Standards Scotland**]**
[[F58]Food Standards Scotland**]**
Forestry Commissioners
General Teaching Council for Scotland
any Health Board
Healthcare Improvement Scotland
Her Majesty's Chief Inspector of Constabulary
[[F59]Her Majesty's Chief Inspector of the Scottish Fire and Rescue Service**]**
Her Majesty's Chief Inspector of Prisons for Scotland
Her Majesty's Chief Inspector of Prosecution in Scotland
Highlands and Islands Airports Ltd
Highlands and Islands Enterprise
[[F60]Historic Environment Scotland**]**
Judicial Appointments Board for Scotland
any Justice of the Peace Advisory Committee
Keeper of the Records of Scotland
Keeper of the Registers of Scotland
Lands Tribunal for Scotland
Learning and Teaching Scotland
[F61]…
Macaulay Land Use Research Institute
Mental Health Tribunal for Scotland
Mental Welfare Commission for Scotland
Mobility and Access Committee for Scotland
Moredun Research Institute
any National Park authority

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Parole Board for Scotland

[[F62]Patient Safety Commissioner for Scotland**]**

[[F63]Police Investigations and Review Commissioner**]**

[F64]…

[F65]…

[F66]…

[F67]…

Public Transport Users' Committee for Scotland

Quality Meat Scotland

Queen's Printer for Scotland

[[F68]Redress Scotland**]**

any regional Transport Partnership

Registrar General of Births, Deaths and Marriages for Scotland

[[F69]Revenue Scotland**]**

Risk Management Authority

[F70]…

Scottish Advisory Committee on Distinction Awards

Scottish Agricultural College

Scottish Agricultural Wages Board

[[F71]Scottish Biometrics Commissioner**]**

[F72]…

Scottish Charity Regulator

Scottish Children's Reporter Administration

Scottish Commission for Human Rights

Scottish Court Service

Scottish Criminal Cases Review Commission

Scottish Crop Research Institute

Scottish Enterprise

Scottish Environment Protection Agency

[[F73]Scottish Fire and Rescue Service**]**

[[F74]Scottish Fiscal Commission**]**

[[F75]The Scottish Food Commission**]**

Scottish Further and Higher Education Funding Council

Scottish Futures Trust Ltd

Scottish Housing Regulator

Scottish Information Commissioner

[[F76] Scottish Land Commission**]**

Scottish Law Commission

Scottish Legal Aid Board

Scottish Legal Complaints Commission

Scottish Local Authorities Remuneration Committee

[[F77]Scottish National Investment Bank p.l.c.**]**

Scottish Natural Heritage

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F78]Scottish Police Authority**]**
[F51]…
[F79]…
Scottish Public Services Ombudsman
Scottish Qualifications Authority
Scottish Road Works Commissioner
Scottish Social Services Council
Scottish Sports Council
Scottish Water
Skills Development Scotland Co. Ltd
Social Care and Social Work Improvement Scotland
[[F80]South of Scotland Enterprise**]**
any Special Health Board
Standards Commission for Scotland
[[F81]The National Library of Scotland**]**
[F82]…
VisitScotland
Water Industry Commission for Scotland

Textual Amendments

F47 Words in Sch. 8 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **Sch. 2 para. 5(3)**

F48 Words in sch. 8 inserted (14.5.2021) by Scottish Elections (Reform) Act 2020 (asp 12), s. 35, **sch. para. 7(3)(a)**; S.S.I. 2021/124, reg. 2, sch.

F49 Sch. 8 entry inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 26(3)** (with arts. 4-6, Sch. 3 para. 26(4))

F50 Sch. 8 entry inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 19(3)**

F51 Sch. 8 entries repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 22(a)** (with s. 31(6), Sch. 7)

F52 Sch. 8 entries repealed (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 2**

F53 Sch. 8 entry 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. 2 para. 17(a)**

F54 Sch. 8 entry inserted (1.4.2017) by Community Justice (Scotland) Act 2016 (asp 10), s. 41(2), **Sch. 1 para. 14(5)**; S.S.I. 2017/33, reg. 2(3)

F55 Sch. 8 entry inserted (1.4.2022) by Consumer Scotland Act 2020 (asp 11), s. 29(2), **sch. 2 para. 5(b)**; S.S.I. 2021/464, **reg. 2**

F56 Sch. 8 entry substituted (1.4.2020) by Scottish Crown Estate Act 2019 (asp 1), s. 46(2), **Sch. 1 para. 6**; S.S.I. 2020/77, reg. 2(1), Sch. 1

F57 Words in sch. 8 inserted (1.10.2021) by UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (asp 4), s. 51(2), **sch. 1 para. 15(4)** (with s. 48(2)); S.S.I. 2021/304, reg. 2(b)

F58 Sch. 8 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(a)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

F59 Sch. 8 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(3)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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F60 Sch. 8 entry inserted (27.2.2015) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **Sch. 6 para. 5(b)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, Sch.

F61 Words in sch. 8 repealed (14.5.2021) by Scottish Elections (Reform) Act 2020 (asp 12), s. 35, **sch. para. 7(3)(b)**; S.S.I. 2021/124, reg. 2, sch.

F62 Words in sch. 8 inserted (1.5.2024) by Patient Safety Commissioner for Scotland Act 2023 (asp 6), s. 24(2), **sch. 2 para. 3(4)**; S.S.I. 2024/110, reg. 2(1)

F63 Sch. 8 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(5)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F64 Sch. 8 entry omitted (1.12.2016) by virtue of The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 7(3)** (with Sch. 1)

F65 Sch. 8 entry repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **Sch. 2 para. 3(3)** (with Sch. 1 para. 5)

F66 Sch. 8 entry 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. 2 para. 17(b)**

F67 Sch. 8 entry 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. 2 para. 17(c)**

F68 Words in sch. 8 inserted (28.6.2021) by Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (asp 15), s. 109(2), **sch. 1 para. 21(b)**; S.S.I. 2021/234, reg. 2, sch.

F69 Sch. 8 entry inserted (1.1.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16), s. 260(2), **Sch. 4 para. 7** (with ss. 257-259); S.S.I. 2014/370, art. 2, Sch.

F70 Sch. 8 entry repealed (1.10.2015) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **Sch. 6 para. 5(b)(ii)** (with ss. 29, 30); S.S.I. 2015/196, art. 2, Sch.

F71 Words in sch. 8 inserted (1.12.2020) by Scottish Biometrics Commissioner Act 2020 (asp 8), s. 40(2), **sch. 2 para. 3(c)**; S.S.I. 2020/250, reg. 2

F72 Words in Sch. 8 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Scottish Charity Appeals Panel) Regulations 2018 (S.S.I. 2018/1), reg. 1(1), **Sch. 2 para. 3(3)**

F73 Sch. 8 entry inserted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(3)(b)**; S.S.I. 2012/253, art. 2, Sch.

F74 Sch. 8 entry inserted (1.4.2017) by Scottish Fiscal Commission Act 2016 (asp 17), **ss. 29(4)**, 31(2); S.S.I. 2016/326, reg. 2(2)

F75 Sch. 8 entry inserted (15.2.2024) by Good Food Nation (Scotland) Act 2022 (asp 5), s. 28(2), **sch. para. 21(4)**; S.S.I. 2024/29, reg. 2(1)(2), **sch. 1**

F76 Sch. 8 entry inserted (1.4.2017) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 21(3)(b)**, 130(1) (with s. 128); S.S.I. 2016/250, reg. 2(3), Sch. 2

F77 Words in Sch. 8 inserted (16.9.2020) by Scottish National Investment Bank Act 2020 (asp 3), s. 35(2), **Sch. para. 4(3)**; S.S.I. 2020/272, reg. 2

F78 Sch. 8 entry inserted (8.8.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(1)(a), **Sch. 1 para. 17(3)**

F79 Sch. 8 entry repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F80 Sch. 8 entry inserted (16.10.2019) by South of Scotland Enterprise Act 2019 (asp 9), s. 24(2), **Sch. 2 para. 6(3)**; S.S.I. 2019/308, reg. 2

F81 Sch. 8 entry substituted (1.2.2013) by National Library of Scotland Act 2012 (asp 3), s. 12(3), **Sch. 2 para. 9(b)**; S.S.I. 2013/1, art. 2

F82 Sch. 8 entry repealed (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), arts. 1, **3(3)**

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Textual Amendments

F47 Words in Sch. 8 repealed (12.1.2018) by The First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018 (S.S.I. 2018/4), reg. 1(1), **Sch. 2 para. 5(3)**

F48 Words in sch. 8 inserted (14.5.2021) by Scottish Elections (Reform) Act 2020 (asp 12), s. 35, **sch. para. 7(3)(a)**; S.S.I. 2021/124, reg. 2, sch.

F49 Sch. 8 entry inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 26(3)** (with arts. 4-6, Sch. 3 para. 26(4))

F50 Sch. 8 entry inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 19(3)**

F51 Sch. 8 entries repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), s. 31(5), **Sch. 1 para. 22(a)** (with s. 31(6), Sch. 7)

F52 Sch. 8 entries repealed (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 2**

F53 Sch. 8 entry 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. 2 para. 17(a)**

F54 Sch. 8 entry inserted (1.4.2017) by Community Justice (Scotland) Act 2016 (asp 10), s. 41(2), **Sch. 1 para. 14(5)**; S.S.I. 2017/33, reg. 2(3)

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F58 Sch. 8 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(a)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

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F69 Sch. 8 entry inserted (1.1.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16), s. 260(2), **Sch. 4 para. 7** (with ss. 257-259); S.S.I. 2014/370, art. 2, Sch.

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F73 Sch. 8 entry inserted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(3)(b)**; S.S.I. 2012/253, art. 2, Sch.

F74 Sch. 8 entry inserted (1.4.2017) by Scottish Fiscal Commission Act 2016 (asp 17), **ss. 29(4)**, 31(2); S.S.I. 2016/326, reg. 2(2)

F75 Sch. 8 entry inserted (15.2.2024) by Good Food Nation (Scotland) Act 2022 (asp 5), s. 28(2), **sch. para. 21(4)**; S.S.I. 2024/29, reg. 2(1)(2), **sch. 1**

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F77 Words in Sch. 8 inserted (16.9.2020) by Scottish National Investment Bank Act 2020 (asp 3), s. 35(2), **Sch. para. 4(3)**; S.S.I. 2020/272, reg. 2

F78 Sch. 8 entry inserted (8.8.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(1)(a), **Sch. 1 para. 17(3)**

F79 Sch. 8 entry repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F80 Sch. 8 entry inserted (16.10.2019) by South of Scotland Enterprise Act 2019 (asp 9), s. 24(2), **Sch. 2 para. 6(3)**; S.S.I. 2019/308, reg. 2

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F82 Sch. 8 entry repealed (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), arts. 1, **3(3)**

SCHEDULE 9 S

(introduced by section 36(2))

CREATIVE SCOTLAND: ESTABLISHMENT ETC.

Status

1 (1) Creative Scotland is a body corporate.

(2) Creative Scotland is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.

(3) Creative Scotland's property is not to be regarded as property of, or held on behalf of, the Crown.

Commencement Information

I98 Sch. 9 para. 1 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Membership of Creative Scotland

2 (1) Creative Scotland is to consist of the following members—

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(a) a person appointed by the Scottish Ministers to chair Creative Scotland, and
(b) no fewer than 8 nor more than 14 other members appointed by the Scottish Ministers.

(2) The Scottish Ministers may by order made by statutory instrument amend sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.

(3) A statutory instrument containing an order under sub-paragraph (2) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

Commencement Information
I99 Sch. 9 para. 2 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Terms of appointment etc.

3 (1) Each member of Creative Scotland is to be appointed for such period as the Scottish Ministers think fit.

(2) A member—
(a) holds and vacates office in accordance with the terms and conditions of appointment, but
(b) may, by written notice to the Scottish Ministers, resign office as a member.

(3) A person is, on ceasing to be a member, eligible for reappointment.

Commencement Information
I100 Sch. 9 para. 3 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Removal of members

4 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—
(a) the member—
(i) has been adjudged bankrupt,
(ii) has granted a trust deed for creditors or a composition contract,
(iii) has proposed a voluntary arrangement which has been approved,
(b) the member's estate has been sequestrated,
(c) the member has been absent from 3 consecutive meetings of Creative Scotland without the permission of Creative Scotland,
(d) the member is otherwise unfit or unable to discharge the functions of a member.

