***Status:*** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

# Public Appointments and Public Bodies etc. (Scotland) Act 2003

**2003 asp 4**

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 5th February 2003 and received Royal Assent on 11th March 2003**

An Act of the Scottish Parliament to establish the office of Commissioner for Public Appointments in Scotland; to make provision in respect of appointments to certain public bodies; to dissolve certain public bodies; to make provision as to certain functions of Health Boards and National Health Service trusts; to make provision as to the functions of the Law Society of Scotland and the Scottish Solicitors' Discipline Tribunal regarding the regulation of conveyancing and executry practitioners and the provision of services by such practitioners; to make modifications in relation to those services, including conferring certain notarial and other functions on such practitioners; to establish the Historic Environment Advisory Council for Scotland; and for connected purposes.

## PART 1

### THE COMMISSIONER FOR PUBLIC APPOINTMENTS IN SCOTLAND

**1 Commissioner for Public Appointments in Scotland**

(1) There is established the office of Commissioner for Public Appointments in Scotland (in this Act referred to as "the Commissioner") who is to be an individual appointed by Her Majesty on the nomination of the Scottish Parliament.

(2) Schedule 1 makes further provision about the appointment and status of the Commissioner and about certain administrative and other matters with respect to the Commissioner.

**Commencement Information**

**I1** S. 1 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(a)**

**Status:** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
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## 2 The Commissioner's functions

(1) The Commissioner is to prepare and publish a code of practice in respect of the making by the Scottish Ministers of any appointment or, as the case may be, the making by them of any recommendation for any appointment—

(a) of a person to an office specified in schedule 2; and

(b) to a body specified in that schedule (being an appointment of a person to an office of, or as a member of, the body),

(any office referred to in (a) and any body referred to in (b) being referred to in this Act as "the specified authorities").

(2) The code of practice is to include guidelines as to the methods and practices to be employed in the making of such appointments and recommendations and may, in particular, include guidelines as to—

(a) how vacancies in the specified authorities are to be publicised;

(b) how applications to fill those vacancies are to be encouraged; and

(c) the basis on which the Scottish Ministers are to consider persons for, and for recommendation for, appointment to the specified authorities.

(3) The Commissioner—

(a) is to keep under review the code of practice;

(b) may from time to time revise the code of practice and publish it as so revised; and

(c) is to promote compliance with the code of practice.

(4) In preparing the code of practice, and in making any revisions to it, the Commissioner must—

(a) consult the Parliament and the Scottish Ministers; and

(b) invite (by way of advertisement or otherwise) other persons to make representations,

as regards the code.

(5) The Commissioner—

(a) is to examine—

(i) the methods and practices employed by the Scottish Ministers in the making of appointments, and recommendations for appointment, to the specified authorities; and

(ii) if the Commissioner considers it appropriate, the making by the Scottish Ministers of any appointment, or recommendation for appointment, to any of the specified authorities; and

(b) is to investigate complaints arising from the making by the Scottish Ministers of any appointment, or recommendation for appointment, to any of the specified authorities.

(6) The Commissioner may issue guidance to the Scottish Ministers (either generally or in a particular case) as to compliance with the code of practice.

(7) In any case where—

(a) it appears to the Commissioner that the code of practice has not been complied with in a material regard;

(b) the Commissioner has intimated that fact to the Scottish Ministers; and

(c) the Commissioner considers that—

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(i) the code of practice is unlikely to be complied with within a reasonable time of that intimation; or

(ii) after a reasonable time from that intimation, the code remains to be complied with,

subsection (8) applies.

(8) Where this subsection applies, the Commissioner—

(a) must report the case to the Parliament (together with any information in relation to the case the Commissioner considers appropriate to include); and

(b) if the appointment or recommendation for appointment in question has not been made, may direct the Scottish Ministers to delay making the appointment or, as the case may be, the recommendation until the Parliament has considered the case; and the Scottish Ministers must comply with any such direction.

(9) The Commissioner is to exercise the Commissioner's functions with a view to ensuring that—

(a) appointments, and recommendations for appointment, to the specified authorities are made fairly and openly; and

(b) so far as reasonably practicable, all categories of person are afforded an opportunity to be considered for appointment, and recommendation for appointment, to the specified authorities.

(10) Without prejudice to subsections (2) and (9), the Commissioner—

(a) is to prepare and publish a strategy for ensuring that appointments, and recommendations for appointment, to the specified authorities are made by the Scottish Ministers in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (those expressions having the same meanings as in Section L2 (equal opportunities) of Part II of Schedule 5 to the Scotland Act 1998 (c. 46)); and

(b) may, in the strategy, set targets with a view to ensuring that such appointments and recommendations are made with due regard to the need to meet those requirements,

but, in preparing the strategy or setting targets, the Commissioner must consult the Parliament and the Scottish Ministers.

**Modifications etc. (not altering text)**

**C1** S. 2(1) extended (1.6.2006) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Office or Body as Specified Authority) Order 2006 (S.S.I. 2006/303), arts. 1, **2**

**Commencement Information**

**I2** S. 2 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(a)**

## 3 The Commissioner's functions: further provision

(1) The Scottish Ministers must provide the Commissioner with such information as the Commissioner reasonably requires in the exercise of the Commissioner's functions.

(2) The Scottish Ministers may by order—

(a) amend schedule 2; or

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(b) in relation to appointments to the specified authorities—
(i) confer on the Commissioner any additional function; or
(ii) remove any function of the Commissioner,
which they consider appropriate so to confer or remove.

(3) Where—
(a) an office or body is to be established; and
(b) when established, the office or body is to be specified in schedule 2,
the Scottish Ministers may by order provide that the office or body is to be treated, for the purposes of or in connection with any appointment to the office or body, as if it were one of the specified authorities.

(4) Each body mentioned in section 4 is to be treated, for the purposes of or in connection with any appointment to the body made before that section comes into force as respects the body, as if it were one of the specified authorities.

**Commencement Information**
**I3** S. 3 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(a)**

## PART 2

PROVISION AS TO CERTAIN PUBLIC BODIES ETC.

*Dissolution of certain bodies*

### 4 Dissolution of certain bodies

The following bodies are dissolved—
(a) the Ancient Monuments Board for Scotland;
(b) the Historic Buildings Council for Scotland;
(c) the Scottish Hospital Trust;
(d) the Scottish Medical Practices Committee; and
(e) the Scottish Conveyancing and Executry Services Board.

**Commencement Information**
**I4** S. 4(a)(b) in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(a)**
**I5** S. 4(c) in force at 6.5.2004 by S.S.I. 2004/198, **art. 2(a)**
**I6** S. 4(d) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(a)**
**I7** S. 4(e) in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(a)**

*Health Service bodies*

### 5 Property of the Scottish Hospital Trust

(1) Any—

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(a) endowment (and accumulated income thereof) held by the Scottish Hospital Trust by virtue of subsection (3) of section 11 (Scottish Hospital Trust) of the National Health Service (Scotland) Act 1978 (c. 29) (in this Act referred to as the "1978 Act");

(b) endowment and other property (and accumulated income thereof) held by it by virtue of paragraph 4(e) to (f) of Schedule 6 (the Hospital Trust) to that Act; and

(c) other property and rights of or held by the Scottish Hospital Trust (of whatever kind),

(in this section and section 6 referred to as the "Trust property") is transferred to, and vested in, the Health Boards.

(2) The Scottish Ministers may by regulations make provision for the purposes of or in connection with the transfer and vesting of the Trust property by virtue of subsection (1) and may, in particular, make provision as to how the Trust property is to be divided among different Health Boards, including—

(a) prescribing the method of calculating the capital value of the property and the share of each Health Board in it;

(b) providing for any of the Trust property to be realised for value and for the value to be transferred to and vested in the appropriate Health Board in lieu of the property.

(3) Before making regulations under subsection (2), the Scottish Ministers must consult the Scottish Hospital Trust and all Health Boards and NHS trusts on the proposed regulations.

(4) Any Trust property (including any value in lieu of the property) which has been transferred to a Health Board by virtue of subsections (1) and (2), may be transferred by the Board to, and vested in, another Health Board, subject to such conditions (including conditions as to the extent of any transfer or of the transfer of any class of property) as the Scottish Ministers may by regulations provide for.

(5) Where Trust property has been transferred by a Health Board to another Health Board under subsection (4), the other Health Board is (except where, by virtue of a subsequent transfer, the property is held by an NHS trust) to transfer it back to the Health Board which made the transfer within a reasonable time of any requirement for such a transfer as that Health Board may make; and any property so transferred vests in that Health Board.

(6) In this section and sections 6 to 9, the expression "NHS trust" is to be construed in accordance with section 108(1) (interpretation) of the 1978 Act.

**Commencement Information**

**I8** S. 5(1) in force at 12.2.2004 for specified purposes and 31.3.2004 in so far as not already in force by S.S.I. 2003/602, **art. 2(3)** (as substituted (2.2.2004) by S.S.I. 2004/45, art. 2(2))

**I9** S. 5(2)-(6) in force at 1.1.2004 by S.S.I. 2003/602, **art. 2(1)**

## 6 Transfer of certain property between Health Boards and NHS trusts

(1) Any Trust property (including any value in lieu of the property) which—

(a) has been transferred to a Health Board by virtue of section 5; and

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(b) relates to any service which it is the function of an NHS trust situated in the area of the Health Board to make arrangements for, administer or provide,

may, without prejudice to section 12D (transfer of property, rights and liabilities to NHS trusts) of the 1978 Act, be transferred by the Board to, and vested in, the NHS trust following any request for such a transfer as the trust may make.

