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

SCHEDULE 3
AMENDMENTS OF THE SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002 (ASP 11)

Disqualification, terms of office, status, removal etc.

11 For paragraph 1(3) (disqualification of former Ombudsman from certain posts) there is substituted—

“(3) A person who has ceased to hold office as Ombudsman or deputy Ombudsman may not, without the approval of the Parliamentary corporation—

- (a) be appointed or, as the case may be, elected as—
 - (i) the holder of any office which is a listed authority, or
 - (ii) a member, officer or member of staff of a listed authority,
- (b) be appointed to any paid office by a listed authority, or
- (c) hold any other office, employment, or appointment or engage in any other occupation, being an office, employment, appointment or occupation which, by virtue of paragraph 4(2E)(a), that person could not have held or, as the case may be, engaged in when Ombudsman or, as the case may be, Deputy Ombudsman.

(3A) The restriction in sub-paragraph (3)—

- (a) starts when the person ceases to hold office as Ombudsman or, as the case may be, deputy Ombudsman, and
- (b) ends on the expiry of the financial year following the one in which it started.

(3B) In sub-paragraph (3), a “paid office” is one where the holder is entitled to remuneration or expenses or any combination of them.”

12 In paragraph 2 (status of Ombudsman)—

(a) after sub-paragraph (2) there is inserted—

“(2A) The Ombudsman is, as such, to be regarded as a juristic person distinct from the natural person holding the office.”,

(b) in sub-paragraph (3) (respects in which Ombudsman is subject to direction or control) for “paragraph” there is substituted “ paragraphs 9(4), 10(3), 12(3), 12A, 12B, 12D and ”.

13 In paragraph 4 (period of office, tenure etc.)—

(a) in sub-paragraph (1)—

- (i) in paragraph (a) for “five” there is substituted “ eight ”, and
- (ii) for paragraph (d) there is substituted—

“(d) may be removed from office by Her Majesty if sub-paragraph (2C) applies,”

(b) for sub-paragraphs (2) and (3) there is substituted—

“(2A) A person who has held office as Ombudsman or deputy Ombudsman is ineligible for reappointment at any time.

(2B) Such a person is, however, eligible for appointment to the other office, but may not hold that office beyond the expiry of the period for which the person was first appointed.”

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- (c) after sub-paragraph (2B) (as inserted by this paragraph) there is inserted—
- “(2C) This sub-paragraph applies if—
- (a) the Parliamentary corporation is satisfied that the Ombudsman has breached the terms and conditions of office and the Parliament resolves that the Ombudsman should be removed from office for that breach, or
 - (b) the Parliament resolves that it has lost confidence in the Ombudsman's willingness, suitability or ability to perform the functions of the Ombudsman,
- and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.
- (2D) Sub-paragraph (2C) applies in respect of a deputy Ombudsman as it applies in respect of the Ombudsman.
- (2E) The terms and conditions of office referred to in sub-paragraph (1) (e) may, without prejudice to paragraph 1—
- (a) prohibit the Ombudsman or deputy Ombudsman from holding any other specified office, employment or appointment or engaging in any other specified occupation,
 - (b) provide that the Ombudsman's or deputy Ombudsman's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.
- (2F) In sub-paragraph (2E), “specified” means specified in the terms and conditions of office or within a description so specified.”

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