Commencement Information
I101 Sch. 9 para. 4 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

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Disqualification from membership

5 A person is disqualified from appointment, and from holding office, as a member of Creative Scotland if that person is—

(a) a member of the Scottish Parliament,

(b) a member of the House of Commons,

(c) a member of the European Parliament.

Commencement Information

I102 Sch. 9 para. 5 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Remuneration and allowances for members

6 Creative Scotland must pay to each of its members such—

(a) remuneration, and

(b) allowances and expenses,

as the Scottish Ministers may determine.

Commencement Information

I103 Sch. 9 para. 6 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Chief executive and other employees

7 (1) Creative Scotland is to employ a chief executive.

(2) The chief executive may not be a member of Creative Scotland.

(3) The first chief executive employed by Creative Scotland is to be the person who, immediately before the coming into force of this paragraph, is the chief executive designate employed by Creative Scotland 2009 Limited; and that person is employed as chief executive until the term of appointment as chief executive designate of Creative Scotland 2009 Limited would have ended.

(4) But if there is no person employed by Creative Scotland 2009 Limited as chief executive designate immediately before the coming into force of this paragraph, the Scottish Ministers are to make the first appointment of the chief executive of Creative Scotland on such terms and conditions as the Scottish Ministers may determine.

(5) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by Creative Scotland on such terms and conditions as Creative Scotland may, with such approval, determine.

(6) Creative Scotland may (subject to any directions given under sub-paragraph (7)) appoint such other employees on such terms and conditions as Creative Scotland may determine.

(7) The Scottish Ministers may give directions to Creative Scotland as regards—

(a) the appointment of employees under sub-paragraph (6), and

(b) the terms and conditions of their employment.

(8) Creative Scotland may, with the approval of the Scottish Ministers—

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(a) pay or make arrangements for the payment,

(b) make payments or contributions towards the provision,

(c) provide and maintain schemes (whether contributory or not) for the payment,

of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of Creative Scotland, as it may determine.

(9) The reference in sub-paragraph (8) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

Commencement Information

I104 Sch. 9 para. 7 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Committees

8 (1) Creative Scotland may establish committees for any purpose relating to its functions.

(2) Creative Scotland is to determine the composition of its committees.

(3) Creative Scotland may appoint persons who are not members of Creative Scotland to be members of a committee; but such persons are not entitled to vote at meetings of the committee.

(4) A committee of Creative Scotland is to comply with any directions given to it by Creative Scotland.

Commencement Information

I105 Sch. 9 para. 8 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Procedure and meetings

9 (1) Creative Scotland may determine its own procedure and that of its committees, including a quorum for meetings.

(2) The validity of any proceedings of Creative Scotland, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.

(3) Members of the Scottish Executive and persons authorised by the Scottish Ministers may attend and take part in meetings of Creative Scotland or any of its committees, but are not entitled to vote at such meetings.

Commencement Information

I106 Sch. 9 para. 9 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

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General powers

10 (1) Creative Scotland may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.

(2) In particular, Creative Scotland may—

(a) engage in any business or undertaking,

(b) form, promote or acquire (whether alone or with others) companies (within the meaning of the Companies Act 2006 (c. 46)),

(c) form partnerships with others,

(d) enter into contracts,

(e) accept gifts of money and other property,

(f) invest sums not immediately required in relation to the exercise of its functions,

(g) undertake or execute any charitable trust,

(h) obtain advice or assistance from any person who, in Creative Scotland's opinion, is qualified to give it,

(i) commission research,

(j) with the consent of the Scottish Ministers—

(i) borrow money,

(ii) acquire and dispose of land,

(iii) establish or take part in the setting up of organisations having functions similar to those of Creative Scotland,

(iv) make charges for the provision of goods or advice or other services in such circumstances and of such amounts as Creative Scotland may determine.

(3) For the purposes of paragraph (g) of sub-paragraph (2), a trust is a charitable trust if all its purposes are within section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

Commencement Information

I107 Sch. 9 para. 10 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Delegation of functions

11 (1) Creative Scotland may, subject to sub-paragraphs (2) and (3), authorise—

(a) the chief executive,

(b) any other employee,

(c) any of its committees,

to exercise such of its functions, and to such extent, as it may determine.

(2) Creative Scotland may not authorise any of the following functions to be exercised by any other person—

(a) the approval of annual reports and accounts,

(b) the approval of any budget or other financial plan.

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(3) Sub-paragraph (1) does not affect the responsibility of Creative Scotland for the exercise of its functions.

Commencement Information
I108 Sch. 9 para. 11 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Location of office

12 Creative Scotland's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

Commencement Information
I109 Sch. 9 para. 12 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Accounts

13 (1) Creative Scotland must—
(a) keep proper accounts and accounting records,
(b) prepare in respect of each financial year a statement of accounts, and
(c) send a copy of the statement to the Scottish Ministers,
and must do so in accordance with any directions the Scottish Ministers may give.

(2) Creative Scotland must send the statement of accounts to the Auditor General for Scotland for auditing.

Commencement Information
I110 Sch. 9 para. 13 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Reports

14 (1) As soon as practicable after the end of each financial year, Creative Scotland must prepare a report which is—
(a) to provide information on the discharge of Creative Scotland's functions during that year, and
(b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.

(2) Creative Scotland must—
(a) publish the report,
(b) lay a copy of the report before the Scottish Parliament,
(c) send a copy of the report to the Scottish Ministers.

(3) Creative Scotland may publish such other reports and information on matters relevant to the functions of Creative Scotland as it considers appropriate.

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Commencement Information
I111 Sch. 9 para. 14 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

SCHEDULE 10 S

(introduced by section 43)

CREATIVE SCOTLAND: MODIFICATIONS OF ENACTMENTS

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

1 In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies)—

(a) after the entry relating to a community justice authority insert— " Creative Scotland ",

(b) the entry relating to the Scottish Arts Council is repealed.

Commencement Information
I112 Sch. 10 para. 1 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Scottish Public Services Ombudsman Act 2002 (asp 11)

2 In the Scottish Public Services Ombudsman Act 2002, in schedule 2 (listed authorities)—

(a) after paragraph 21B insert—

"21C Creative Scotland.",

(b) paragraphs 36 and 50 are repealed.

Commencement Information
I113 Sch. 10 para. 2 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

Freedom of Information (Scotland) Act 2002 (asp 13)

3 In the Freedom of Information (Scotland) Act 2002, in schedule 1 (Scottish public authorities)—

(a) after paragraph 62B insert—

"62C Creative Scotland.",

(b) paragraphs 78 and 98 are repealed.

Commencement Information
I114 Sch. 10 para. 3 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

4 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities)—

(a) after the entry relating to the Bòrd na Gàidhlig insert— " Creative Scotland ",

(b) the entries relating to—

(i) the Scottish Arts Council, and

(ii) Scottish Screen,

are repealed.

Commencement Information

I115 Sch. 10 para. 4 in force at 1.7.2010 by S.S.I. 2010/221, **art. 3(1)**

SCHEDULE 11 S

(introduced by section 44(4))

SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND: ESTABLISHMENT ETC.

Status

1 (1) Social Care and Social Work Improvement Scotland is a body corporate.

(2) SCSWIS is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.

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

Commencement Information

I116 Sch. 11 para. 1 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I117 Sch. 11 para. 1 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I118 Sch. 11 para. 1 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Membership of SCSWIS

2 (1) SCSWIS is to consist of the following members—

(a) a person appointed by the Scottish Ministers to chair SCSWIS,

(b) the person appointed under paragraph 2(1)(a) of Schedule 5A to the National Health Service (Scotland) Act 1978 (c. 29) to chair Healthcare Improvement Scotland,

(c) the person appointed under paragraph 2 of schedule 2 to the Regulation of Care (Scotland) Act 2001 (asp 8) as convener of the Scottish Social Services Council, and

(d) no fewer than 9 nor more than 12 other members appointed by the Scottish Ministers.

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(2) The Scottish Ministers may by order amend sub-paragraph (1)(d) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.

Commencement Information

I119 Sch. 11 para. 2 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I120 Sch. 11 para. 2 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I121 Sch. 11 para. 2 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

3 (1) In appointing members, the Scottish Ministers are to have regard to the desirability of including—

(a) persons who have experience of, and have shown capacity and capability in, the provision of any social service,

(b) persons who—

(i) use, or have used, any social service or services which prospectively are to become social services,

(ii) care for, or have cared for, such persons as are mentioned in sub-paragraph (i),

(c) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of SCSWIS's functions.

(2) In appointing members under paragraph 2(1)(d), the Scottish Ministers must appoint at least two persons—

(a) one of whom falls within sub-paragraph (i), and one of whom falls within sub-paragraph (ii), of sub-paragraph (1)(b) of this paragraph, or

(b) both of whom fall within either sub-paragraph (i), or sub-paragraph (ii), of sub-paragraph (1)(b) of this paragraph.

Commencement Information

I122 Sch. 11 para. 3 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I123 Sch. 11 para. 3 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I124 Sch. 11 para. 3 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Terms of appointment etc.

4 (1) Each member of SCSWIS is to be appointed for such period as the Scottish Ministers think fit.

(2) A member—

(a) holds and vacates office in accordance with the terms and conditions of appointment, but

(b) may, by written notice to the Scottish Ministers, resign office as a member.

(3) A person is, on ceasing to be a member, eligible for reappointment.

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Commencement Information

I125 Sch. 11 para. 4 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I126 Sch. 11 para. 4 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I127 Sch. 11 para. 4 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Removal of members

5 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—

(a) the member—

(i) has been adjudged bankrupt,

(ii) has granted a trust deed for creditors or a composition contract,

(iii) has proposed a voluntary arrangement which has been approved,

(b) the member's estate has been sequestrated,

(c) the member has been absent from 3 consecutive meetings of SCSWIS without the permission of SCSWIS,

(d) the member is otherwise unfit or unable to discharge the functions of a member.

Commencement Information

I128 Sch. 11 para. 5 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I129 Sch. 11 para. 5 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I130 Sch. 11 para. 5 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Disqualification from membership

6 A person is disqualified from appointment, and from holding office, as a member of SCSWIS if that person is—

(a) a member of the Scottish Parliament,

(b) a member of the House of Commons,

(c) a member of the European Parliament.

Commencement Information

I131 Sch. 11 para. 6 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I132 Sch. 11 para. 6 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I133 Sch. 11 para. 6 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Remuneration and allowances for members

7 SCSWIS must pay to each of its members such—

(a) remuneration, and

(b) allowances and expenses,

as the Scottish Ministers may determine.

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Commencement Information

I134 Sch. 11 para. 7 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I135 Sch. 11 para. 7 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I136 Sch. 11 para. 7 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Chief executive and other employees

8 (1) SCSWIS is to employ a chief executive.

(2) The chief executive may not be a member of SCSWIS.

(3) The Scottish Ministers are to make the first appointment of the chief executive on such terms and conditions as the Scottish Ministers may determine.

(4) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by SCSWIS on such terms and conditions as SCSWIS may, with such approval, determine.

(5) SCSWIS may (subject to any directions given under sub-paragraph (6)) appoint such other employees on such terms and conditions as SCSWIS may determine.

(6) The Scottish Ministers may give directions to SCSWIS as regards—

(a) the appointment of employees under sub-paragraph (5), and

(b) the terms and conditions of their employment.

(7) SCSWIS may, with the approval of the Scottish Ministers—

(a) pay or make arrangements for the payment,

(b) make payments or contributions towards the provision,

(c) provide and maintain schemes (whether contributory or not) for the payment,

of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of SCSWIS, as it may determine.

(8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

Commencement Information

I137 Sch. 11 para. 8 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I138 Sch. 11 para. 8 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I139 Sch. 11 para. 8 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Committees

9 (1) SCSWIS may establish committees for any purpose relating to its functions.

(2) SCSWIS is to determine the composition of its committees.

(3) SCSWIS may appoint persons who are not members of SCSWIS to be members of a committee; but such persons are not entitled to vote at meetings of the committee.

(4) A committee of SCSWIS is to comply with any directions given to it by SCSWIS.

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Commencement Information

I140 Sch. 11 para. 9 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I141 Sch. 11 para. 9 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I142 Sch. 11 para. 9 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Procedure and meetings

10 (1) SCSWIS may determine its own procedure and that of its committees, including a quorum for meetings.