(2) Any endowment held by an NHS trust may be transferred by the trust to, and vested in, any Health Board to such extent as the trust may determine.

(3) Where an endowment has been transferred by an NHS trust to a Health Board under subsection (2), the Health Board is to transfer it back to the trust within a reasonable time of any requirement for such a transfer as the trust may make; and any endowment so transferred vests in the NHS trust.

**Commencement Information**
**I10** S. 6 in force at 12.2.2004 by S.S.I. 2003/602, **art. 2(4)(a)**

## 7 Investment and borrowing

(1) A Health Board has the following powers—

(a) the like powers in relation to its funds as trustees have, in relation to their trust estate, under section 4(1) of the Trusts (Scotland) Act 1921 (c. 58); and

(b) power to purchase and lease land and to invest in any security in which trustees are authorised to invest under or in pursuance of the Trusts (Scotland) Act 1921 and the Trustee Investments Act 1961 (c. 62) and—

(i) to retain any investment which it from time to time receives;

(ii) to make a narrower-range investment falling within Part II of Schedule 1 to the Trustee Investments Act 1961 without first obtaining advice as required by section 6 of that Act; and

(iii) to invest in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of securities or of land.

(2) A Health Board must obtain advice on any investment under subsection (1) from a person whom the Board considers to be qualified to give such advice by the person's ability in, and practical experience of, financial matters; and, where the person is not an officer or employee of the Board, the advice may be given on such terms as the Board and the person may agree to.

(3) A Health Board may borrow from any endowment held by it provided that the endowment does not relate to—

(a) the services provided by another Health Board; or

(b) any service which it is the function of an NHS trust to make arrangements for, administer or provide.

(4) A Health Board may make loans to another Health Board from any endowment held by the Board provided that the endowment relates to the services provided by that other Board; and that other Health Board may borrow accordingly.

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(5) A Health Board may make loans to any NHS trust from any endowment held by the Board provided that the endowment relates to any service which it is the function of the trust to make arrangements for, administer or provide; and the NHS trust may borrow accordingly.

(6) An NHS trust may borrow from any endowment held by the trust.

(7) Any loans or borrowing under subsections (3) to (6) require the consent of the Scottish Ministers.

(8) The Scottish Ministers may by regulations make provision as to the terms and conditions to apply to any such loans or borrowing.

**Commencement Information**

**I11** S. 7(1)-(7) in force at 12.2.2004 by S.S.I. 2003/602, **art. 2(4)(b)**

**I12** S. 7(8) in force at 1.1.2004 by S.S.I. 2003/602, **art. 2(1)**

## 8 Endowment schemes

(1) The Scottish Ministers are by regulations to make a scheme for the distribution of the income from endowments held by Health Boards and NHS trusts.

(2) In devising the scheme, the Scottish Ministers must consult all Health Boards and NHS trusts.

(3) The scheme must provide for the income from such endowments—

(a) in so far as it is distributed among Health Boards, to be used by Boards for purposes relating to services provided under the 1978 Act in or in relation to hospitals, or to research into any such matters as are mentioned in section 47(2) of that Act, or for purposes intended to preserve the memory of any person or category of person; and

(b) in so far as it is distributed among NHS trusts, to be used by trusts for purposes relating to services which it is their function to make arrangements for, administer or provide.

**Commencement Information**

**I13** S. 8 in force at 1.1.2004 by S.S.I. 2003/602, **art. 2(1)**

## 9 Directions in relation to endowments

The Scottish Ministers may, without prejudice to section 2(5) of, and paragraph 6(1) of Schedule 7A to, the 1978 Act (which confer powers as to directions), give directions to Health Boards and NHS trusts (either generally or to any particular Board or trust or in any particular case) for the purpose of or in connection with the exercise of their functions as to endowments; and a Board or trust must comply with any such directions given to it.

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**Commencement Information**

**I14** S. 9 in force at 12.2.2004 by S.S.I. 2003/602, **art. 2(4)(c)**

## 10 Holding of certain property by NHS trusts and Health Boards

(1) In section 12G (trust property of NHS trusts) of the 1978 Act, in subsection (3)(b), after the words "12D" there is inserted "or a request under section 6(1) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)".

(2) In section 82 (use and administration of certain endowments and other property held by Health Boards) of that Act, after subsection (2) there is inserted—

"(2A) All endowments and other property (including value in lieu of the property) vested in a Health Board by virtue of section 5 or 6(2) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) is so vested free of any trust existing immediately before it is so vested (hereafter in this section referred to in relation to any such endowment or property as "the original trust"); but all such endowments and other property shall be held by the Health Board on trust for such purposes relating to services provided under this Act or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.".

(3) In section 83 (power of Health Boards to hold property on trust) of that Act, after subsection (1) there is inserted—

"(1A) A Health Board shall have power to accept, hold and administer any property on trust for purposes relating to any service which it is the function of any NHS trust in the area of the Health Board to make arrangements for, administer or provide.".

**Commencement Information**

**I15** S. 10 in force at 12.2.2004 by S.S.I. 2003/602, **art. 2(4)(c)**

*Law Society functions etc. as to certain legal services*

## 11 Property etc. of the Scottish Conveyancing and Executry Services Board

All property, rights and liabilities of the Scottish Conveyancing and Executry Services Board are transferred to, and vested in, the Scottish Ministers; and any property or rights so transferred may be transferred by the Scottish Ministers to the Law Society of Scotland.

**Commencement Information**

**I16** S. 11 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(a)**

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## 12 Regulation by the Law Society of conveyancing and executry services

In the Solicitors (Scotland) Act 1980 (c. 46) (in this Act referred to as the "1980 Act") —

(a) in section 1 (establishment and objects of Law Society of Scotland), in subsection (1), after the word "Act" in the second place where it appears there is inserted ; " and sections 16 to 23 (which relate to the provision of conveyancing and executry services) of the 1990 Act "

(b) in section 3 (establishment and functions of the Council of the Law Society), in subsection (2), after the word "Act" there is inserted ; and " and sections 16 to 23 of the 1990 Act "

(c) in section 65(1) (interpretation), at the appropriate place there is inserted—

""the 1990 Act" means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40);".

**Commencement Information**

**I17** S. 12 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(a)**

## 13 Scottish Solicitors' Discipline Tribunal and certain practitioners

In the 1980 Act—

(a) in section 50 (the Tribunal), in subsection (1), after the word "Act" in the first place where it appears there is inserted ;

"and sections 16 to 23 (which relate to the provision of conveyancing and executry services) of the 1990 Act"

(b) in section 51 (complaints to Tribunal), after subsection (1) there is inserted—

"(1A) In subsection (1) above, without prejudice to the generality of that subsection, the reference to a complaint includes a complaint in respect of conveyancing and executry practitioners and the provision by them of conveyancing and executry services (those expressions having the meanings given in section 23 of the 1990 Act)."; and

(c) in section 52 (procedure on complaints to the Tribunal), in subsection (2)—

(i) after the word "Part" there is inserted ", the provisions of sections 16 to 23 of the 1990 Act" ;and

(ii) after paragraph (aa) there is inserted—

"(ab) for regulating the making, hearing and determining of—

(i) inquiries under subsection (2A) of section 20 of the 1990 Act; and

(ii) appeals under subsection (11)(b) of that section.".

**Commencement Information**

**I18** S. 13 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(a)**

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### 14 Exercise by certain practitioners of notarial and other functions

(1) The functions of a notary public specified in subsection (2) may be exercised in any case by an independent conveyancing practitioner instead of a notary public provided that the exercise of any such function by the practitioner is in connection with other conveyancing services being provided by the practitioner in the case.

(2) The functions are the functions of a notary public exercisable in pursuance of—

(a) sections 1(5) and (6), 6(3)(e), 8(2) and (2A) (which concern administering oaths and receiving affirmations in relation to certain matters) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59); and

(b) section 18(4) (administering oaths and receiving affirmations in relation to reallotment of real burdens) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).

(3) The functions exercisable in pursuance of section 9 (subscription of documents on behalf of granter who is blind or unable to write) of the Requirements of Writing (Scotland) Act 1995 (c. 7) by a relevant person (within the meaning of subsection (6) of that section) may be exercised in any case, instead of by a relevant person—

(a) in so far as relating to the execution of dispositions or standard securities, by a conveyancing practitioner; or

(b) in so far as relating to testamentary documents, by an executry practitioner.

(4) In this section, the expressions "conveyancing practitioner", "conveyancing services", "executry practitioner" and "independent conveyancing practitioner" are to be construed in accordance with section 23 (interpretation of sections 16 to 22) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) (in this Act referred to as "the 1990 Act").

(5) The Scottish Ministers may by order amend the specification of provisions in subsection (2).

**Commencement Information**

**I19** S. 14 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(a)**

*The Historic Environment Advisory Council for Scotland*

### [F1]15 The Historic Environment Advisory Council for Scotland

. . . . . .

**Textual Amendments**

**F1** S. 15 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(a)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

### [F2]16 The Advisory Council's functions

. . . . . .