(2) The validity of any proceedings of SCSWIS, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.

(3) Members of—

(a) the Scottish Executive and persons authorised by the Scottish Ministers,

(b) Healthcare Improvement Scotland and persons authorised by it,

(c) the Scottish Social Services Council and persons authorised by it,

may attend and take part in meetings of SCSWIS or any of its committees, but are not entitled to vote at such meetings.

Commencement Information

I143 Sch. 11 para. 10 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I144 Sch. 11 para. 10 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I145 Sch. 11 para. 10 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

General powers

11 (1) SCSWIS may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.

(2) In particular, SCSWIS may—

(a) enter into contracts,

(b) with the consent of the Scottish Ministers—

(i) borrow money,

(ii) acquire and dispose of land,

(iii) borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

Commencement Information

I146 Sch. 11 para. 11 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I147 Sch. 11 para. 11 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I148 Sch. 11 para. 11 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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Delegation of functions

12 (1) SCSWIS may, subject to sub-paragraphs (2) and (3), authorise—

(a) the chief executive,

(b) any other employee,

(c) any of its committees,

to exercise such of its functions, and to such extent, as it may determine.

(2) SCSWIS may not authorise any of the following functions to be exercised by any other person—

(a) the approval of annual reports and accounts,

(b) the approval of any budget or other financial plan.

(3) Sub-paragraph (1) does not affect the responsibility of SCSWIS for the exercise of its functions.

Commencement Information

I149 Sch. 11 para. 12 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I150 Sch. 11 para. 12 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I151 Sch. 11 para. 12 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Location of office

13 SCSWIS's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

Commencement Information

I152 Sch. 11 para. 13 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I153 Sch. 11 para. 13 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I154 Sch. 11 para. 13 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Accounts

14 (1) SCSWIS must—

(a) keep proper accounts and accounting records,

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

(c) send a copy of the statement to the Scottish Ministers,

and must do so in accordance with any directions the Scottish Ministers may give.

(2) SCSWIS must send the statement of accounts to the Auditor General for Scotland for auditing.

Commencement Information

I155 Sch. 11 para. 14 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I156 Sch. 11 para. 14 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I157 Sch. 11 para. 14 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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Reports

15 (1) As soon as practicable after the end of each financial year, SCSWIS must prepare a report which is—

(a) to provide information on the discharge of SCSWIS's functions during that year, and

(b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.

(2) SCSWIS must—

(a) publish the report,

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

(c) send a copy of the report to the Scottish Ministers.

(3) SCSWIS may publish such other reports and information on matters relevant to the functions of SCSWIS as it considers appropriate.

Commencement Information

I158 Sch. 11 para. 15 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I159 Sch. 11 para. 15 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

SCHEDULE 12 S

(introduced by section 47(2))

CARE SERVICES: DEFINITIONS

1 (1) A "support service" is a service provided, by reason of a person's vulnerability or need (other than vulnerability or need arising by reason only of that person being of a young age), to that person or to someone who cares for that person by—

(a) a local authority;

(b) any person under arrangements made by a local authority;

(c) a health body; or

(d) any person if it includes personal care or personal support.

(2) But—

(a) the expression does not include a care home service, an independent health care service (within the meaning of section 10F of the National Health Service (Scotland) Act 1978 (c. 29)), a service which provides overnight accommodation, an adoption service, a fostering service or a service excepted from this definition by regulations;

(b) paragraphs (c) and (d) do not apply where the provider is a health body acting in exercise of functions conferred by the National Health Service (Scotland) Act 1978 (c. 29);

(c) paragraph (d) does not apply if the provider is an individual who personally and solely gives the care or support in question.

Commencement Information

I160 Sch. 12 para. 1 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

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I161 Sch. 12 para. 1 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

2 A "care home service" is a service which provides accommodation, together with nursing, personal care or personal support, for persons by reason of their vulnerability or need; but the expression does not include—

(a) a hospital;

(b) a public, independent or grant-aided school; or

(c) a service excepted from this definition by regulations.

Commencement Information

I162 Sch. 12 para. 2 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I163 Sch. 12 para. 2 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

3 (1) A "school care accommodation service" is a service which—

(a) consists of the provision of residential accommodation to a pupil in a place in or outwith a public, independent or grant-aided school;

(b) is provided (whether or not during term-time) for the purpose of or in connection with the pupil's attendance at the school (whether current or otherwise); and

(c) is provided to the pupil by—

(i) an education authority or the managers of an independent or grant-aided school; or

(ii) any person under arrangements made between that person and any such authority or managers.

(2) For the purposes of sub-paragraph (1)(c)(i), a service which—

(a) falls within the description given by sub-paragraph (1)(a), (b) and (c)(ii); and

(b) is provided to the pupil in domestic premises,

is to be regarded as being provided by that authority or (as the case may be) those managers.

(3) A service may be excepted from the definition in sub-paragraph (1) by regulations.

Commencement Information

I164 Sch. 12 para. 3 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I165 Sch. 12 para. 3 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

4 A "nurse agency" is a service which consists of or includes supplying, or introducing to persons who use the service, registered nurses, registered midwives or registered health visitors; but a service may be excepted from this definition by regulations.

Commencement Information

I166 Sch. 12 para. 4 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I167 Sch. 12 para. 4 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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5 (1) A "child care agency" is a service which consists of or includes supplying, or introducing to persons who use the service, child carers; but the expression does not include a nurse agency and a service may be excepted from this definition by regulations.

(2) In sub-paragraph (1), "child carer" means a person who—

(a) whether or not for reward; and

(b) whether on a day-to-day or on an occasional basis,

looks after a child wholly or mainly in the home of the child's parents.

Commencement Information

I168 Sch. 12 para. 5 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I169 Sch. 12 para. 5 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

6 A "secure accommodation service" is a service which—

(a) provides accommodation for the purpose of restricting the liberty of children in residential premises where care services are provided; and

(b) is approved by the Scottish Ministers for that purpose.

Commencement Information

I170 Sch. 12 para. 6 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I171 Sch. 12 para. 6 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

7 An "offender accommodation service" is a service which consists of giving advice, guidance or assistance to persons who have been provided with accommodation under subsection (1)(b) or (c) of section 27 of the Social Work (Scotland) Act 1968 (c. 49) (supervision and care of persons put on probation or released from prison etc.); but the expression does not include a support service.

Commencement Information

I172 Sch. 12 para. 7 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I173 Sch. 12 para. 7 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

8 (1) An "adoption service" is any service which is—

(a) provided by a local authority under subsection (1) of section 1 of the Adoption and Children (Scotland) Act 2007 (asp 4); or

(b) provided by a person other than a local authority and which consists of, or includes, services mentioned in subsection (4) of that section (the reference in subsection (5) of that section to a local authority being taken, for the purposes of this paragraph, to be a reference to a person other than a local authority), (whether the person functions generally or in relation to a service provided, under that section).

(2) For the purpose of sub-paragraph (1)(b)—

(a) the making by a person of arrangements for the adoption of a child by a relevant person; or

(b) the placing by a person of a child for adoption with a relevant person,

is not an adoption service.

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(3) In sub-paragraph (2), "relevant person" means—

(a) a parent of the child;

(b) any other relative of the child; or

(c) where a parent of the child is a member of a relevant couple, the other member of the couple.

(4) In sub-paragraph (3)—

"relative" has the meaning given by section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);

"relevant couple" is to be construed in accordance with section 29(3) of that Act.

Commencement Information

I174 Sch. 12 para. 8 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I175 Sch. 12 para. 8 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

9 A "fostering service" is a service which is provided by—

(a) a local authority under paragraph (a) of section 26(1) of the Children (Scotland) Act 1995 (c. 36) (fostering of children looked after by a local authority);

(b) a person other than a local authority and which consists of, or includes, the making of arrangements for or in connection with the performance of functions assigned to a local authority—

(i) under that paragraph; or

(ii) by virtue of section 5(2) to (4) of the Social Work (Scotland) Act 1968 (c. 49) (regulations relating to performance of functions assigned to a local authority under that Act); or

(c) a local authority and which consists of, or includes, the functions assigned to the authority by sections 3 and 8 to 10 of the Foster Children (Scotland) Act 1984 (c. 56) (ensuring well-being etc. of certain privately fostered children).

Commencement Information

I176 Sch. 12 para. 9 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I177 Sch. 12 para. 9 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

10 The services mentioned—

(a) in paragraph 9(a) and (b) and registered under this Part may be collectively referred to as the "Scottish public fostering service";

(b) in paragraph 9(c) and so registered may be collectively referred to as the "Scottish private fostering service".

Commencement Information

I178 Sch. 12 para. 10 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I179 Sch. 12 para. 10 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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11 An "adult placement service" is a service which consists of, or includes, arranging for the provision of accommodation for an adult (that is to say for a person who has attained the age of sixteen years), together with—

(a) personal care;

(b) personal support; or

(c) counselling, or other help, provided other than as part of a planned programme of care,

by reason of the person's vulnerability or need, by placing the person with a family or individual; but a service may be excepted from this definition by regulations.

Commencement Information

I180 Sch. 12 para. 11 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I181 Sch. 12 para. 11 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

12 (1) "Child minding" means, subject to sub-paragraphs (2) and (3) and paragraph 14(a), looking after one or more children on domestic premises for reward and "act as a child minder" is to be construed accordingly; but a service may be excepted from those definitions by regulations.

(2) For the purposes of sub-paragraph (1), a person who—

(a) is the parent, or a relative, of a child;

(b) has parental responsibilities (within the meaning given by section 1(3) of the Children (Scotland) Act 1995 (c. 36)) relating to the child;

(c) is a foster parent with whom a child is placed by a local authority;

(d) maintains a foster child (within the meaning of the Foster Children (Scotland) Act 1984 (c. 56));

[[F83](e) is a person with whom a child is required to reside by virtue of a compulsory supervision order or an interim compulsory supervision order (as defined in sections 83 and 86 of the Children's Hearings (Scotland) Act 2011 (asp 1)),**]**

(f) is a kinship carer (within the meaning of the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210)), of a child,

does not act as a child minder when looking after that child.

(3) For the purposes of sub-paragraph (1), where a person—

(a) looks after a child for the parents of the child and the work consists of looking after the child wholly or mainly in the parents' home; or

(b) looks after a child for the parents of the child (the "first parents") and another child for the different parents of that other child (the "second parents") and the work consists of looking after the children wholly or mainly in the first parents' home or in the second parents' home, or in both those homes,

that work is not child minding.

Textual Amendments

F83 Sch. 12 para. 12(2)(e) substituted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 19(4)**

Commencement Information

I182 Sch. 12 para. 12 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

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I183 Sch. 12 para. 12 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

13 "Day care of children" means, subject to paragraphs 14(b) to 17, a service which consists of any form of care (whether or not provided to any extent in the form of an educational activity), supervised by a responsible person and not excepted from this definition by regulations, provided for children, on premises other than domestic premises, during the day (whether or not it is provided on a regular basis or commences or ends during the hours of daylight).

Commencement Information

I184 Sch. 12 para. 13 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I185 Sch. 12 para. 13 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

14 For the purposes of—

(a) paragraph 12(1), a person does not act as a child minder;

(b) paragraph 13, a person does not provide day care of children,

unless the period, or the total of periods, during which the service is provided exceeds two hours in any day.

Commencement Information

I186 Sch. 12 para. 14 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I187 Sch. 12 para. 14 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

15 (1) Where a person provides a service for children in particular premises on less than six days in any year, that provision is not day care of children for the purposes of paragraph 13 if the person has notified SCSWIS in writing, before the first occasion on which the service is so provided in that year, of the intention so to provide it.

(2) In sub-paragraph (1), "year" means the year beginning with the day on which the service is (after the commencement of this section) first provided in the premises concerned; and thereafter any year beginning with the anniversary of that day.

Commencement Information

I188 Sch. 12 para. 15 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I189 Sch. 12 para. 15 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

16 For the purposes of paragraph 13, a service which consists of looking after children who are patients in a hospital and is provided as part of the medical treatment which they are receiving there is not day care of children.

Commencement Information

I190 Sch. 12 para. 16 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I191 Sch. 12 para. 16 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

17 For the purposes of paragraph 13, a person does not provide day care of children where—

(a) the children are of school age;

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(b) the service is provided—

(i) wholly or mainly in a public, independent or grant-aided school; and

(ii) as part of the school's activities; and

(c) the person is—

(i) the education authority managing the school;

(ii) the person carrying on the school; or

(iii) a person employed to work at the school and authorised to provide the service as part of the school's activities.

Commencement Information

I192 Sch. 12 para. 17 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I193 Sch. 12 para. 17 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

18 Expressions used in paragraph 2(b), 3 or 17 have the meanings given by section 135(1) of the Education (Scotland) Act 1980 (c. 44).

Commencement Information

I194 Sch. 12 para. 18 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I195 Sch. 12 para. 18 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

19 A "housing support service" is a service which provides support, assistance, advice or counselling to a person who has particular needs, with a view to enabling that person to occupy residential accommodation as a sole or main residence; but a service may be excepted from this definition by regulations and such residential accommodation does not include accommodation specified as excepted accommodation in regulations under section 91(9) of the Housing (Scotland) Act 2001 (asp 10).

Commencement Information

I196 Sch. 12 para. 19 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I197 Sch. 12 para. 19 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

20 In this schedule, unless the context otherwise requires—

"someone who cares for" (or "a person who cares for") a person, means someone who, being an individual, provides on a regular basis a substantial amount of care for that person, not having contracted to do so and not doing so for payment or in the course of providing a care service;

"vulnerability or need", in relation to a person, means vulnerability or need arising by reason of that person—

(a) being affected by infirmity or ageing;

(b) being, or having been, affected by disability, illness or mental disorder;

(c) being, or having been, dependent on alcohol or drugs; or

(d) being of a young age;

"personal care" means care which relates to the day to day physical tasks and needs of the person cared for (as for example, but without prejudice to that generality, to eating and washing) and to mental processes related to those

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tasks and needs (as for example, but without prejudice to that generality, to remembering to eat and wash); and

"personal support" means counselling, or other help, provided as part of a planned programme of care.

Commencement Information

I198 Sch. 12 para. 20 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I199 Sch. 12 para. 20 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

SCHEDULE 13 S

(introduced by section 48)

SOCIAL WORK SERVICES FUNCTIONS: SPECIFIED ENACTMENTS

Commencement Information

I200 Sch. 13 in force at 1.10.2010 by S.S.I. 2010/321, art. 3, **Sch.**

Part 4 of the Children and Young Persons (Scotland) Act 1937 (c. 37)

Sections 22(2) to (5A) and (8), 26(2) to (4), 43, 45, 47 and 48 of the National Assistance Act 1948 (c. 29)

Disabled Persons (Employment) Act 1958 (c. 33)

Section 11 of the Matrimonial Proceedings (Children) Act 1958 (c. 40)

Social Work (Scotland) Act 1968 (c. 49)

Social Work (Scotland) Act 1968 as read with sections 1 and 2(1) of the Chronically Sick and Disabled Persons Act 1970 (c. 44) and the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

Children Act 1975 (c. 72)

Sections 21 to 23 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41)

Foster Children (Scotland) Act 1984 (c. 56)

Sections 38(b) and 235 of the Housing (Scotland) Act 1987 (c. 26)

Part 2 of the Children (Scotland) Act 1995 (c. 36)

[F84] …

Section 10 of the Adults with Incapacity (Scotland) Act 2000 (asp 4)

Community Care and Health (Scotland) Act 2002 (asp 5)

Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

Adoption and Children (Scotland) Act 2007 (asp 4)

[[F85]Carers (Scotland) Act 2016**]**

Textual Amendments

F84 Words in sch. 13 repealed (28.8.2024) by Children (Care and Justice) (Scotland) Act 2024 (asp 5), s. 38(3), **sch. para. 23(2)**; S.S.I. 2024/211, reg. 2(j)(iii) (with reg. 3)

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F85 Words in Sch. 13 inserted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **Sch. para. 4**; S.S.I. 2017/152, reg. 4

Textual Amendments

F84 Words in sch. 13 repealed (28.8.2024) by Children (Care and Justice) (Scotland) Act 2024 (asp 5), s. 38(3), **sch. para. 23(2)**; S.S.I. 2024/211, reg. 2(j)(iii) (with reg. 3)

F85 Words in Sch. 13 inserted (1.4.2018) by Carers (Scotland) Act 2016 (asp 9), s. 45(2), **Sch. para. 4**; S.S.I. 2017/152, reg. 4

SCHEDULE 14 S

(introduced by section 106)

SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND: MODIFICATIONS OF ENACTMENTS

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

1 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved bodies)—

(a) the entry relating to the Scottish Commission for the Regulation of Care is repealed,

(b) at the appropriate place, in alphabetical order, insert— " Social Care and Social Work Improvement Scotland ".

Commencement Information

I201 Sch. 14 para. 1 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I202 Sch. 14 para. 1 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Regulation of Care (Scotland) Act 2001 (asp 8)

2 The Regulation of Care (Scotland) Act 2001 is amended as follows.

Commencement Information

I203 Sch. 14 para. 2 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I204 Sch. 14 para. 2 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

3 In section 53(2)(b) (codes of practice), for "the Commission" substitute " Social Care and Social Work Improvement Scotland ".

Commencement Information

I205 Sch. 14 para. 3 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I206 Sch. 14 para. 3 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

4 In section 59 (general principles)—

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(a) in subsection (1) the words “, the Commission” are repealed,

(b) after subsection (4), insert—

“(5) In subsection (2), “care service” means a care service as defined in section 47(1) of the Public Services Reform (Scotland) Act 2010 (asp 8).”.

Commencement Information

I207 Sch. 14 para. 4 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I208 Sch. 14 para. 4 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

5 In section 60 (grants)—

(a) in subsection (1), the words “the Commission or to” are repealed,

(b) in paragraph (a) of that subsection, for “body in question” substitute “ Council ”,

(c) in paragraph (b) of that subsection, for “that body” substitute “ the Council ”.

Commencement Information

I209 Sch. 14 para. 5 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I210 Sch. 14 para. 5 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

6 In section 61 (guarantees)—

(a) in subsection (1), the words “the Commission or” are repealed,

(b) in subsection (4), the words “the Commission, or as the case may be” are repealed.

Commencement Information

I211 Sch. 14 para. 6 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I212 Sch. 14 para. 6 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

7 In section 62 (duty of consultation)—

(a) the words “Commission and the” are repealed,

(b) the word “each” is repealed,

(c) for the words “the other” substitute “ Social Care and Social Work Improvement Scotland ”,

(d) for the words “body exercising the function” substitute “ Council ”.

Commencement Information

I213 Sch. 14 para. 7 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I214 Sch. 14 para. 7 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

8 In section 63 (guidance as to consultation)—

(a) the words “the Commission and to” are repealed,

(b) for the words “body in question” substitute “ Council ”.

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Commencement Information

I215 Sch. 14 para. 8 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I216 Sch. 14 para. 8 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

9 In section 64 (complaints procedure)—

(a) in subsection (1)—

(i) for the words "The Commission and the Council shall each" substitute " The Council shall ",

(ii) for the words "body in question" substitute " Council ",

(b) in subsection (2), for the words "body in question" substitute " Council ",

(c) in subsection (3), for the words "body in question" substitute " Council ",

(d) in subsection (4), for the words "body in question" substitute " Council ".

Commencement Information

I217 Sch. 14 para. 9 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I218 Sch. 14 para. 9 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

10 In section 65 (inquiries)—

(a) in subsection (1)—

(i) in paragraph (a), the words "by the Commission or" are repealed,

(ii) paragraph (b) and the word "or" immediately preceding it are repealed,

(b) subsection (2) is repealed,

(c) in subsection (4), paragraph (b) is repealed,

(d) in subsection (6)—

(i) the words "(2) or" are repealed,

(ii) paragraph (a) and the word "or" immediately following it are repealed,

(e) in subsection (7)—

(i) the words "by the Commission or" are repealed,

(ii) for the words "(2), or as the case may be (3)," substitute " (3) ",

(iii) for the words "body in question" substitute " Council ",

(iv) for the words "that body" substitute " the Council ",

(v) for the word "body", in the third place it occurs, substitute " Council ",

(f) in subsection (9), paragraph (a) and the word "or" immediately following it are repealed.

Commencement Information

I219 Sch. 14 para. 10 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I220 Sch. 14 para. 10 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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Scottish Public Services Ombudsman Act 2002 (asp 11)

11 In Part 2 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (listed authorities)—

(a) paragraph 38 is repealed,

(b) after paragraph 52 insert—

"52A Social Care and Social Work Improvement Scotland.".

Commencement Information

I221 Sch. 14 para. 11 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I222 Sch. 14 para. 11 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

12 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities)—

(a) the entry relating to the Scottish Commission for the Regulation of Care is repealed,

(b) under the heading "Executive bodies" insert, at the appropriate place in alphabetical order— " Social Care and Social Work Improvement Scotland ".

Commencement Information

I223 Sch. 14 para. 12 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I224 Sch. 14 para. 12 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

13 The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.

Commencement Information

I225 Sch. 14 para. 13 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I226 Sch. 14 para. 13 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

14 In section 7 (duty to bring matters generally to the attention of Scottish Ministers and others), for paragraph (f) substitute—

"(f) Social Care and Social Work Improvement Scotland;".

Commencement Information

I227 Sch. 14 para. 14 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I228 Sch. 14 para. 14 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

15 In section 8(3) (duty to bring specific matters to the attention of Scottish Ministers and others etc), for paragraph (k) substitute—

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"(k) Social Care and Social Work Improvement Scotland;".

Commencement Information
I229 Sch. 14 para. 15 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I230 Sch. 14 para. 15 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

16 In section 9(2) (duty to give advice), for paragraph (e) substitute—
"(e) Social Care and Social Work Improvement Scotland;".

Commencement Information
I231 Sch. 14 para. 16 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I232 Sch. 14 para. 16 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

17 In section 17(2) (duties of Scottish Ministers, local authorities and others as respects Commission), for paragraph (i) substitute—
"(i) Social Care and Social Work Improvement Scotland;".

Commencement Information
I233 Sch. 14 para. 17 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I234 Sch. 14 para. 17 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

18 In section 34(3) (inquiries under section 33: co-operation), for paragraph (c) substitute—
"(c) Social Care and Social Work Improvement Scotland;".

Commencement Information
I235 Sch. 14 para. 18 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I236 Sch. 14 para. 18 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Adult Support and Protection (Scotland) Act 2007 (asp 10)

19 The Adult Support and Protection (Scotland) Act 2007 is amended as follows.

Commencement Information
I237 Sch. 14 para. 19 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I238 Sch. 14 para. 19 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

20 In section 5(1) (co-operation), for paragraph (b) substitute—
"(b) SCSWIS,".

Commencement Information
I239 Sch. 14 para. 20 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I240 Sch. 14 para. 20 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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21 In section 42(3) (Adult Protection Committees), for paragraph (b) substitute—

"(b) SCSWIS,".

Commencement Information

I241 Sch. 14 para. 21 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I242 Sch. 14 para. 21 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

22 In section 43 (membership)—

(a) in subsection (2), for "the Care Commission" substitute " SCSWIS ",

(b) in subsection (3), for "The Care Commission" substitute " SCSWIS ".

Commencement Information

I243 Sch. 14 para. 22 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I244 Sch. 14 para. 22 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

23 In section 44(2)(c) (Adult Protection Committee procedure), for "the Care Commission" substitute " SCSWIS ".

Commencement Information

I245 Sch. 14 para. 23 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I246 Sch. 14 para. 23 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

24 In section 45(2)(d) (duty to provide information to Adult Protection Committee), for "the Care Commission" substitute " SCSWIS ".

Commencement Information

I247 Sch. 14 para. 24 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I248 Sch. 14 para. 24 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

25 In section 46(b)(v) (biennial report), for "the Care Commission" substitute " SCSWIS ".

Commencement Information

I249 Sch. 14 para. 25 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I250 Sch. 14 para. 25 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

26 In section 53(1) (interpretation of Part 1)—

(a) the definition of the Care Commission is repealed,

(b) after the definition of "removal order" insert—

""SCSWIS" means Social Care and Social Work Improvement Scotland,".