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**Textual Amendments**

**F2** S. 16 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(b)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

*Miscellaneous provision*

### 17 Miscellaneous provision

Schedule 4 (which makes provision in connection with the dissolution of the bodies mentioned in section 4, makes provision as to the functions of Health Boards, makes provision as to the functions of the Law Society of Scotland and the Scottish Solicitors' Discipline Tribunal in relation to the provision of conveyancing and executry services, makes modifications in relation to those services and makes minor and consequential amendments to enactments) has effect.

**Commencement Information**

**I20** S. 17 in force at 31.5.2003 for specified purposes by S.S.I. 2003/219, **art. 2(1)(b)**
**I21** S. 17 in force at 1.6.2003 for specified purposes by S.S.I. 2003/219, **art. 2(2)(b)**
**I22** S. 17 in force at 15.8.2003 for specified purposes by S.S.I. 2003/384, **art. 2(b)**
**I23** S. 17 in force at 6.2.2004 for specified purposes by S.S.I. 2003/602, **art. 2(2)**
**I24** S. 17 in force at 1.4.2004 for specified purposes by S.S.I. 2004/148, **art. 2(b)**
**I25** S. 17 in force at 6.5.2004 for specified purposes by S.S.I. 2004/198, **art. 2(b)**

## PART 3

GENERAL PROVISIONS

### 18 Orders and regulations

(1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.

(2) Any such power includes power—
- (a) to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient; and
- (b) to make different provision for different purposes.

(3) A statutory instrument containing—
- (a) except where subsection (5) applies, an order under section 19; or
- (b) regulations under section 5(4) or 7(8),

is subject to annulment in pursuance of a resolution of the Parliament.

(4) A statutory instrument containing—
- (a) an order under section 3(2)(a) or (b) or (3) or 14(5); or
- (b) regulations under section 5(2) or 8(1),

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is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

(5) A statutory instrument containing an order under section 19 which amends an Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

### 19 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in consequence of this Act.

### 20 Interpretation

In this Act—

"the 1978 Act" means the National Health Service (Scotland) Act 1978 (c. 29);

"the 1980 Act" means the Solicitors (Scotland) Act 1980 (c. 46);

"the 1990 Act" means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40);

F3 …

"the Commissioner" means the Commissioner for Public Appointments in Scotland;

"the Parliament" means the Scottish Parliament;

"the specified authorities" is to be construed in accordance with section 2.

**Textual Amendments**

**F3** Words in s. 20 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(c)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**Commencement Information**

**I26** S. 20 in force at 15.8.2003 for specified purposes by S.S.I. 2003/384, **art. 2(c)**

### 21 Short title and commencement

(1) This Act may be cited as the Public Appointments and Public Bodies etc. (Scotland) Act 2003.

(2) This Act, except this section and sections 18 to 20, comes into force on such day as the Scottish Ministers may by order appoint.

(3) Different days may be so appointed for different provisions and for different purposes.

***Status:*** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

# SCHEDULE 1

*(introduced by section 1)*

## THE COMMISSIONER

1 (1) A person is disqualified from appointment, and from holding office, as Commissioner if that person is—

(a) a member of the House of Lords and entitled to vote in the House;

(b) a member of the House of Commons;

(c) a member of the Scottish Parliament;

(d) a member, officer or member of staff of a specified authority;

(e) a specified authority (where the authority is an individual); or

(f) disqualified from election as a member of the Scottish Parliament or as a member of a local authority.

(2) A person holding office as Commissioner is disqualified from appointment—

(a) as a member, officer or member of staff of a specified authority;

(b) to any paid office by a specified authority; and

(c) as a specified authority (where the authority is an individual).

(3) A person who has ceased to hold office as Commissioner is, during the period of 3 years beginning with the date on which that person ceased to hold that office, disqualified from appointment—

(a) as a member, officer or member of staff of a specified authority;

(b) to any paid office by a specified authority; and

(c) as a specified authority (where the authority is an individual),

except in any case where, and to the extent that, the Parliament determines that this sub-paragraph is not to apply.

(4) In this paragraph, references to a member of a specified authority include any member by co-option of any committee of a specified authority.

(5) For the purposes of sub-paragraphs (2)(b) and (3)(b), an office is a paid office where the holder of it is entitled to remuneration or expenses (or to both).

**Commencement Information**

**I27** Sch. 1 para. 1 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

2 (1) The Commissioner, the Commissioner's staff and assessors appointed by the Commissioner—

(a) are not to be regarded as servants or agents of the Crown;

(b) do not have any status, immunity or privilege of the Crown,

and the Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

(2) The Commissioner, in the exercise of the functions of that office, is not subject to the direction or control of—

(a) any member of the Parliament;

(b) any member of the Scottish Executive; or

(c) the Parliamentary corporation,

except in so far as provided for in paragraph 13(1) and (4).

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**Commencement Information**
**I28** Sch. 1 para. 2 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

3 The validity of any actings of the Commissioner is not affected by—
(a) any defect in the nomination by the Parliament for the Commissioner's appointment; or
(b) any disqualification from appointment as Commissioner.

**Commencement Information**
**I29** Sch. 1 para. 3 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

4 (1) The Commissioner—
(a) is appointed to and holds office for such period not exceeding 5 years as the Parliamentary corporation may determine;
(b) may be relieved of office by Her Majesty at the Commissioner's request;
(c) may be removed from office by Her Majesty in pursuance of a resolution of the Parliament which, if passed on a division, must be voted for by the number of members equivalent to not less than two thirds of the total number of seats for members of the Parliament; and
(d) in other respects, is appointed to and holds office on such terms and conditions as the Parliamentary corporation may determine.

(2) A person whose period of office as Commissioner expires under sub-paragraph (1)(a) is eligible for appointment again, but—
(a) a person may be appointed as Commissioner for no more than 3 periods of office; and
(b) appointment for a third period of office is competent only if, by reason of special circumstances, such appointment is desirable in the public interest.

**Commencement Information**
**I30** Sch. 1 para. 4 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

5 (1) Where the office of Commissioner is vacant, the Parliamentary corporation may appoint a person (whether or not a member of the Commissioner's staff or a person appointed as assessor by the Commissioner) to discharge the Commissioner's functions until a new Commissioner is appointed; and a person so appointed is referred to in this schedule as the "acting Commissioner".

(2) A person who is disqualified from appointment as Commissioner by virtue of paragraph 1(1) is also disqualified from appointment as acting Commissioner.

(3) A person appointed as acting Commissioner—
(a) may be relieved of office at that person's request;
(b) may be removed from office by the Parliamentary corporation by notice in writing given by it;
(c) in other respects, is appointed to and holds that office on such terms and conditions as the Parliamentary corporation may determine; and

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(d) while holding that office, is to be treated for all purposes, except those of paragraphs 3(a), 4, 6 and 7, as the Commissioner.

**Commencement Information**
**I31** Sch. 1 para. 5 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

6 The Commissioner is entitled to a salary of such amount, and such allowances, as the Parliamentary corporation may determine.

**Commencement Information**
**I32** Sch. 1 para. 6 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

7 (1) The Parliamentary corporation may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to hold office as Commissioner and, in particular, may—

(a) make contributions or payments towards provision for such pensions, allowances or gratuities; and

(b) establish and administer one or more pension schemes.

(2) The references in sub-paragraph (1) to pensions, allowances and gratuities include their provision by way of compensation for loss of office.

**Commencement Information**
**I33** Sch. 1 para. 7 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

8 (1) The Commissioner may, with the approval of the Parliamentary corporation, appoint such staff, on such terms and conditions, as the Commissioner may determine.

(2) The Commissioner may, with the approval of the Parliamentary corporation, make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff and, in particular, may—

(a) make contributions or payments towards provision for such pensions, allowances or gratuities; and

(b) establish and administer one or more pensions schemes.

(3) The references in sub-paragraph (2) to pensions, allowances and gratuities include their provision by way of compensation for loss of employment.

**Commencement Information**
**I34** Sch. 1 para. 8 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

9 (1) The Commissioner may appoint assessors to assist the Commissioner in the exercise of the Commissioner's functions.

(2) The Commissioner may, with the approval of the Parliamentary corporation, pay to any assessor such fees and allowances as the Commissioner may determine.

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**Commencement Information**
**I35** Sch. 1 para. 9 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

10 (1) Any function of the Commissioner may be exercised on the Commissioner's behalf—
(a) by any person (whether or not a member of the Commissioner's staff or an assessor appointed by the Commissioner) authorised by the Commissioner to do so; and
(b) to the extent so authorised.

(2) Sub-paragraph (1) does not affect the responsibility of the Commissioner for the exercise of the Commissioner's functions.

**Commencement Information**
**I36** Sch. 1 para. 10 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

11 The Parliamentary corporation is to pay—
(a) the salary and allowances of the Commissioner;
(b) any expenses incurred by the Commissioner in the exercise of the Commissioner's functions; and
(c) any sums payable by virtue of paragraph 5(3)(a) to (c) to, or in respect of, a person who—
(i) is appointed as acting Commissioner; or
(ii) has ceased to hold the office of acting Commissioner.

**Commencement Information**
**I37** Sch. 1 para. 11 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

12 (1) The Parliamentary corporation is to designate the Commissioner or a member of the Commissioner's staff as the accountable officer for the purposes of this paragraph.

(2) The functions of the accountable officer are—
(a) those specified in sub-paragraph (3); and
(b) where the accountable officer is not the Commissioner, the duty set out in sub-paragraph (4),

and the accountable officer is answerable to the Parliament for the exercise of those functions.

(3) The functions referred to in sub-paragraph (2)(a) are—
(a) signing the accounts of the expenditure and receipts of the Commissioner;
(b) ensuring the propriety and regularity of the finances of the Commissioner; and
(c) ensuring that the resources of the Commissioner are used economically, efficiently and effectively.

(4) The duty referred to in sub-paragraph (2)(b) is a duty, where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of the functions specified in sub-paragraph (3), to—

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(a) obtain written authority from the Commissioner before taking the action; and
(b) send a copy of that authority as soon as practicable to the Auditor General for Scotland.

**Commencement Information**
**I38** Sch. 1 para. 12 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

13 (1) The Commissioner must—
(a) keep proper accounts and accounting records; and
(b) prepare an annual account in respect of each financial year (the financial year being the period of 12 months ending with 31st March),
in accordance with such directions as the Scottish Ministers may give.

(2) The Commissioner must send the annual account to the Auditor General for Scotland for auditing.

(3) If requested by any person, the Commissioner must make available at any reasonable time, and without charge, in printed or in electronic form, the audited accounts, for inspection by that person.

(4) The Commissioner must lay before the Parliament annually a report on the exercise of the functions of that office; and the Commissioner is to comply with any direction as to the form and content of such reports as the Parliamentary corporation may give.

**Commencement Information**
**I39** Sch. 1 para. 13 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

14 The Commissioner may do anything which appears necessary or expedient for the purpose of or in connection with the exercise of the functions of that office and, in particular, may—
(a) acquire and dispose of land and other property; and
(b) enter into contracts.

**Commencement Information**
**I40** Sch. 1 para. 14 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

## SCHEDULE 2

*(introduced by section 2)*

### THE SPECIFIED AUTHORITIES

**Commencement Information**
**I41** Sch. 2 in force at 1.6.2004 by S.S.I. 2004/232, **art. 2(b)**

*Offices*

**Status:** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
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F4 …

**Textual Amendments**

**F4** Words in sch. 2 repealed (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), s. 37(2), **sch. 5 para. 10** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2 (with art. 3(3))

**Textual Amendments**

**F4** Words in sch. 2 repealed (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), s. 37(2), **sch. 5 para. 10** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2 (with art. 3(3))

*Executive bodies*

Accounts Commission for Scotland

**[**[F5]Architecture and Design Scotland**]**

**[**[F6]Bòrd na Gàidhlig**]**

**[**[F7]Creative Scotland**]**

Crofters Commission

F8 …

Highlands & Islands Enterprise

Learning & Teaching Scotland

National Galleries of Scotland

National Library of Scotland

National Museums of Scotland

any National Park authority **[**[F9](except in respect of nominated members, as defined in paragraph 3(7) of schedule 1 to the National Parks (Scotland) Act 2000)**]**

F10 …

**[**[F11]Quality Meat Scotland**]**

**[**[F12]Risk Management Authority**]**

Royal Botanic Garden, Edinburgh

Royal Commission on the Ancient and Historical Monuments of Scotland

Scottish Agricultural Wages Board

F13 …

**[**[F14]Scottish Charity Regulator**]**

Scottish Children's Reporter Administration

F15 …

Scottish Criminal Cases Review Commission

Scottish Enterprise

Scottish Environment Protection Agency

**[**[F16]Scottish Further and Higher Education Funding Council**]**

F17 …

F17 …

F18 …

Scottish Legal Aid Board

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**[**[F19]Scottish Legal Complaints Commission**]**
Scottish Natural Heritage
**[**[F20]Scottish Police Services Authority**]**
Scottish Qualifications Authority
[F21]…
Scottish Social Services Council
Scottish Sports Council
[F22]…
**[**[F12]Scottish University for Industry**]**
**[**[F23]The Skills Development Scotland Co. Limited**]**
**[**[F24]Social Care and Social Work Improvement Scotland**]**
**[**[F25]VisitScotland**]**
**[**[F26]Water Industry Commission for Scotland**]**

**Textual Amendments**

**F5** Words in sch. 2 inserted (22.3.2011) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) (No. 2) Order 2011 (S.S.I. 2011/236), arts. 1, **2(2)(a)**

**F6** Words in sch. 2 inserted (13.2.2006) by Gaelic Language (Scotland) Act 2005 (asp 7), s. 13(2), **sch. 2 para. 4**; S.S.I. 2006/31, **art. 2**

**F7** Words in sch. 2 inserted (1.7.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 10 para. 4(a)**; S.S.I. 2010/221, **art. 3(1)**

**F8** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 1 para. 31**; S.S.I. 2010/221, art. 3(2), sch.

**F9** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(b)**

**F10** Words in sch. 2 omitted (26.10.2005) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(3)(b)**

**F11** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(a)(i)**

**F12** Words in sch. 2 inserted (26.10.2005) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(3)(a)**

**F13** Words in sch. 2 repealed (1.7.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 10 para. 4(b)(i)**; S.S.I. 2010/221, art. 3(1)

**F14** Words in sch. 2 inserted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), s. 107(2), **sch. 4 para. 14**; S.S.I. 2006/189, art. 2(1), sch. Pt. 1

**F15** Sch. 2 entry repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 12(a)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

**F16** Words in sch. 2 inserted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **sch. 3 para. 13(a)**; S.S.I. 2005/419, art. 2(1)

**F17** Words in sch. 2 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **sch. 3 para. 13(b)**; S.S.I. 2005/419, art. 2(1)

**F18** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(c)**

**F19** Words in sch. 2 inserted (23.11.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 82(2), **sch. 5 para. 6** (with s. 77); S.S.I. 2007/497, art. 2(f)

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**F20** Words in sch. 2 inserted (1.1.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 12**; S.S.I. 2006/607, art. 3, sch.

**F21** Words in sch. 2 repealed (1.7.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 10 para. 4(b)(ii)**; S.S.I. 2010/221, art. 3(1)

**F22** Words in sch. 2 repealed (1.4.2007) by Tourist Boards (Scotland) Act 2006 (asp 15), s. 5(1), **sch. 2 para. 9(a)**; S.S.I. 2007/47, art. 2

**F23** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(a)(ii)**

**F24** Words in sch. 2 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 12(b)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

**F25** Word in sch. 2 inserted (1.4.2007) by Tourist Boards (Scotland) Act 2006 (asp 15), s. 5(1), **sch. 2 para. 9(b)**; S.S.I. 2007/47, art. 2

**F26** Words in sch. 2 inserted (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), s. 37(2), **sch. 5 para. 10** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2 (with art. 3(3))

## Textual Amendments

**F5** Words in sch. 2 inserted (22.3.2011) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) (No. 2) Order 2011 (S.S.I. 2011/236), arts. 1, **2(2)(a)**

**F6** Words in sch. 2 inserted (13.2.2006) by Gaelic Language (Scotland) Act 2005 (asp 7), s. 13(2), **sch. 2 para. 4**; S.S.I. 2006/31, **art. 2**

**F7** Words in sch. 2 inserted (1.7.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 10 para. 4(a)**; S.S.I. 2010/221, **art. 3(1)**

**F8** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 1 para. 31**; S.S.I. 2010/221, art. 3(2), sch.

**F9** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(b)**

**F10** Words in sch. 2 omitted (26.10.2005) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(3)(b)**

**F11** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(a)(i)**

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**F17** Words in sch. 2 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **sch. 3 para. 13(b)**; S.S.I. 2005/419, art. 2(1)

**F18** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(c)**

**F19** Words in sch. 2 inserted (23.11.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 82(2), **sch. 5 para. 6** (with s. 77); S.S.I. 2007/497, art. 2(f)

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**F23** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(2)(a)(ii)**

**F24** Words in sch. 2 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 12(b)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

**F25** Word in sch. 2 inserted (1.4.2007) by Tourist Boards (Scotland) Act 2006 (asp 15), s. 5(1), **sch. 2 para. 9(b)**; S.S.I. 2007/47, art. 2

**F26** Words in sch. 2 inserted (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), s. 37(2), **sch. 5 para. 10** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2 (with art. 3(3))

*Advisory bodies*

**F27** …

**F28** …

**F29** …

**F30** …

**F31** …

General Teaching Council for Scotland

**F32** …

**F33** …

**F34** …

**[**[F35]Judicial Appointments Board for Scotland **]**

Local Government Boundary Commission for Scotland

Mobility and Access Committee for Scotland

**[**[F36]Public Transport Users' Committee for Scotland**]**

**F30** …

Scottish Advisory Committee on Distinction Awards

**F37** …

**F38** …

Scottish Law Commission

**[**[F39]Scottish Local Authorities Remuneration Committee**]**

**F40** …

**Textual Amendments**

**F27** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 2(5)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F28** Words in sch. 2 omitted (22.3.2011) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) (No. 2) Order 2011 (S.S.I. 2011/236), arts. 1, **2(2)(b)**

**F29** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 6(3)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F30** Words in sch. 2 omitted (26.10.2005) by virtue of Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(4)(b)**

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**Changes to legislation:** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

**F31** Words in sch. 2 omitted (1.10.2010) by virtue of Flood and Water Management Act 2010 (c. 29), **ss. 46(4)**, 49(3) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.

**F32** Words in sch. 2 repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, Sch. 11 para. 173, **Sch. 12**; S.I. 2006/2541, art. 2 (with Sch.)