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Commencement Information

I251 Sch. 14 para. 26 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I252 Sch. 14 para. 26 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)

27 The Protection of Vulnerable Groups (Scotland) Act 2007 is amended as follows.

Commencement Information

I253 Sch. 14 para. 27 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I254 Sch. 14 para. 27 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

28 In section 8 (provision of prescribed information to the Scottish Ministers by certain persons)—

(a) in subsection (2)—

(i) the entry relating to the Scottish Commission for the Regulation of Care in the list of persons to whom the section applies is repealed,

(ii) after the entry in that list relating to the Scottish Social Services Council insert— " Social Care and Social Work Improvement Scotland ",

(b) in subsection (3)—

(i) in paragraph (c), the words "the Scottish Commission for the Regulation of Care and" are repealed,

(ii) in that paragraph, for "the Commission or, as the case may be, the Council" substitute " it ",

(iii) the word "and" immediately following that paragraph is repealed,

(iv) after that paragraph insert—

"(ca) in relation to Social Care and Social Work Improvement Scotland, such functions as are conferred on it by virtue of the 2010 Act and any other enactment, and".

Commencement Information

I255 Sch. 14 para. 28 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I256 Sch. 14 para. 28 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

29 In section 17(5)(c) (information relevant to listing decisions)—

(a) sub-paragraph (x) is repealed,

(b) the word "or" immediately following sub-paragraph (xi) is repealed,

(c) after that sub-paragraph add—

"(xii) Social Care and Social Work Improvement Scotland, or".

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Commencement Information

I257 Sch. 14 para. 29 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I258 Sch. 14 para. 29 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

30 In section 19 (information held by public bodies etc.), in subsection (3)—

(a) the entry relating to the Scottish Commission for the Regulation of Care in the list of persons who may be required to provide information under subsection (1)(b) of that section is repealed,

(b) after the entry in that list relating to the Scottish Social Services Council insert— " Social Care and Social Work Improvement Scotland ".

Commencement Information

I259 Sch. 14 para. 30 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I260 Sch. 14 para. 30 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

31 In section 30(7) (notice of listing, etc)—

(a) the entry relating to the Scottish Commission for the Regulation of Care in the list of persons who are "relevant regulatory bodies" is repealed,

(b) after the entry in that list relating to the Scottish Social Services Council insert— " Social Care and Social Work Improvement Scotland ".

Commencement Information

I261 Sch. 14 para. 31 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I262 Sch. 14 para. 31 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

32 In section 73(d) (consideration of suitability), for the words "the 2001 Act" substitute " Part 5 of the 2010 Act ".

Commencement Information

I263 Sch. 14 para. 32 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I264 Sch. 14 para. 32 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

33 In section 94 (meaning of "protected child")—

(a) in subsection (1)(a), for the words "Part 1 of the 2001 Act" substitute " Part 5 of the 2010 Act ",

(b) in subsection (3), for the words from "paragraphs" to the end of the subsection substitute "—

(a) paragraph (a) of subsection (1) have the same meaning as in schedule 12 to the 2010 Act,

(b) paragraph (b)(i) and (ii) of that subsection have the same meaning as in section 105 of that Act,".

Commencement Information

I265 Sch. 14 para. 33 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I266 Sch. 14 para. 33 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

34 In section 97(1) (general interpretation)—

(a) after the definition of "the 2001 Act" insert—

""the 2010 Act" means the Public Services Reform (Scotland) Act 2010 (asp 8),",

(b) in the definition of "care service", for "the 2001 Act" substitute " Part 5 of the 2010 Act ".

Commencement Information

I267 Sch. 14 para. 34 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I268 Sch. 14 para. 34 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

35 In schedule 2 (regulated work with children)—

F86(a) . . . . . .

(b) in paragraph 9, for "the 2001 Act" substitute " schedule 12 to the 2010 Act ",

(c) in paragraph 11, for "section 2 of the 2001 Act" substitute " schedule 12 to the 2010 Act ".

Textual Amendments

F86 Sch. 14 para. 35(a) repealed (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 21**

Commencement Information

I269 Sch. 14 para. 35 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I270 Sch. 14 para. 35 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, Sch.

36 In schedule 3 (regulated work with adults)—

(a) in paragraph 6, for "the 2001 Act" substitute " schedule 12 to the 2010 Act ",

(b) in paragraph 7—

(i) for "section 25 of the 2001 Act" substitute " Part 5 of the 2010 Act ",

(ii) after "service", where it ninth occurs, insert " and ",

(iii) for the words "the 2001 Act", where they second occur, substitute " schedule 12 to the 2010 Act ",

(c) in the heading to that paragraph, for "the Scottish Commission for the Regulation of Care" substitute " Social Care and Social Work Improvement Scotland ".

Commencement Information

I271 Sch. 14 para. 36 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I272 Sch. 14 para. 36 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Repeals

37 The enactments mentioned in the first column of the following table are repealed to the extent specified in the second column.

Enactment	***Extent of repeal***
Regulation of Care (Scotland) Act 2001 (asp 8)	Parts 1 and 2. Schedule 1.
Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3)	The whole Act.
Adoption and Children (Scotland) Act 2007 (asp 4)	Section 7.

Commencement Information

I273 Sch. 14 para. 37 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I274 Sch. 14 para. 37 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

SCHEDULE 15 S

(introduced by section 107)

SCOTTISH SOCIAL SERVICES COUNCIL: MODIFICATIONS OF REGULATION OF CARE (SCOTLAND) ACT 2001

1 Part 3 of the Regulation of Care (Scotland) Act 2001 (asp 8) (the Scottish Social Services Council) is amended as follows.

Commencement Information

I275 Sch. 15 para. 1 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

2 In section 46 (grant or refusal of registration under Part 3)—

(a) in subsection (2), the words from "or", where it fourth occurs, to the end of the subsection are repealed,

(b) after that subsection insert—

"(2A) Where an application is granted unconditionally—

(a) the Council shall give the applicant notice of its so granting the application; and

(b) registration shall take effect immediately on such notice being given.

(2B) If the Council is not satisfied as mentioned in subsection (2), it shall—

(a) grant the application subject to such conditions as it thinks fit; or

(b) refuse the application.

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2C) The Council shall give the applicant notice of its decision under subsection (2B), which shall—

(a) give the Council's reasons for the decision; and

(b) explain the right of appeal conferred by section 51 of this Act.

(2D) A decision to refuse the application takes effect immediately on notice to that effect being given.

(2E) Notice of a decision to grant the application subject to conditions shall state—

(a) the conditions; and

(b) that, within fourteen days after service of the notice, the applicant may make written representations to the Council concerning any matter which the applicant wishes to dispute.

(2F) Subject to subsections (2G) and (2H), a decision to grant the application subject to conditions takes effect at the end of the fourteen day period mentioned in subsection (2E).

(2G) Where—

(a) the applicant makes such representations as are mentioned in subsection (2E);

(b) the Council, having considered the representations, confirms the decision mentioned in subsection (2F); and

(c) no appeal is brought under section 51 of this Act,

the decision takes effect on the expiry of the fourteen day period mentioned in subsection (A1) of that section for bringing such an appeal.

(2H) Where an appeal against a decision mentioned in subsection (2F) is brought under section 51 of this Act (whether or not such representations as are mentioned in subsection (2E) are also made), the decision takes effect only when the appeal is finally determined or abandoned.”,

(c) subsection (3) is repealed.

Commencement Information

I276 Sch. 15 para. 2 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

3 In section 47 (variation etc. of conditions in relation to registration under Part 3)—

(a) in subsection (1), for “that it proposes” substitute “ of its decision ”,

(b) in subsection (2)—

(i) the words from “give” to the end of the subsection become paragraph (a) of the subsection,

(ii) for “proposal” substitute “ decision ”,

(iii) after paragraph (a) (inserted by paragraph (i) above) add—

“(b) explain the right of appeal conferred by section 51 of this Act; and

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.”.

Commencement Information
I277 Sch. 15 para. 3 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

4 In section 48 (right to make representations to Council as respects proposal)—

(a) in subsection (1), the words “46(2) or” are repealed,

(b) for subsection (2) substitute—

“(2) Subject to subsections (3) and (4), a decision under section 47 of this Act takes effect at the end of the fourteen day period mentioned in subsection (1).

(3) Where—

(a) the person to whom notice under section 47 was given makes such representations as are mentioned in subsection (1);

(b) the Council, having considered the representations, confirms the decision mentioned in that section; and

(c) no appeal is brought under section 51 of this Act,

the decision takes effect on the expiry of the fourteen day period mentioned in subsection (A4) of that section for bringing such an appeal.

(4) Where an appeal against a decision under section 47 is brought under section 51 (whether or not such representations as are mentioned in subsection (1) are also made), the decision takes effect only when the appeal is finally determined or abandoned.”.

Commencement Information
I278 Sch. 15 para. 4 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

5 In the heading to section 48, for “proposal” substitute “ decision under section 47 ”.

Commencement Information
I279 Sch. 15 para. 5 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

6 In section 49 (removal etc. from the Council's register), in subsection (1)(e), for “proposal” substitute “ decision ”.

Commencement Information
I280 Sch. 15 para. 6 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

7 In section 50 (notice of Council's decision)—

(a) subsection (1) is repealed,

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(b) in subsection (2), paragraph (a) and the "or" immediately following it are repealed,

(c) in subsection (3), paragraph (b) is repealed,

(d) in subsection (4)—

(i) at the beginning insert " Subject to subsection (5), ",

(ii) the words from "other" to "application" are repealed,

(iii) in paragraph (a), for the words "referred to in section 51(1) of this Act" substitute " after the giving of a notice under subsection (2) ",

(e) after subsection (4) add—

"(5) A decision in accordance with rules under section 49(1) of this Act to suspend a person's registration in a part of the register maintained under section 44(1) of this Act takes effect immediately on notice of that decision being given.".

Commencement Information

I281 Sch. 15 para. 7 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

8 In the heading to section 50, at the end, add " under rules under section 49 ".

Commencement Information

I282 Sch. 15 para. 8 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

9 In section 51 (appeal against decision of Council)—

(a) before subsection (1) insert—

"(A1) Where—

(a) a person is given notice under subsection (2C) of section 46 of this Act of a decision to grant an application for registration under this Part subject to conditions;

(b) the person makes such representations as are mentioned in subsection (2E) of that section; and

(c) the Council confirms the decision,

the person may, within fourteen days after such confirmation is given, appeal to the sheriff against the decision.

(A2) Where—

(a) a person is given notice under subsection (2C) of section 46 of this Act of a decision to grant an application for registration under this Part subject to conditions; and

(b) no representations such as are mentioned in subsection (2E) of that section are made,

the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.

(A3) Where a person is given notice under subsection (2C) of section 46 of this Act of a decision to refuse an application for registration under this Part, the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(A4) Where—

(a) a person is given notice under section 47(1) of this Act of a decision mentioned in that section;

(b) the person makes such representations as are mentioned in section 48(1) of this Act; and

(c) the Council confirms the decision,

the person may, within fourteen days after such confirmation is given, appeal to the sheriff against the decision.

(A5) Where—

(a) a person is given notice under section 47(1) of this Act of a decision mentioned in that section; and

(b) no representations such as are mentioned in section 48(1) of this Act are made,

the person may, within fourteen days after service of the notice, appeal to the sheriff against the decision.",

(b) in subsection (1), for "that notice is given" substitute " service of the notice ",

(c) in subsection (2)—

(i) for "such an appeal" substitute " an appeal under this section ",

(ii) the "or" immediately following paragraph (a) is repealed,

(iii) after paragraph (b) insert ", or

(c) direct that it shall not have effect and make such other order as the sheriff thinks fit".

Commencement Information

I283 Sch. 15 para. 9 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

10 In section 53 (codes of practice)—

(a) after subsection (3) insert—

"(3A) A social service worker shall, so far as relevant, have regard to any code published under subsection (1) by the Council.

(3B) An employer of a social service worker, or a person seeking to employ such workers, shall, so far as relevant, have regard to any code published under subsection (1) by the Council.",

(b) after subsection (5) insert—

"(6) The Scottish Ministers may give directions (of a general or specific nature) to—

(a) the persons mentioned in paragraph (a) or (b) of subsection (1);

(b) the Council,

in relation to any code so published; and such directions must be complied with.

(7) The Scottish Ministers may vary or revoke any direction given under subsection (6).".

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information
I284 Sch. 15 para. 10 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

11 In section 64 (complaints procedures)—
(a) in subsection (2)—
(i) for "Ministers" substitute " Public Services Ombudsman ",
(ii) the words from "and" to the end of the subsection are repealed,
(b) in subsection (3), for "with such consent" substitute " after such consultation ".