**F33** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(d)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F34** Words in sch. 2 repealed (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), **sch. para. 29**; S.S.I. 2007/479, art. 3, sch. (as amended (27.11.2007) by S.S.I. 2007/527, art. 2(6)(c))

**F35** Words in sch. 2 inserted (1.6.2009) by Judiciary and Courts (Scotland) Act 2008 (asp 6), s. 76(1), **sch. 1 para. 18(1)**; S.S.I. 2009/192, art. 2, sch.

**F36** Words in sch. 2 inserted (1.1.2007) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006 (S.S.I. 2006/363), arts. 1(3), **3**

**F37** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(3)(b)**

**F38** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 5(5)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F39** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(3)(a)**

**F40** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 4(6)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

## Textual Amendments

**F27** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 2(5)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F28** Words in sch. 2 omitted (22.3.2011) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) (No. 2) Order 2011 (S.S.I. 2011/236), arts. 1, **2(2)(b)**

**F29** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 6(3)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F30** Words in sch. 2 omitted (26.10.2005) by virtue of Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(4)(b)**

**F31** Words in sch. 2 omitted (1.10.2010) by virtue of Flood and Water Management Act 2010 (c. 29), **ss. 46(4)**, 49(3) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.

**F32** Words in sch. 2 repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, Sch. 11 para. 173, **Sch. 12**; S.I. 2006/2541, art. 2 (with Sch.)

**F33** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(d)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F34** Words in sch. 2 repealed (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), **sch. para. 29**; S.S.I. 2007/479, art. 3, sch. (as amended (27.11.2007) by S.S.I. 2007/527, art. 2(6)(c))

**F35** Words in sch. 2 inserted (1.6.2009) by Judiciary and Courts (Scotland) Act 2008 (asp 6), s. 76(1), **sch. 1 para. 18(1)**; S.S.I. 2009/192, art. 2, sch.

**F36** Words in sch. 2 inserted (1.1.2007) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006 (S.S.I. 2006/363), arts. 1(3), **3**

**F37** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(3)(b)**

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***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

**F38** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 5(5)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

**F39** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(3)(a)**

**F40** Words in sch. 2 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 4(6)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

***F41*** …

**F42** …

**F43** …

**F44** …

**Textual Amendments**

**F41** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(a)**

**F42** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(i)**

**F43** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(ii)**

**F44** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(iii)**

**Textual Amendments**

**F41** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(a)**

**F42** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(i)**

**F43** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(ii)**

**F44** Words in sch. 2 omitted (22.10.2008) by virtue of The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(4)(b)(iii)**

*Public corporations*

**[**[F45]Caledonian Maritime Assets Ltd**]**

**[**[F46]David MacBrayne Ltd**]**

**[**[F47]Highlands and Islands Airports Ltd**]**

**[**[F48]Scottish Futures Trust Ltd**]**

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Scottish Water

**Textual Amendments**

**F45** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(a)**

**F46** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(b)**

**F47** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(c)**

**F48** Words in sch. 2 inserted (6.11.2009) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2009 (S.S.I. 2009/390), arts. 1, **2**

**Textual Amendments**

**F45** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(a)**

**F46** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(b)**

**F47** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(5)(c)**

**F48** Words in sch. 2 inserted (6.11.2009) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2009 (S.S.I. 2009/390), arts. 1, **2**

*National Health Service bodies*

[F49]…

**[**[F50]Common Services Agency for the Scottish Health Service**]**[[F51], but Part 1 does not apply in relation to the appointment of a member by the Scottish Ministers made under Schedule 5 to the National Health Service (Scotland) Act 1978 by virtue of the member being—**]**

(a) **[**[F51]employed as an officer of the Common Services Agency for the Scottish Health Service,**]**

(b) **[**[F51]a member of a body set up by the Common Services Agency for the Scottish Health Service which represents health care professionals, or**]**

(c) **[**[F51]a member of a body set up by the Common Services Agency for the Scottish Health Service which represents Common Services Agency for the Scottish Health Service employees.**]**

any Health Board **[**[F52], but Part 1 does not apply in relation to appointments made under Schedule 1 to the National Health Service (Scotland) Act 1978 of the following persons to a Health Board—**]**

(a) **[**[F52]councillors appointed by the Scottish Ministers following nomination by local authorities in the area of the Health Board;**]**

(b) **[**[F52]a member appointed by the Scottish Ministers by virtue of the member—**]**

(i) **[**[F52]holding a post in a university with a medical or dental school,**]**

(ii) **[**[F52]being employed as an officer of the Health Board,**]**

(iii) **[**[F52]being a member of a body set up by a Health Board which represents health care professionals working in the Health Board area,**]**

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(iv) **[**[F52]being a member of a body set up by a Health Board which represents Health Board employees, or**]**

(v) **[**[F52]being a member of a community health partnership established by virtue of section 4A of the National Health Service (Scotland) Act 1978.**]**

**[**[F53]Healthcare Improvement Scotland**]**

Mental Welfare Commission for Scotland

[F49]…

any Special Health Board **[**[F54], but Part 1 does not apply in relation to the appointment of a member by the Scottish Ministers made under Schedule 1 to the National Health Service (Scotland) Act 1978, as applied to each Special Health Board by virtue of the member being—**]**

(i) **[**[F54]employed as an officer of the Special Health Board,**]**

(ii) **[**[F54]a member of a body set up by a Special Health Board which represents health care professionals, or**]**

(iii) **[**[F54]a member of a body set up by a Special Health Board which represents Special Health Board employees.**]**

**Textual Amendments**

**F49** Words in sch. 2 omitted (26.10.2005) by virtue of Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(5)**

**F50** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(6)**

**F51** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(2)**

**F52** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(3)**

**F53** Words in sch. 2 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 17 para. 26**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

**F54** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(4)**

**Textual Amendments**

**F49** Words in sch. 2 omitted (26.10.2005) by virtue of Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(5)**

**F50** Words in sch. 2 inserted (22.10.2008) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (S.S.I. 2008/348), arts. 1, **2(6)**

**F51** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(2)**

**F52** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(3)**

**F53** Words in sch. 2 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 17 para. 26**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

**F54** Words in sch. 2 inserted (14.2.2010) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 (S.S.I. 2010/50), arts. 1, **2(4)**

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*[F55 Other Public Bodies*

Parole Board for Scotland**][F56**, but Part 1 does not apply in relation to the appointment by the Scottish Ministers of a Lord Commissioner of Justiciary as a member of the Board under paragraph 1 of Schedule 2 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9).**]**

**Textual Amendments**

**F55** Words in sch. 2 inserted (26.10.2005) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2005 (S.S.I. 2005/540), arts. 1, **2(6)**

**F56** Words in sch. 2 inserted (18.1.2011) by The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2011 (S.S.I. 2011/22), arts. 1, **2**

## F57 SCHEDULE 3

*(introduced by section 15)*

. . . . . .

**Textual Amendments**

**F57** Sch. 3 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 7(3)(e)**, 134(7); S.S.I. 2010/221, art. 3(2), sch.

## SCHEDULE 4

*(introduced by section 17)*

### MISCELLANEOUS PROVISION

1 In section 2 (petition to Commissary to be substituted) of the Confirmation of Executors (Scotland) Act 1858, the words "or a recognised financial institution providing executry services" are repealed.

**Commencement Information**

**I42** Sch. 4 para. 1 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

2 In the Historic Buildings and Ancient Monuments Act 1953—

(a) section 2 (Historic Buildings Council for Scotland) is repealed except in so far as it applies, by virtue of section 3(3) of that Act, to the Historic Buildings Council for Wales;

(b) in section 3(3) (Historic Buildings Council for Wales), for the words from "apply" in the second place where it appears to the end there is substituted "applied to the Historic Buildings Council for Scotland immediately before the coming into force of paragraph 2(a) of schedule 4 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)"; and

(c) in section 9 (interpretation), in subsection (1)—

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(i) paragraph (b) is repealed; and

(ii) for the words "paragraphs (b) and" there is substituted "paragraph".

**Commencement Information**

**I43** Sch. 4 para. 2 in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

3 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1(offices disqualifying for membership)—

(a) in the entry relating to Medical Practices Committees, the words from "or" to the end are repealed; and

(b) the entry relating to the Scottish Conveyancing and Executry Services Board is repealed.

**Commencement Information**

**I44** Sch. 4 para. 3(a) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

**I45** Sch. 4 para. 3(b) in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

4 In the Race Relations Act 1976, in Part II of Schedule 1A (bodies and other persons subject to general statutory duty), the paragraphs relating to—

(a) the Ancient Monuments Board for Scotland;

(b) the Historic Buildings Council for Scotland;

(c) the Scottish Hospital Trust;

(d) the Scottish Medical Practices Committee; and

(e) the Scottish Conveyancing and Executry Services Board,

are repealed.

**Commencement Information**

**I46** Sch. 4 para. 4(a)(b) in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

**I47** Sch. 4 para. 4(c) in force at 6.2.2004 by S.S.I. 2003/602, **art. 2(2)(a)**

**I48** Sch. 4 para. 4(d) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

**I49** Sch. 4 para. 4(e) in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

5 (1) The 1978 Act is amended in accordance with this paragraph.

(2) Section 3 is repealed.

(3) Section 11 is repealed.

**F58** . . . . . .

**F58** . . . . . .

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**F58** . . . . . .

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**F58** . . . . . .

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(10) Section 24 is repealed.

(11) In section 77 (default powers), paragraph (b) of subsection (1) is repealed.

(12) In section 85 (expenses of certain bodies), paragraph (c) of subsection (1) is repealed.

(13) In section 88 (payments to members of certain bodies)—
- (a) in subsection (1), paragraph (a) is repealed; and
- (b) in subsection (2), paragraph (a) is repealed.

(14) In section 108(1)(interpretation), the entries relating to the Hospital Trust and the Medical Practices Committee are repealed.

(15) In Schedule 1 (health boards), paragraphs 16 and 17 are repealed.

(16) Schedule 2 is repealed.

(17) Schedule 6 is repealed.

(18) In Schedule 9 (additional provisions as to prohibition of sale of medical practices), in paragraph 1—
- (a) in sub-paragraph (2), for the words "Medical Practices Committee" there is substituted " Health Board which has arrangements with the practitioners of the medical practice for the provision by them of general medical services ";
- (b) in sub-paragraph (3)—
  - (i) for the words "The Committee" in the first place where they appear there is substituted "That Health Board";
  - (ii) for the words "the Committee" in the second place where they appear there is substituted "the Board";
- (c) in sub-paragraph (4), for the words "Medical Practices Committee" there is substituted "Health Board;
- (d) in sub-paragraph (6), for the word "Committee" there is substituted " Board "; and
- (e) in sub-paragraph (7), for the words "The Medical Practices Committee" there is substituted " A Health Board ".

**Textual Amendments**

**F58** Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of Primary Medical Services (Scotland) Act 2004 (Modification of Enactments) Order 2004 (S.S.I. 2004/167), art. 1, **Sch. para. 7**

**Commencement Information**

**I50** Sch. 4 para. 5(2) (10)-(13) (16) (18) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

**I51** Sch. 4 para. 5(3)(17) in force at 6.5.2004 by S.S.I. 2004/198, **art. 2(c)**

**I52** Sch. 4 para. 5(14) in force at 1.4.2004 for specified purposes by S.S.I. 2004/148, **art. 2(c)**

**I53** Sch. 4 para. 5(15) in force at 6.2.2004 by S.S.I. 2003/602, **art. 2(2)(b)**

6 In the Ancient Monuments and Archaeological Areas Act 1979—
- (a) in section 22 (Ancient Monuments Boards)—
  - (i) in subsection (1), paragraph (b) and the word "and" immediately following it are repealed;
  - (ii) subsection (3) is repealed; and

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(iii) in subsection (5), paragraph (b) and the word "and" immediately following it are repealed; and

(b) in section 23 (annual reports of Ancient Monuments Boards)—

(i) the words from the beginning to the word "and" in the first place where it appears are repealed;

(ii) the word "each" in the first place where it appears is repealed; and

(iii) for the words "them" and "their" there is substituted "it" and "its" respectively.

**Commencement Information**

**I54** Sch. 4 para. 6 in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

7 In section 32 (offence for unqualified persons to prepare certain documents) of the 1980 Act, in subsection (2A), for the words "qualified conveyancer" there is substituted . "conveyancing practitioner"

**Commencement Information**

**I55** Sch. 4 para. 7 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

PROSPECTIVE

8 In section 54 (clarification of certain investment powers) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985—

(a) subsection (1) in so far as it relates to Schedule 6 to the 1978 Act; and

(b) subsection (2),

are repealed.

9 In section 43A (application of Act to services provided under the 1990 Act) of the Legal Aid (Scotland) Act 1986, in subsection (1)—

(a) the words "and recognised financial institutions" are repealed; and

(b) for the words "qualified conveyancers" there is substituted " conveyancing practitioners ".

**Commencement Information**

**I56** Sch. 4 para. 9 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

10 In the Electricity Act 1989, in paragraph 4(2) of Schedule 9 (preservation of amenity and fisheries), the words from ", the" to "Scotland" in the second place where it appears are repealed.

**Commencement Information**

**I57** Sch. 4 para. 10 in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

11 In the National Health Service and Community Care Act 1990—

**Status:** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
**Changes to legislation:** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

(a) in section 39 (distribution of general medical services), subsection (7) is repealed; and

(b) in Schedule 9 (minor and consequential amendments), sub-paragraphs (2) and (24) of paragraph 19 are repealed.

**Commencement Information**

**I58** Sch. 4 para. 11(a) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

12 (1) The 1990 Act is amended in accordance with this paragraph.

(2) For section 16 (the Scottish Conveyancing and Executry Services Board) there is substituted—

"**16 Regulation by the Law Society of conveyancing and executry services**

(1) The Council of the Law Society of Scotland have the function of regulating the provision of conveyancing and executry services under sections 17 to 23 of this Act.

(2) The Scottish Ministers may make grants to the Council towards expenses incurred, or to be incurred, by them in connection with the exercise of that function.

(3) Any grant made under subsection (2) above may be made subject to such terms and conditions (including conditions as to repayment) as the Scottish Ministers consider appropriate and they may vary such terms and conditions after the grant is made.".

(3) In section 17 (qualified conveyancers)—

(a) for the word "Board" in each place where it appears there is substituted "Council";

(b) for the words "qualified conveyancer" and "qualified conveyancers" in each place where they appear there is substituted "conveyancing practitioner" and "conveyancing practitioners" respectively;

(c) for the words "conveyancer" and "conveyancers" in each of the other places where they appear there is substituted "practitioner" and "practitioners" respectively;

(d) for subsection (1) there is substituted—

"(1) The Council shall establish and maintain a register of conveyancing practitioners, which shall be available for inspection by any person without charge.

(1A) The register shall include an entry in respect of any person who was registered in the register of qualified conveyancers maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection.

(1B) The entry in the register in respect of any such person who, immediately before the coming into force of this subsection, provided conveyancing services to the public for a fee, gain or reward shall be annotated to the effect that he is an independent

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conveyancing practitioner; but that annotation shall be removed if he ceases to provide such services for a fee, gain or reward.";

(e) in subsection (2)(b), for the words "(3) below" there is substituted "(11)(a) below and rules referred to in subsection (11B) below in so far as they relate to educational qualifications and practical training";

(f) after subsection (2) there is inserted—

"(2A) The Council may charge such fee for registration under subsection (2) above as they may determine.";

(g) subsection (3) is repealed;

(h) for subsection (4) there is substituted—

"(4) Where the Council—

(a) grant an application under subsection (2) above, they may attach such conditions as they may determine, and shall—

(i) record any such conditions against the applicant's name in the register; and

(ii) give the applicant written reasons for any decision to attach such conditions;

(b) refuse such an application, they shall give the applicant written reasons for their decision.";

(i) for subsection (5) there is substituted—

"(5) Where the Council—

(a) grant an application under subsection (2) above subject to conditions; or

(b) refuse such an application,

the applicant may, within 21 days of the date on which the Council's decision is intimated to him, apply to the Council to review their decision.";

(j) subsection (7) is repealed;

(k) for subsection (11) there is substituted—

"(11) The Council may make rules for regulating the conduct and practice of conveyancing practitioners, and such rules may, in particular, make provision with respect to—

(a) educational qualifications and practical training (including continuing professional development);

(b) the manner in which such practitioners conduct the provision of conveyancing services;

(c) complaints against such practitioners; and

(d) in the case of independent conveyancing practitioners—

(i) conflicts of interest;

(ii) the contractual obligations of such practitioners;

(iii) the holding of and accounting for clients' money;

(iv) the disclosure of and accounting for commission; and

(v) professional indemnity insurance and other arrangements for meeting claims by clients,

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and, in respect of the matters referred to in paragraphs (a) to (c) above, different provision may be made for different cases or classes of case.

(11A) Rules made under subsection (11) above shall not have effect unless they have been approved by—

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

(b) subject to section 40 of this Act, the Scottish Ministers.

(11B) Any—

(a) rules as to the requirements to be satisfied by any person applying for registration as a qualified conveyancer; and

(b) regulations as to the conduct and practice of independent qualified conveyancers,

having effect immediately before the coming into force of this subsection shall have effect with respect to conveyancing practitioners and independent conveyancing practitioners respectively as if they were rules made under subsection (11) above which have been approved in accordance with subsection (11A) above; and the Council may amend or repeal any such rules or regulations.";

(l) subsection (12) is repealed;

(m) in subsection (13)—

(i) the words ", and subject to subsection (14) below" are repealed; and

(ii) paragraph (a) and the word "and" immediately following it are repealed;

(n) subsections (14) and (15) are repealed;

(o) in subsection (16)—

(i) for the words "an independent" there is substituted "a"; and

(ii) for the words "regulations made under subsection (11)" there is substituted "any rules made under subsection (11) above, any rules and regulations referred to in subsection (11B)"; and

(p) in subsection (20), the words "under subsection (7) above" are repealed.

(4) In section 18 (executry practitioners)—

(a) for the word "Board" in each place where it appears there is substituted "Council";

(b) for subsection (1) there is substituted—

"(1) The Council shall establish and maintain a register of executry practitioners, which shall be available for inspection by any person without charge.