Commencement Information
I285 Sch. 15 para. 11 in force at 1.8.2010 by S.S.I. 2010/221, art. 3(2), **Sch.**

SCHEDULE 16 S

(introduced by section 110(1))

HEALTHCARE IMPROVEMENT SCOTLAND: ESTABLISHMENT ETC.

Commencement Information
I286 Sch. 16 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**
I287 Sch. 16 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**
I288 Sch. 16 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

After Schedule 5 to the National Health Service (Scotland) Act 1978 (c. 29) there is inserted—

"SCHEDULE 5A S

(introduced by section 10A(5))

HEALTHCARE IMPROVEMENT SCOTLAND

Status

1 (1) Healthcare Improvement Scotland is a body corporate.

(2) HIS is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.

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

Membership of HIS

2 (1) HIS is to consist of the following members—
(a) a person appointed by the Scottish Ministers to chair HIS;

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(b) the person appointed under paragraph 2(1)(a) of schedule 11 to the Public Services Reform (Scotland) Act 2010 (asp 8) to chair Social Care and Social Work Improvement Scotland; and

(c) no fewer than 10 nor more than 13 other members appointed by the Scottish Ministers.

(2) The Scottish Ministers may by order amend sub-paragraph (1)(c) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.

(3) In appointing members, the Scottish Ministers are to have regard to the desirability of including—

(a) persons who have experience of, and have shown capacity and capability in, the provision of services provided under the health service or independent health care services;

(b) persons who use, or have used services provided under the health service or independent health care services;

(c) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of HIS's functions.

Terms of appointment etc.

3 (1) Each member of HIS is to be appointed for such period as the Scottish Ministers think fit.

(2) A member—

(a) holds and vacates office in accordance with the terms and conditions of appointment; but

(b) may, by written notice to the Scottish Ministers, resign office as a member.

(3) A person is, on ceasing to be a member, eligible for reappointment.

Removal of members

4 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—

(a) the member—

(i) has been adjudged bankrupt;

(ii) has granted a trust deed for creditors or a composition contract;

(iii) has proposed a voluntary arrangement which has been approved;

(b) the member's estate has been sequestrated;

(c) the member has been absent from 3 consecutive meetings of HIS without the permission of HIS;

(d) the member is otherwise unfit or unable to discharge the functions of a member.

Disqualification from membership

5 A person is disqualified from appointment, and from holding office, as a member of HIS if that person is—

(a) a member of the Scottish Parliament;

(b) a member of the House of Commons;

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(c) a member of the European Parliament.

Remuneration and allowances for members

6 HIS must pay to each of its members such—
(a) remuneration; and
(b) allowances and expenses,
as the Scottish Ministers may determine.

Chief executive and other employees

7 (1) HIS is to employ a chief executive.

(2) The chief executive must be a member of HIS.

(3) The Scottish Ministers are to make the first appointment of the chief executive on such terms and conditions as the Scottish Ministers may determine.

(4) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by HIS on such terms and conditions as HIS may, with such approval, determine.

(5) HIS may (subject to any directions given under sub-paragraph (6)) appoint such other employees on such terms and conditions as HIS may determine.

(6) The Scottish Ministers may give directions to HIS as regards—
(a) the appointment of employees under sub-paragraph (5); and
(b) the terms and conditions of their employment.

(7) HIS may, with the approval of the Scottish Ministers—
(a) pay or make arrangements for the payment;
(b) make payments or contributions towards the provision;
(c) provide and maintain schemes (whether contributory or not) for the payment,
of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of HIS, as it may determine.

(8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

Committees

8 (1) HIS may establish committees for any purpose relating to its functions.

(2) Subject to section 10Z16, HIS is to determine the composition of its committees.

(3) HIS may appoint persons who are not members of HIS to be members of a committee.

(4) A committee of HIS is to comply with any directions given to it by HIS.

Procedure and meetings

9 (1) HIS may determine its own procedure and that of its committees, including a quorum for meetings.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) The validity of any proceedings of HIS, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.

(3) Members of—

(a) the Scottish Executive and persons authorised by the Scottish Ministers;

(b) Social Care and Social Work Improvement Scotland and persons authorised by it,

may attend and take part in meetings of HIS or any of its committees, but are not entitled to vote at such meetings.

General powers

10 (1) HIS may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.

(2) In particular, HIS may—

(a) enter into contracts;

(b) with the consent of the Scottish Ministers—

(i) borrow money;

(ii) acquire and dispose of land;

(iii) borrow sums in sterling by way of overdraft for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

Delegation of functions

11 (1) HIS may, subject to sub-paragraphs (2) and (3) authorise—

(a) the chief executive;

(b) any other employee;

(c) any of its committees,

to exercise such of its functions, and to such extent, as it may determine.

(2) HIS may not authorise any of the following functions to be exercised by any other person—

(a) the approval of annual reports and accounts;

(b) the approval of any budget or other financial plan.

(3) Sub-paragraph (1) does not affect the responsibility of HIS for the exercise of its functions.

Location of office

12 HIS's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

Accounts

13 (1) HIS must—

(a) keep proper accounts and accounting records;

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

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(c) send a copy of the statement to the Scottish Ministers,

and must do so in accordance with any directions the Scottish Ministers may give.

(2) HIS must send the statement of accounts to the Auditor General for Scotland for auditing.

Reports

14 (1) As soon as practicable after the end of each financial year, HIS must prepare a report which is—

(a) to provide information on the discharge of HIS's functions during that year; and

(b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.

(2) HIS must—

(a) publish the report;

(b) lay a copy of the report before the Scottish Parliament;

(c) send a copy of the report to the Scottish Ministers.

(3) HIS may publish such other reports and information on matters relevant to the functions of HIS as it considers appropriate.”.

SCHEDULE 17 S

(introduced by section 110(2))

HEALTHCARE IMPROVEMENT SCOTLAND: MODIFICATIONS OF ENACTMENTS

National Health Service (Scotland) Act 1978 (c. 29)

1 The National Health Service (Scotland) Act 1978 is amended as follows.

Commencement Information

I289 Sch. 17 para. 1 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I290 Sch. 17 para. 1 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

2 In section 2A (duty of Health Boards and others to promote health improvement)—

(a) in subsection (1) after “of”, where it second occurs, insert “ HIS and ”,

(b) in subsection (2) for “or the Agency” substitute “ the Agency or HIS ”,

(c) in subsection (3) for “or the Agency” substitute “ , the Agency or HIS ”.

Commencement Information

I291 Sch. 17 para. 2 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I292 Sch. 17 para. 2 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

3 In the title to that section, for “and the Agency” substitute “ , the Agency and HIS ”.

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I293 Sch. 17 para. 3 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I294 Sch. 17 para. 3 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

4 In section 2D (equal opportunities), in subsection (1), for "and the Agency" substitute " , the Agency and (as respects its health service functions only) HIS ".

Commencement Information

I295 Sch. 17 para. 4 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I296 Sch. 17 para. 4 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

5 In section 13 (co-operation between Health Boards and other authorities), after "Boards," insert " HIS (as respects its health service functions only), ".

Commencement Information

I297 Sch. 17 para. 5 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I298 Sch. 17 para. 5 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

6 In section 13A (co-operation in planning of services for disabled persons, the elderly and others), in subsection (1), after "section" where it third occurs insert " (including HIS) ".

Commencement Information

I299 Sch. 17 para. 6 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I300 Sch. 17 para. 6 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

7 In section 15 (supply of goods and services to local authorities, etc.)—

(a) after subsection (1), insert—

"(1A) Paragraphs (b) to (e) of subsection (1) apply to HIS (in respect of the exercise of its health service functions only) as they apply to a Health Board.",

(b) in subsection (2), after "subsection (1)", insert " (including paragraph (b) as applied by subsection (1A)) ".

Commencement Information

I301 Sch. 17 para. 7 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I302 Sch. 17 para. 7 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

8 In section 17A (NHS contracts), after subsection (2)(b) insert—

"(ba) HIS;".

Commencement Information

I303 Sch. 17 para. 8 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

***Changes to legislation:** Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

I304 Sch. 17 para. 8 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

9 In section 77 (default powers), in subsection (1)—

(a) the word "or" immediately following paragraph (a) is repealed,

(b) after paragraph (c) insert "; or

(d) HIS,".

Commencement Information

I305 Sch. 17 para. 9 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I306 Sch. 17 para. 9 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

10 In section 78A (powers in case of service failure)—

(a) in subsection (4)—

(i) the word "or" immediately following paragraph (b) is repealed,

(ii) after paragraph (c) insert ", or

(d) HIS.",

(b) in subsection (5)(a), for "or the Agency" substitute " , the Agency or HIS. ".

Commencement Information

I307 Sch. 17 para. 10 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I308 Sch. 17 para. 10 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

11 In section 79 (purchase of land and moveable property), in subsection (3), for "or the Agency" substitute " , the Agency or (in connection with the exercise of its health service functions only) HIS ".

Commencement Information

I309 Sch. 17 para. 11 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I310 Sch. 17 para. 11 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

12 In section 83 (power of Health Boards and local health councils to hold property on trust)—

(a) in subsection (1), after "Board" insert " , and HIS, ",

(b) after that subsection insert—

"(1ZA) Any reference in subsection (1) to a function of HIS is to be construed as a reference to that body's health service functions only.".

Commencement Information

I311 Sch. 17 para. 12 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I312 Sch. 17 para. 12 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

13 In section 84 (power of trustees to make payments to Health Boards)—

(a) in subsection (1)—

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(i) after "Board", where it second occurs, insert " or (in connection with the exercise of its health service functions only) by HIS ",

(ii) after "concerned" insert " or, as the case may be, to HIS ",

(b) in subsection (3), after "Board" insert " or to HIS ".

Commencement Information

I313 Sch. 17 para. 13 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I314 Sch. 17 para. 13 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

14 In section 84A (power to raise money, etc. by appeals, collections, etc.)—

(a) in subsection (1), after "Board" insert " or (in connection with the exercise of its health service functions only) HIS ",

(b) in subsection (3), after "power" insert " or, as the case may be, by or for the benefit of HIS, ",

(c) after subsection (4) insert—

"(4A) Subsection (4) applies (subject to the subsections mentioned there) to HIS in respect of property given in pursuance of this section as it applies to a Health Board in respect of such property given at the instance of the Health Board.",

(d) in subsection (5)—

(i) after "Board", where it first occurs, insert " or by HIS ",

(ii) at the end insert " or, as the case may be, of HIS as HIS thinks fit. ",

(e) in subsection (6)—

(i) after "Board", where it first occurs, insert " or by HIS ",

(ii) in paragraph (a) after "Board" insert " or, as the case may be, HIS ",

(iii) in paragraph (b) after "Board", where it first occurs, insert " or by HIS ",

(iv) at the end insert " or, as the case may be, any of the health service functions of HIS as HIS thinks fit. ",

(f) in subsection (7), after "Board" insert " or, as the case may be, HIS ".

Commencement Information

I315 Sch. 17 para. 14 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I316 Sch. 17 para. 14 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

15 In section 85AA (means of meeting expenditure of Health Boards out of public funds)—

(a) in subsection (3)—

(i) after "Board", where it first occurs, insert " and to HIS ",

(ii) after "Board", where it second occurs, insert " or, as the case may be, HIS ",

(b) in subsection (4)(a) after "functions" insert " or, as the case may be, by HIS of its health service functions, ",

(c) in subsection (6) after "Board" insert " or to HIS ",

(d) in subsection (8)—

(i) after "Board", where it first occurs, insert " or to HIS ",

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(ii) after "subsection" insert " and HIS, when directions are so given to it, ".

Commencement Information

I317 Sch. 17 para. 15 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I318 Sch. 17 para. 15 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

16 In section 85 (expenses of certain bodies)—

(a) in subsection (1), after paragraph (e) insert—

"(ea) HIS;",

(b) after that subsection insert—

"(1A) The reference in subsection (1) to the functions of HIS is to be construed as a reference to that body's health service functions only.".

Commencement Information

I319 Sch. 17 para. 16 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I320 Sch. 17 para. 16 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

17 In section 85A (financial duties of bodies referred to in section 85)—

(a) after subsection (1) insert—

"(1A) References to "functions" in subsection (1) are, in the application of that subsection to HIS, to be construed as references to HIS's health service functions only.",

(b) in subsection (4)(a), after "Board" insert " , HIS ".