(1A) The register shall include an entry in respect of any person who was registered in the register of executry practitioners maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection.";

(c) in subsection (2), after the word "them" there is inserted "by a natural person";

(d) after that subsection there is inserted—

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***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

"(2A) The Council may charge such fee for registration under subsection (2) above as they may determine.";

(e) in subsection (3)—

(i) at the end of paragraph (a) there is inserted the word "and";

(ii) in paragraph (b), for the words "prescribed by regulations made under subsection (10) below" there is substituted "of rules made under subsection (10)(a) below and regulations referred to in subsection (10B) below in so far as such regulations relate to educational qualifications and practical training";

(iii) paragraph (c) and the word "and" immediately preceding it are repealed;

(f) in subsection (5), in paragraph (a)—

(i) after the word "shall" there is inserted "(i)"; and

(ii) at the end there is added "and

(ii) give the applicant written reasons for any decision to attach such conditions;";

(g) in subsection (6), and in subsection (7) in the first place where it appears, for the word "it" there is substituted "him";

(h) in subsection (8), for the words "its" and "it" there is substituted "his" and "he" respectively;

(i) for subsection (10) there is substituted—

"(10) The Council may make rules for regulating the conduct and practice of executry practitioners, and such rules may, in particular, make provision with respect to—

(a) educational qualifications and practical training (including continuing professional development);

(b) the manner in which such practitioners conduct the provision of executry services;

(c) complaints against such practitioners; and

(d) in the case of such practitioners who provide executry services to the public for a fee, gain or reward—

(i) conflicts of interest;

(ii) the contractual obligations of such practitioners;

(iii) the holding of and accounting for clients' money;

(iv) the disclosure of and accounting for commission; and

(v) professional indemnity insurance and other arrangements for meeting claims by clients,

and, in respect of the matters referred to in paragraphs (a) to (c) above, different provision may be made for different cases or classes of case.

(10A) Rules made under subsection (10) above shall not have effect unless they have been approved by—

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

(b) subject to section 40 of this Act, the Scottish Ministers.

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(10B) Any regulations as to the conduct and practice of executry practitioners having effect immediately before the coming into force of this subsection shall have effect as if they were rules made under subsection (10) above which have been approved in accordance with subsection (10A) above; and the Council may amend or repeal any such regulations.";

(j) subsection (11) is repealed;

(k) in subsection (12), for the words "regulations made under subsection (10)" there is substituted "any rules made under subsection (10) above, any regulations referred to in subsection (10B)"; and

(l) after subsection (13) there is inserted—

"(13A) Subject to subsection (13B) below, an executry practitioner who provides executry services to the public for a fee, gain or reward shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(13B) Subsection (13A) above shall not apply to an executry practitioner who, with the approval of the Scottish Conveyancing and Executry Services Board, provided executry services to the public for a fee, gain or reward at any time before the coming into force of that subsection.".

(5) Section 19 is repealed.

(6) In section 20 (professional misconduct, inadequate professional services, etc.)—

(a) for the words "Board" and "Board's" in each place where they appear (except where they appear in subsections (3) and (17)) there is substituted "Council" and "Council's" respectively;

(b) for the words "qualified conveyancer" and "qualified conveyancers" in each place where they appear there is substituted "conveyancing practitioner" and "conveyancing practitioners" respectively;

(c) in subsection (1), in paragraph (c), for the words "regulations made under section 17(11) or 18(10)" there is substituted "rules made under section 17(11) or 18(10), or rules or regulations referred to in section 17(11B) or 18(10B),";

(d) in subsection (2)—

(i) in paragraph (b), the words "or its" are repealed; and

(ii) paragraphs (d), (e) and (g) are repealed;

(e) after that subsection there is inserted—

"(2A) Where—

(a) after holding an inquiry into a complaint against a practitioner, the Scottish Solicitors' Discipline Tribunal are satisfied that—

(i) he has been guilty of professional misconduct; or

(ii) he has provided inadequate professional services; or

(b) a practitioner has been convicted by any court of an act involving dishonesty or has been sentenced to a term of imprisonment of not less than 2 years,

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the Tribunal may take such of the steps set out in subsection (2B) below as they think fit.

(2B) The steps referred to in subsection (2A) above are—

(a) to suspend or revoke the registration of the practitioner;

(b) subject to subsection (3) below, to impose on the practitioner a fine not exceeding £10,000;

(c) to censure the practitioner; and

(d) any of the steps which the Council may take in respect of a practitioner under subsection (2)(a) to (f) above.";

(f) in subsection (3), for the words "Board" and "Board's" there is substituted "Tribunal" and "Tribunal's" respectively;

(g) in that subsection and in subsection (4), for the words "(2)(e)" there is substituted "(2B)(b)";

(h) in subsection (6)—

(i) for the word "they" there is substituted ", or the Scottish Solicitors' Discipline Tribunal, by virtue of subsection (2B)(d) above, make a similar direction, the Council or (as the case may be) the Tribunal";

(ii) after the word "give" there is inserted "to the Council"; and

(iii) the words "or it" are repealed;

(i) in subsection (8)—

(i) for the words "or (d)" there is substituted "above or the Scottish Solicitors' Discipline Tribunal, by virtue of subsection (2B)(d) above, take a similar step or the Tribunal take a step set out in subsection (2B)(a)";

(ii) for paragraph (a) there is substituted—

"(a) any period specified in this section for applying for review or for the making of an appeal in respect of the matter has expired without such a review having been applied for or such an appeal having been made;";

(iii) in paragraph (b), after the word "application" in each place where it appears there is inserted "or appeal";

(iv) in that paragraph, after the word "Board's" there is inserted "or, as the case may be, Tribunal's"; and

(v) for the word "they" there is substituted "the Council";

(j) subsections (9) and (10) are repealed;

(k) in subsection (11)—

(i) for the word "(g)" there is substituted "(f)";

(ii) in paragraph (a), the words "it or" are repealed; and

(iii) in paragraph (b), for the words from "it" in the first place where it appears to the end there is substituted "him, appeal to the Scottish Solicitors' Discipline Tribunal against the decision made in any such review; and the Tribunal may quash, confirm or vary that decision";

(l) after subsection (11) there is inserted—

"(11A) Within 21 days of the date on which—

(a) the outcome of any appeal under subsection (11)(b) above; or

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(b) the taking of any step referred to in subsection (2B) above,

is intimated to the practitioner concerned, he may appeal to the Court of Session against the decision made by the Tribunal in the appeal or, as the case may be, to take such a step; and the Court may make such order in the matter as it thinks fit.";

(m) subsection (12) is repealed;

(n) in subsection (14), after the word "(2)" there is inserted "or (2B)";

(o) in subsection (16), for the words "(2)(e)" there is substituted "(2B)(b)"; and

(p) in subsection (17)—

(i) the words "it or" in each place where they appear are repealed; and

(ii) for the word "Board's" there is substituted "Council's or, as the case may be, Tribunal's".

(7) After section 20 there is inserted—

"**20A Review of decisions**

(1) The Council shall establish a procedure under which they shall, on the application of any aggrieved person, review any relevant decision made by them.

(2) In subsection (1) above—

(a) "relevant decision" means–

(i) a refusal to grant an application for registration as a practitioner;

(ii) a decision to grant an application for registration as a practitioner subject to conditions; or

(iii) a decision to take any step set out in subsection (2)(a) to (f) of section 20 of this Act; and

(b) "aggrieved person" means the applicant or, as the case may be, the practitioner concerned.".

(8) In section 21 (Board's intervention powers)—

(a) for the word "Board" in each place where it appears there is substituted "Council";

(b) for the words "qualified conveyancer" in each place where they appear there is substituted "conveyancing practitioner"; and

(c) in subsection (2)(c), for the words from "regulations" to "18(10)" there is substituted "any rules or regulations referred to in section 20(1)(c)".

(9) After section 21 there is inserted—

"**21A Powers of investigation**

(1) The Council may exercise the power conferred by subsection (3) below for any of the following purposes—

(a) an inquiry under subsection (1) of section 20 of this Act;

(b) a review under subsection (11)(a) of that section; and

(c) consideration by the Council whether to exercise the powers conferred on them by section 21 of this Act.

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(2) The Scottish Solicitors' Discipline Tribunal may exercise the power conferred by subsection (3) below for any of the following purposes—
  (a) an inquiry under subsection (2A) of section 20 of this Act; and
  (b) an appeal under subsection (11)(b) of that section.

(3) The Council or, as the case may be, the Tribunal may give notice in writing to a practitioner specifying the subject matter of their investigation and requiring either or both of the following—
  (a) the production or delivery to any person appointed by the Council or, as the case may be, the Tribunal, at a time and place specified in the notice, of such documents so specified as are in the possession or control of the practitioner and relate to the subject matter of the investigation;
  (b) an explanation, within such period being not less than 21 days as the notice may specify, from the practitioner regarding the subject matter of the investigation.

(4) If a practitioner fails to comply with a notice under subsection (3)(a) above, the Council or, as the case may be, the Tribunal may apply to the Court of Session for an order requiring him to produce or deliver the documents to the person appointed at the place specified in the notice within such time as the court may order.

**21B Procedures of the Scottish Solicitors' Discipline Tribunal etc.**

(1) Paragraphs 7 to 9, 11, 13 to 15 and 18A to 22 of Schedule 4 to the Solicitors (Scotland) Act 1980 (c. 46) (which make provision as to certain powers and procedures of the Scottish Solicitors' Discipline Tribunal) apply in relation to complaints made against conveyancing and executry practitioners as they apply in relation to complaints against solicitors, but as if—
  (a) in paragraph 8A, sub-paragraph (b) and the word "; or" immediately preceding it were omitted; and
  (b) in paragraphs 9 and 19, the references to Part IV of that Act were references to sections 20 and 21A of this Act.

(2) Paragraphs 7, 8, 11, 13 to 15 and 18A to 22 of that Schedule to that Act apply in relation to any appeal under subsection (11)(b) of section 20 of this Act as they apply, by virtue of subsection (1) above, in relation to any complaint against conveyancing and executry practitioners, and—
  (a) the modifications made to those paragraphs by paragraph 23(a), (b) and (d) of that Schedule apply for the purposes of that application of those paragraphs; and
  (b) paragraphs 24 and 25 of that Schedule apply in relation to any such appeal as they apply in relation to an appeal to which those paragraphs apply, but as if the reference in paragraph 24 to Part IV of that Act were a reference to sections 20 and 21A of this Act.

(3) In the case of a decision by the Scottish Solicitors' Discipline Tribunal—
  (a) to take any of the steps set out in subsection (2B) of section 20 of this Act; or
  (b) in an appeal under subsection (11)(b) of that section,

  subsection (4) below applies.

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(4) Where this subsection applies and—
  (a) no appeal has been made to the Court under subsection (11A) of section 20 of this Act against the decision; or
  (b) such an appeal has been made but has—
    (i) been withdrawn; or
    (ii) resulted in the Tribunal's decision being upheld,

  the clerk of the Tribunal shall send to the Council a copy of the decision of the Tribunal certified by him and the decision of the Court in any such appeal.

(5) If the decision of the Tribunal so certified is to suspend or revoke the registration of the practitioner under paragraph (a) of subsection (2B) of section 20 of this Act, the Council shall—
  (a) give effect to the decision; and
  (b) cause a note of the effect of the decision to be entered against the name of the practitioner in the register of conveyancing practitioners or, as the case may be, of executry practitioners.

**21C Compensation fund**

(1) The Council shall establish and maintain a fund for the purpose of making grants to compensate persons who in the opinion of the Council have suffered pecuniary loss by reason of dishonesty in connection with the provision of—
  (a) conveyancing services by or on behalf of an independent conveyancing practitioner; and
  (b) executry services to the public for a fee, gain or reward by or on behalf of an executry practitioner.

(2) The Council may, for the purpose of guaranteeing the sufficiency of the fund mentioned in subsection (1) above, enter into a contract of insurance with any person authorised by law to carry out insurance business.

(3) The Scottish Ministers may—
  (a) make contributions to the fund mentioned in subsection (1) above; and
  (b) defray any premium, fee or other expense payable by the Council under or in relation to a contract entered into under subsection (2) above.

(4) The Council may, with the approval of the Scottish Ministers, make rules with regard to the operation of the fund mentioned in subsection (1) above and, without prejudice to the foregoing generality, such rules may make provision as to—
  (a) contributions to be paid to the fund by independent conveyancing practitioners and by executry practitioners who provide executry services to the public for a fee, gain or reward;
  (b) the procedure for making claims against the fund; and
  (c) the administration, management and protection of the fund.

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(5) The fund for the purpose of making grants to compensate persons by reason of dishonesty in connection with the provision of conveyancing and executry services maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection shall be transferred to and vested in the Council; and that fund shall be applied by the Council to the fund established under subsection (1) above.

(6) Any rules as to the fund transferred under subsection (5) above having effect immediately before the coming into force of this subsection shall have effect with respect to the fund established under subsection (1) above as if they were rules made under subsection (4) above; and the Council may amend or repeal any such rules.”.

(10) In section 22 (disclosure of documents etc)—

(a) for the words “qualified conveyancer” there is substituted “conveyancing practitioner”;

(b) in subsection (1)—

(i) in paragraph (a), the words “or its” are repealed;

(ii) paragraph (b) and the word “or” immediately preceding it are repealed; and

(iii) for the words “conveyancer, practitioner or institution” there is substituted “practitioner”; and

(c) in subsection (2)—

(i) after paragraph (a) there is inserted the word “and”; and

(ii) paragraph (c) and the word “and” immediately preceding it are repealed.

(11) In section 23 (interpretation of sections 16 to 22)—

(a) the definition of “the Board” is repealed;

(b) after that definition there is inserted—

““conveyancing practitioner” means a person registered under section 17 in the register of conveyancing practitioners;”;

(c) in the definition of “conveyancing services”, after the word “thereto” there is inserted “, including (in the case of independent conveyancing practitioners) relevant notarial services”;

(d) after that definition there is inserted—

““the Council” means the Council of the Law Society of Scotland;”;

(e) for the definition of “independent qualified conveyancer” there is substituted—

““independent conveyancing practitioner” means a conveyancing practitioner whose entry in the register of conveyancing practitioners has been annotated to that effect under section 17(1B);”;

(f) in the definition of “practitioner”, for the words “qualified conveyancer” there is substituted “conveyancing practitioner”;

(g) the definition of “qualified conveyancer” is repealed;

(h) the definition of “recognised financial institution” and the word “and” immediately preceding it are repealed; and

(i) at the end there is added “; and

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" "relevant notarial services" means the functions exercisable by independent conveyancing practitioners by virtue of section 14(1) and (2) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4).".

(12) In section 33 (complaints in relation to legal services), in subsection (5)—

(a) in the definition of "professional organisation", paragraph (c) is repealed; and

(b) in the definition of "practitioner"—

(i) in paragraph (b), after the word "solicitor" there is inserted "or a practitioner within the meaning of section 23 of this Act"; and

(ii) paragraph (c) is repealed.

(13) In section 34 (Scottish legal services ombudsman)—

(a) subsections (6), (7) and (8) are repealed; and

(b) in subsection (9)—

(i) paragraphs (c), (e) and (f) are repealed;

(ii) in paragraph (d), the words "subject to paragraph (e) below" are repealed; and

(iii) in paragraph (g), for the words "qualified conveyancers" there is substituted "conveyancing practitioners".

(14) In section 40 (advisory and supervisory functions of Director)—

(a) in subsection (1)—

(i) in paragraph (a), for the words "making any regulations" there is substituted "approving any rules made"; and

(ii) in paragraph (b), sub-paragraph (i) and the word "or" immediately following it are repealed; and

(b) in subsection (2), the word "regulations," is repealed.

(15) In section 42 (review of rules), in subsection (1)(a), the words "17(15) or" are repealed.

(16) Schedule 1 (Scottish Conveyancing and Executry Services Board) is repealed.

**Commencement Information**

**I59** Sch. 4 para. 12 in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

13 In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997—

(a) in section 69 (grants and loans for preservation and enhancement of conservation areas), subsections (4) to (6) are repealed;

(b) in section 71 (town scheme agreements), subsection (2) is repealed; and

(c) in section 72 (grants for repairing of buildings in town schemes), subsection (3) is repealed.

**Commencement Information**

**I60** Sch. 4 para. 13 in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

***Status:*** *Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.*
***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

14 In the National Health Service (Primary Care) Act 1997—

(a) in section 5 (approval of pilot schemes), subsection (5) is repealed.

(b) in section 33 (medical lists and vacancies: Scotland), subsection (2) is repealed;

(c) in Schedule 2 (minor and consequential amendments)—

(i) paragraph 33; and

(ii) paragraph 42,

are repealed.

(d) in Schedule 3 (repeals and revocations), the entries relating to the repeal of—

(i) certain words in section 3 of the 1978 Act;

(ii) section 20 of that Act; and

(iii) certain words in section 24 of that Act,

are repealed.

**Commencement Information**

**I61** Sch. 4 para. 14 in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

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

(a) the Scottish Medical Practices Committee; and

(b) the Scottish Conveyancing and Executry Services Board,

are repealed.

**Commencement Information**

**I62** Sch. 4 para. 15(a) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

**I63** Sch. 4 para. 15(b) in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

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

(a) the paragraph relating to the Scottish Medical Practices Committee is repealed; and

(b) after paragraph 21 there is inserted—

"21A The Commissioner for Public Appointments in Scotland.".

**Commencement Information**

**I64** Sch. 4 para. 16(a) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

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

(a) in Part 4, the paragraphs relating to—

(i) the Scottish Hospital Trust; and

(ii) the Scottish Medical Practices Committee,

are repealed;

(b) in Part 7, the paragraphs relating to—

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***Changes to legislation:*** *Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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)*

(i) the Ancient Monuments Board for Scotland;

(ii) the Historic Buildings Council for Scotland; and

(iii) the Scottish Conveyancing and Executry Services Board,

are repealed; and

(c) in that Part—

(i) after paragraph 62 there is inserted—

"62A The Commissioner for Public Appointments in Scotland."; and

(ii) after paragraph 67 there is inserted—

"67A The Historic Environment Advisory Council for Scotland.".

**Commencement Information**

**I65** Sch. 4 para. 17(a)(i) in force at 6.5.2004 by S.S.I. 2004/198, **art. 2(c)**

**I66** Sch. 4 para. 17(a)(ii) in force at 1.4.2004 by S.S.I. 2004/148, **art. 2(c)**

**I67** Sch. 4 para. 17(b)(iii) in force at 15.8.2003 by S.S.I. 2003/384, **art. 2(d)**

**I68** Sch. 4 para. 17(b)(i)(ii) in force at 31.5.2003 by S.S.I. 2003/219, **art. 2(1)(c)**

**I69** Sch. 4 para. 17(c)(ii) in force at 1.6.2003 by S.S.I. 2003/219, **art. 2(2)(c)**

**Status:**
Point in time view as at 22/03/2011. This version of this Act contains provisions that are prospective.

**Changes to legislation:**
Public Appointments and Public Bodies etc. (Scotland) Act 2003 is up to date with all changes known to be in force on or before 07 October 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.