Commencement Information

I321 Sch. 17 para. 17 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I322 Sch. 17 para. 17 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

18 In section 85B (schemes for meeting losses and liabilities etc. of certain health service bodies)—

(a) in subsection (2), after paragraph (e) insert—

"(ea) HIS;",

(b) after that subsection insert—

"(2A) The reference—

(a) in paragraph (a) of subsection (1) to property of HIS is to be construed as a reference to property held by HIS in connection with the exercise of its health service functions;

(b) in paragraph (b) of that subsection to the functions of HIS is to be construed as a reference to the health service functions of that body.",

(c) in subsection (3)(a), after "Agency" insert " HIS ",

(d) in subsection (4)(b), after "Agency" insert " , HIS ".

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Commencement Information

I323 Sch. 17 para. 18 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I324 Sch. 17 para. 18 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

19 In section 86 (accounts of Health Boards and the Agency)—

(a) in subsection (1)—

(i) after paragraph (b) insert—

"(ba) HIS;",

(ii) after "them" insert " (in the case of HIS, in connection with the exercise of that body's health service functions only) ",

(b) in each of subsections (3) and (4), for "and (b)" substitute " , (b) and (ba) ".

Commencement Information

I325 Sch. 17 para. 19 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I326 Sch. 17 para. 19 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

20 In section 87 (regulation of financial arrangements of Health Boards)—

(a) in subsection (1), after "Agency" insert " HIS ",

(b) after subsection (3) add—

"(4) In relation to HIS, the references—

(a) in subsection (1) to payments;

(b) in subsection (2) to arrangements and affairs; and

(c) in subsection (3) to affairs,

are to be construed as references to payments, arrangements and affairs for or in connection with the exercise by HIS of its health service functions only.".

Commencement Information

I327 Sch. 17 para. 20 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I328 Sch. 17 para. 20 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

21 In section 105 (orders, regulations and directions), in subsection (3)—

(a) after "under", where it first occurs, insert " section 10O, section 10Z7 or ",

(b) after "under", where it second occurs, insert " section 10G, 10Z16(3) or ".

Commencement Information

I329 Sch. 17 para. 21 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I330 Sch. 17 para. 21 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

22 In section 108 (interpretation and construction), after the definition of "health service hospital" insert—

""HIS" has the meaning indicated in section 10A;".

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Commencement Information

I331 Sch. 17 para. 22 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I332 Sch. 17 para. 22 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

National Health Service and Community Care Act 1990 (c. 19)

23 In the National Health Service and Community Care Act 1990, in subsection (7) of section 60 (removal of Crown immunity), after paragraph (b) insert—

"(ba) Healthcare Improvement Scotland established under section 10A of that Act;".

Commencement Information

I333 Sch. 17 para. 23 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I334 Sch. 17 para. 23 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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

24 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies)—

(a) the entry relating to NHS Quality Improvement Scotland is repealed,

(b) at an appropriate place, in alphabetical order, insert— " Healthcare Improvement Scotland ".

Commencement Information

I335 Sch. 17 para. 24 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I336 Sch. 17 para. 24 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Scottish Public Services Ombudsman Act 2002 (asp 11)

25 In Part 1 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (listed authorities), after paragraph 4(f) add—

"(g) Healthcare Improvement Scotland".

Commencement Information

I337 Sch. 17 para. 25 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I338 Sch. 17 para. 25 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

26 In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (specified authorities), under the heading "National Health Service bodies", at the appropriate place in alphabetical order, insert— " Healthcare Improvement Scotland ".

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Commencement Information

I339 Sch. 17 para. 26 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I340 Sch. 17 para. 26 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

27 The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.

Commencement Information

I341 Sch. 17 para. 27 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I342 Sch. 17 para. 27 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

28 In section 7 (duty to bring matters generally to the attention of Scottish Ministers and others), after paragraph (e) insert—

"(ea) Healthcare Improvement Scotland;".

Commencement Information

I343 Sch. 17 para. 28 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I344 Sch. 17 para. 28 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

29 In section 8(3) (duty to bring specific matters to the attention of Scottish Ministers and others etc), after paragraph (j) insert—

"(ja) Healthcare Improvement Scotland;".

Commencement Information

I345 Sch. 17 para. 29 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I346 Sch. 17 para. 29 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

30 In section 9(2) (duty to give advice), after paragraph (d) insert—

"(da) Healthcare Improvement Scotland;".

Commencement Information

I347 Sch. 17 para. 30 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I348 Sch. 17 para. 30 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

31 In section 17(2) (duties of Scottish Ministers, local authorities and others as respects Commission), after paragraph (h) insert—

"(ha) Healthcare Improvement Scotland;".

Commencement Information

I349 Sch. 17 para. 31 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I350 Sch. 17 para. 31 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

32 In section 34(3) (inquiries under section 33: co-operation), after paragraph (b) insert—

"(ba) Healthcare Improvement Scotland;".

Commencement Information

I351 Sch. 17 para. 32 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I352 Sch. 17 para. 32 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Smoking, Health and Social Care (Scotland) Act 2005 (asp 13)

33 In section 30 of the Smoking, Health and Social Care (Scotland) Act 2005 (implementation of certain decisions under the Regulation of Care (Scotland) Act 2001), subsection (2) is repealed.

Commencement Information

I353 Sch. 17 para. 33 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I354 Sch. 17 para. 33 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Human Tissue (Scotland) Act 2006 (asp 4)

34 In section 13 of the Human Tissue (Scotland) Act 2006 (preservation for transplantation), in subsection (5), in the definition of registered independent health care services, for the words from "section 2(5)" to the end of the definition substitute " section 10E of the National Health Service (Scotland) Act 1978 (c. 29)) registered under section 10P of that Act; ".

Commencement Information

I355 Sch. 17 para. 34 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I356 Sch. 17 para. 34 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Adult Support and Protection (Scotland) Act 2007 (asp 10)

35 In the Adult Support and Protection (Scotland) Act 2007—

(a) in section 5 (co-operation), in subsection (1), after paragraph (b) insert—

"(ba) Healthcare Improvement Scotland,",

(b) in section 42 (Adult Protection Committees), in subsection (3), after paragraph (b) insert—

"(ba) Healthcare Improvement Scotland,".

Commencement Information

I357 Sch. 17 para. 35 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I358 Sch. 17 para. 35 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)

36 In the Protection of Vulnerable Groups (Scotland) Act 2007—

(a) in section 8 (provision of prescribed information to the Scottish Ministers by certain persons)—

(i) in subsection (2), after the entry relating to the General Teaching Council for Scotland in the list of persons to whom the section applies insert— " Healthcare Improvement Scotland ",

(ii) in subsection (3), after paragraph (a) insert—

"(aa) in relation to Healthcare Improvement Scotland, such functions as are conferred on it by virtue of the National Health Service (Scotland) Act 1978 (c. 29) and any other enactment,",

(b) in section 19 (information held by public bodies etc.), in subsection (3), after the entry relating to Health Boards and Special Health Boards in the list of persons who may be required to provide information under subsection (1)(b) of that section insert— " Healthcare Improvement Scotland ",

(c) in section 30 (notice of listing), in subsection (7), after the entry relating to the General Teaching Council for Scotland in the list of persons who are "relevant regulatory bodies" insert— " Healthcare Improvement Scotland ",

(d) in section 94 (meaning of "protected adult"), in subsection (3), after paragraph (b) add—

"(c) paragraph (b)(iii) to (vi) of that subsection have the same meanings as in section 10F of the National Health Service (Scotland) Act 1978 (c. 29).",

(e) in schedule 2 (regulated work with children), in paragraph 10, for "the 2001 Act" substitute " section 10F of the National Health Service (Scotland) Act 1978 (c. 29) ",

(f) in schedule 3 (regulated work with adults), in paragraph 7—

(i) after "of", where it second occurs, insert " section 10J or 10M of the National Health Service (Scotland) Act 1978 (c. 29) or ",

(ii) the words ", and "independent health care service"" are repealed,

(iii) at the end add " ; and "independent health care service" has the same meaning as in section 10F of the National Health Service (Scotland) Act 1978. ",

(g) in the heading to that paragraph of schedule 3, after the word "Scotland" (inserted by schedule 14), add " and Healthcare Improvement Scotland ".

Commencement Information

I359 Sch. 17 para. 36 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I360 Sch. 17 para. 36 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

Public Health etc. (Scotland) Act 2008 (asp 5)

37 In the Public Health etc. (Scotland) Act 2008—

(a) in section 6 (duty of health boards and local authorities to co-operate with certain persons), in subsection (2), after paragraph (d) insert—

"(da) Healthcare Improvement Scotland;",

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(b) in section 117 (disclosure of information), in subsection (8), after paragraph (d) insert—

"(da) Healthcare Improvement Scotland;".

Commencement Information

I361 Sch. 17 para. 37 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I362 Sch. 17 para. 37 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

SCHEDULE 18 S

(introduced by section 111)

THE MENTAL WELFARE COMMISSION FOR SCOTLAND: MODIFICATIONS OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

1 In section 326(4)(a) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), for "3(3)" substitute " 2A(2) or 7A(4) ".

Commencement Information

I363 Sch. 18 para. 1 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I364 Sch. 18 para. 1 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I365 Sch. 18 para. 1 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

2 Schedule 1 to that Act is amended as follows.

Commencement Information

I366 Sch. 18 para. 2 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I367 Sch. 18 para. 2 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I368 Sch. 18 para. 2 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

3 Paragraphs 3, 4 and 5 are repealed.

Commencement Information

I369 Sch. 18 para. 3 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I370 Sch. 18 para. 3 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I371 Sch. 18 para. 3 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

4 After paragraph 2 insert—

"Membership

2A (1) The Commission is to consist of the following members—

(a) a person appointed by the Scottish Ministers to chair the Commission; and

(b) no fewer than 6 nor more than 8 other members appointed by the Scottish Ministers.

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(2) The Scottish Ministers may by order amend sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.

2B (1) In appointing members, the Scottish Ministers are to have regard to the desirability of including—

(a) persons who have experience of, and have shown capacity and capability in, the provision of services to those who have a mental disorder;

(b) persons who use, or have used, such services;

(c) persons who are, or have been, carers of those who have a mental disorder;

(d) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of the Commission's functions.

(2) In appointing members under paragraph 2A(1)(b), the Scottish Ministers must appoint at least—

(a) one person who falls within paragraph (b) of sub-paragraph (1) of this paragraph; and

(b) one person who falls within paragraph (c) of sub-paragraph (1) of this paragraph.

Terms of appointment etc.

2C (1) Each member of the Commission is to be appointed for such period as the Scottish Ministers think fit.

(2) A member—

(a) holds and vacates office in accordance with the terms and conditions of appointment; but

(b) may, by written notice to the Scottish Ministers, resign office as a member.

(3) A person is, on ceasing to be a member, eligible for reappointment.

Removal of members

2D The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—

(a) the member—

(i) has been adjudged bankrupt;

(ii) has granted a trust deed for creditors or a composition contract;

(iii) has proposed a voluntary arrangement which has been approved;

(b) the member's estate has been sequestrated;

(c) the member has been absent from 3 consecutive meetings of the Commission without the permission of the Commission;

(d) the member is otherwise unfit or unable to discharge the functions of a member.

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Disqualification from membership

2E A person is disqualified from appointment, and from holding office, as a member of the Commission if that person is—

(a) a member of the Scottish Parliament;

(b) a member of the House of Commons;

(c) a member of the European Parliament.”.

Commencement Information

I372 Sch. 18 para. 4 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I373 Sch. 18 para. 4 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I374 Sch. 18 para. 4 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

5 In paragraph 7—

(a) in sub-paragraph (1), after “below” insert “ and paragraph 10A ”,

(b) in sub-paragraph (1)(a), for “officer” substitute “ executive ”,

(c) in sub-paragraph (3), for “officer” substitute “ executive ”,

(d) in sub-paragraph (4), for “officer” substitute “ executive ”.

Commencement Information

I375 Sch. 18 para. 5 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I376 Sch. 18 para. 5 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I377 Sch. 18 para. 5 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

6 In the title to paragraph 7, for “officer” substitute “ executive ”.

Commencement Information

I378 Sch. 18 para. 6 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I379 Sch. 18 para. 6 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I380 Sch. 18 para. 6 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

7 After paragraph 7 insert—

“Commission Visitors

7A (1) The Commission must appoint such staff, employed under paragraph 7(1)(a) or (b), to exercise the functions of Commission Visitors; and when doing so those staff are to be known as Commission Visitors.

(2) The Commission may arrange for such other persons as it thinks fit to be appointed as and exercise the functions of Commission Visitors; and when doing so those persons are to be known as Commission Visitors.

(3) There may be no more than 10 Commission Visitors appointed by the Commission under sub-paragraph (2).

Changes to legislation: *Public Services Reform (Scotland) Act 2010 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) The Scottish Ministers may by order amend sub-paragraph (3) by substituting for the maximum number of Commission Visitors for the time being specified there such other number as they think fit.

(5) In appointing Commission Visitors, the Commission is to have regard to the desirability of appointing—

(a) persons who have experience of, and have shown capacity and capability in, the provision of services to those who have a mental disorder;

(b) persons who use, or have used, such services;

(c) persons who are, or have been, carers of those who have a mental disorder;

(d) persons who have such other skills, knowledge or experience as the Commission considers to be relevant in relation to the exercise of the functions of Commission Visitors.

(6) In appointing Commission Visitors, the Commission must appoint at least—

(a) one person who falls within paragraph (b) of sub-paragraph (5); and

(b) one person who falls within paragraph (c) of sub-paragraph (5).

(7) In this Act (unless the context otherwise requires), any reference to a function of a Commission Visitor (or the functions of Commission Visitors) is a reference to a function conferred by this Act or any other enactment.

Commission Visitors: further provision

7B (1) The arrangements entered into by virtue of paragraph 7A(2) may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.

(2) Persons appointed as Commission Visitors by virtue of paragraph 7A(2) are not members of staff of the Commission.

Medical Visitors

7C (1) In appointing Commission Visitors, the Commission must appoint one or more persons who have such qualifications, training and experience as may be prescribed by regulations for the purposes of carrying out the functions of Commission Visitors under section 15 of this Act.

(2) Persons so appointed may also be known as Medical Visitors.

Committees

7D (1) The Commission may establish committees for any purpose relating to its functions.

(2) Subject to sub-paragraph (7), the Commission is to determine the composition of its committees.

(3) The Commission may appoint persons who are not members of the Commission to be members of a committee.

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(4) A committee of the Commission is to comply with any directions given to it by the Commission.

(5) The Commission must establish at least one committee (an "advisory committee") for the purpose of giving advice to it about matters connected to its functions.

(6) In considering how to exercise its functions, the Commission must have regard to relevant advice and information given to it by any advisory committee (whether or not given at its request).

(7) An advisory committee must include persons of a description as may be prescribed by regulations.

Procedure and meetings

7E (1) The Commission may determine its own procedure and that of its committees, including a quorum for meetings.

(2) The validity of any proceedings of the Commission, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.

(3) Members of the Scottish Executive and persons authorised by the Scottish Ministers may attend and take part in meetings of the Commission or any of its committees, but are not entitled to vote at such meetings.

Exercise of certain functions etc.

7F (1) A member of the Commission may not—
(a) exercise the functions of a Commission Visitor;
(b) be appointed as a Commission Visitor.

(2) The chief executive may not be a member of the Commission.

(3) A member of staff of the Commission (other than a Commission Visitor) may not exercise the functions of a Commission Visitor.

(4) An appointment as a Commission Visitor under paragraph 7A(1) does not affect the appointed person's—
(a) status as employed under paragraph 7(1)(a) or (b); or
(b) ability to perform the duties of the person as so employed.

Delegation of functions

7G (1) The Commission may, subject to sub-paragraphs (2), (3) and (4), authorise—
(a) the chief executive;
(b) any other employee;
(c) any of its committees,
to exercise such of its functions, and to such extent, as it may determine.

(2) The Commission may not authorise any of the following functions to be exercised by any other person—

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(a) the functions of the Commission under section 12 (investigations: further provision);

(b) the approval of any acquisition or disposal of land or other property with a value greater than £50,000 or such other amount as the Commission may, with the consent of the Scottish Ministers, determine;

(c) the approval of annual reports and accounts;

(d) the approval of any budget or other financial plan.

(3) Any function conferred on a Commission Visitor may not be delegated by the Commission.

(4) Sub-paragraph (1) does not affect the responsibility of the Commission for the exercise of its functions.

(5) The chief executive may, with the consent of the Commission, authorise—

(a) any other employee;

(b) any of the Commission's committees,

to exercise such of the chief executive's functions, and to such extent, as the chief executive, with such consent, may determine.

(6) Sub-paragraph (5) does not affect the responsibility of the chief executive for the exercise of the chief executive's functions.

Mandatory delegation of functions to chief executive

7H (1) The Commission must delegate to the chief executive the functions mentioned in sub-paragraph (2).

(2) The functions are—

(a) the Commission's functions relating to the discharge of patients under this Act;

(b) the Commission's functions under section 73 of the Adults with Incapacity (Scotland) Act 2000 (asp 4).

(3) When exercising those functions so delegated, the chief executive must—

(a) consult the Commission;

(b) consult a Commission Visitor in every case in which it appears to the chief executive appropriate to do so;

(c) have regard to any relevant guidance issued by the Commission.

(4) Sub-paragraph (1) does not affect the responsibility of the Commission for the exercise of its functions.

Location of office

7I The Commission's determination of the location of its office premises is subject to the approval of the Scottish Ministers.”.

Commencement Information

I381 Sch. 18 para. 7 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I382 Sch. 18 para. 7 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

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I383 Sch. 18 para. 7 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

8 Paragraph 8 is repealed.

Commencement Information

I384 Sch. 18 para. 8 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I385 Sch. 18 para. 8 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I386 Sch. 18 para. 8 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

9 After paragraph 10 insert—

"Transitional provision: first chief executive

10A (1) The person who, immediately before the coming into force of this paragraph, holds (by virtue of paragraph 7) the post of chief officer of the Commission becomes the first chief executive of the Commission.

(2) But if—

(a) there is no person holding that post immediately before the coming into force of this paragraph; or

(b) the person holding the post immediately before the coming into force of this paragraph is unwilling or unable to be the chief executive,

the Scottish Ministers are to make the first appointment of the chief executive of the Commission on such terms and conditions as the Scottish Ministers may determine.

(3) Each subsequent chief executive is appointed in accordance with paragraph 7.

(4) Where sub-paragraph (1) applies, the person becoming the first chief executive of the Commission does so on the terms and conditions which applied to the post of chief officer held by that person.

Transitional provision: Commissioners

10B Any person who, immediately before the coming into force of this paragraph, is a member of the Commission (including any ex officio members) by virtue of paragraph 3 ceases automatically to hold office as such a member.".

Commencement Information

I387 Sch. 18 para. 9 in force at 1.8.2010 for specified purposes by S.S.I. 2010/221, art. 3(2)(3), **Sch.**

I388 Sch. 18 para. 9 in force at 1.10.2010 for specified purposes by S.S.I. 2010/321, art. 3, **Sch.**

I389 Sch. 18 para. 9 in force at 1.4.2011 in so far as not already in force by S.S.I. 2011/122, art. 2, **Sch.**

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SCHEDULE 19 S

(introduced by section 112)

SCRUTINY FUNCTIONS: PERSONS ETC. SUBJECT TO USER FOCUS DUTY

Commencement Information

I390 Sch. 19 in force at 1.10.2010 by S.S.I. 2010/321, art. 3, **Sch.**

Accounts Commission for Scotland

Drinking Water Quality Regulator for Scotland

[[F87]Food Standards Scotland**]**

Healthcare Improvement Scotland

[[F88]Her Majesty's Inspectors of Constabulary appointed under section 71 of the Police and Fire Reform (Scotland) Act 2012 (asp 8)**]**

[[F89]Her Majesty's Chief Inspector of the Scottish Fire and Rescue Service, Her Majesty's Inspectors of the Scottish Fire and Rescue Service and Assistant Inspectors of the Scottish Fire and Rescue Service appointed under section 43A of the Fire (Scotland) Act 2005 (asp 5)**]**

Her Majesty's Chief Inspector of Prisons for Scotland

Her Majesty's Chief Inspector of Prosecution in Scotland

Her Majesty's inspectors of schools (that is to say, the inspectors of schools appointed by Her Majesty under the Education (Scotland) Act 1980 (c. 44))

Mental Welfare Commission for Scotland

Office of the Scottish Charity Regulator

[[F90]Scottish housing regulator **]**

Scottish Road Works Commissioner

Social Care and Social Work Improvement Scotland

Textual Amendments

F87 Sch. 19 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(b)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

F88 Sch. 19 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(6)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F89 Sch. 19 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(4)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F90 Sch. 19 entry inserted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 15(3)**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

Textual Amendments

F87 Sch. 19 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(b)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

F88 Sch. 19 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(6)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F89 Sch. 19 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 72(4)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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F90 Sch. 19 entry inserted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 15(3)**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

SCHEDULE 20 S

(introduced by section 114)

SCRUTINY FUNCTIONS: PERSONS ETC. SUBJECT TO DUTY OF CO-OPERATION

Commencement Information

I391 Sch. 20 in force at 1.10.2010 by S.S.I. 2010/321, art. 3, **Sch.**

Accounts Commission for Scotland

[[F91]Food Standards Scotland**]**

Healthcare Improvement Scotland

[[F92]Her Majesty's Inspectors of Constabulary appointed under section 71 of the Police and Fire Reform (Scotland) Act 2012 (asp 8)**]**

[F93]…

Her Majesty's Chief Inspector of Prisons for Scotland

Her Majesty's Chief Inspector of Prosecution in Scotland

Her Majesty's inspectors of schools (that is to say, the inspectors of schools appointed by Her Majesty under the Education (Scotland) Act 1980 (c. 44))

Mental Welfare Commission for Scotland

[[F94]Scottish Housing Regulator **]**

Social Care and Social Work Improvement Scotland

Textual Amendments

F91 Sch. 20 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(c)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

F92 Sch. 20 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(7)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F93 Sch. 20 entry repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F94 Sch. 20 entry inserted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 15(4)**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

Textual Amendments

F91 Sch. 20 entry inserted (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 17(5)(c)**, 63(2) (with s. 62); S.S.I. 2015/99, art. 2

F92 Sch. 20 entry substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 40(7)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F93 Sch. 20 entry repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F94 Sch. 20 entry inserted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 15(4)**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

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View outstanding changes

Changes and effects yet to be applied to :

- s. 50(2) words inserted by 2024 asp 5 s. 28(2)(b)
- s. 50(3) words inserted by 2024 asp 5 s. 28(2)(c)
- s. 50(4) words substituted by 2024 asp 5 s. 28(2)(d)
- s. 50(5) words substituted by 2024 asp 5 s. 28(2)(e)
- s. 50(7) words inserted by 2024 asp 5 s. 28(2)(f)
- s. 104(2) words substituted by 2024 asp 5 s. 27(3)
- s. 105(1) words inserted by 2024 asp 5 s. 28(5)(a)
- s. 105(1) words inserted by 2024 asp 5 s. 28(5)(b)
- s. 105(1) words inserted by 2024 asp 5 s. 28(5)(c)
- s. 108 coming into force by S.S.I. 2024/131 art. 2sch. 2
- s. 109 coming into force by S.S.I. 2024/131 art. 2sch. 2
- s. 110 coming into force by S.S.I. 2024/131 art. 2sch. 2
- sch. 5 words inserted by 2024 asp 13 sch. para. 4(2)
- sch. 5 words inserted by S.S.I. 2024/190 art. 3
- sch. 8 words inserted by 2024 asp 13 sch. para. 4(3)
- sch. 8 words inserted by S.S.I. 2024/188 reg. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by S.I. 2011/1043 art. 34

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 50(1A)(1B) inserted by 2024 asp 5 s. 28(2)(a)
- s. 59A inserted by 2024 asp 5 s. 28(3)
- s. 78(2A)(2B) inserted by 2024 asp 5 s. 28(4)
- s. 78A inserted by 2024 asp 5 s. 27(2)
- s. 190(1) words substituted by 2024 asp 5 s. 29(2)(a)
- s. 190(2)(2A) substituted for s. 190(2) by 2024 asp 5 s. 29(2)(b)
- sch. 12 para. 6-6B substituted for Sch. 12 para. 6 by 2024 asp 5 s. 27(4)