

Changes to legislation: There are currently no known outstanding effects for the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1

(introduced by section 19(3))

ENVIRONMENTAL STANDARDS SCOTLAND

Independence from Ministers

- 1 (1) In performing its functions, Environmental Standards Scotland is not subject to the direction or control of any member of the Scottish Government.
- (2) Sub-paragraph (1) is subject to any contrary provision in this or any other enactment.

Commencement Information

II Sch. 1 para. 1 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Appointment of members

- 2 (1) Environmental Standards Scotland is to consist of—
 - (a) a member appointed by the Scottish Ministers to chair Environmental Standards Scotland, and
 - (b) at least 4 but no more than 6 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may appoint a person as a member only if the Scottish Parliament has approved the appointment.
- (3) In appointing members, the Scottish Ministers must have regard, among other things, to the desirability of ensuring that the membership (taken as a whole) has expertise or experience in—
 - (a) law (including international law) relating to the natural environment,
 - (b) environmental science,
 - (c) environmental policy, and
 - (d) investigatory and enforcement proceedings.
- (4) A member is appointed for such period not exceeding 4 years as the Scottish Ministers determine.
- (5) The Scottish Ministers may reappoint a person as a member if—
 - (a) the person—
 - (i) is a member at the time of reappointment, or
 - (ii) ceased to be a member not more than 3 months before the date of reappointment, and
 - (b) the person has not previously been reappointed.
- (6) Sub-paragraphs (2) and (4) apply to the reappointment of a person as a member as they apply to the appointment of a person as a member.
- (7) The Scottish Ministers may determine other terms and conditions of membership in relation to matters not covered by this Act.
- (8) The Scottish Ministers may by regulations amend sub-paragraph (1)(b) by substituting a different number for a number for the time being mentioned there.

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(9) Regulations under sub-paragraph (8) are subject to the negative procedure.

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I2 Sch. 1 para. 2 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Persons who may not be members

- 3 (1) The Scottish Ministers may not appoint a person as a member if sub-paragraph (2) or (3) applies to the person.
- (2) This sub-paragraph applies to a person who is—
- (a) a member of—
 - (i) the Scottish Parliament,
 - (ii) the House of Commons,
 - (iii) the House of Lords,
 - (iv) Senedd Cymru, or
 - (v) the Northern Ireland Assembly,
 - (b) a member of the Scottish Government,
 - (c) a Minister of the Crown,
 - (d) an office-holder in the Scottish Administration,
 - (e) an office-holder of the Crown in right of Her Majesty's Government in the United Kingdom,
 - (f) a councillor of a local authority,
 - (g) the holder of any other relevant elective office as defined by paragraph 1(8) of schedule 7 of the Political Parties, Elections and Referendums Act 2000,
 - (h) a civil servant,
 - (i) an employee of a local authority.
- (3) This sub-paragraph applies to a person who is or has been—
- (a) insolvent,
 - (b) disqualified as a company director under the Company Directors Disqualification Act 1986,
 - (c) disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005,
 - (d) disqualified under a disqualification provision analogous to either of those mentioned in paragraphs (b) and (c) anywhere in the world.
- (4) For the purpose of sub-paragraph (3)(a), a person is or has been insolvent if—
- (a) the person's estate is or has been sequestrated,
 - (b) the person has granted a trust deed for creditors or has made a composition or arrangement with creditors,
 - (c) the person is or has been the subject of any other kind of arrangement analogous to either of those mentioned in paragraphs (a) and (b) anywhere in the world.

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I3 Sch. 1 para. 3 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Members' remuneration and expenses

- 4 (1) Environmental Standards Scotland may pay—
- (a) its members, and
 - (b) the members of any committee established by it,
- such remuneration as it may, with the approval of the Scottish Ministers, determine.
- (2) Environmental Standards Scotland may pay—
- (a) its members, and
 - (b) the members of any committee established by it,
- such sums as it may, with the approval of the Scottish Ministers, determine in respect of expenses incurred by them in performing their functions.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Early termination of membership

- 5 (1) A person's membership of Environmental Standards Scotland ends if—
- (a) the person gives notice in writing to the Scottish Ministers and the Presiding Officer of the Scottish Parliament that the person resigns,
 - (b) the person becomes disqualified from being a member,
 - (c) the Scottish Ministers give the person notice in writing that the person is removed from being a member.
- (2) The Scottish Ministers may remove a member under sub-paragraph (1)(c) only if—
- (a) the member has been absent, without permission or reasonable excuse, from meetings of Environmental Standards Scotland for a period of longer than 3 consecutive months,
 - (b) the member has been convicted of a criminal offence, or
 - (c) the Scottish Ministers consider that the member is—
 - (i) unable to perform the member's functions, or
 - (ii) unsuitable to continue as a member.
- (3) Where they propose to give a person, other than the person who is the member appointed to chair Environmental Standards Scotland, notice under sub-paragraph (1)(c) that the person is to be removed from being a member, the Scottish Ministers must consult the member appointed to chair Environmental Standards Scotland.
- (4) The Scottish Ministers may remove a member under sub-paragraph (1)(c) only with the approval of the Scottish Parliament.
- (5) For the purpose of sub-paragraph (1)(b), a person becomes disqualified from being a member if paragraph 3(2) or (3) applies to the person.

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I5 Sch. 1 para. 5 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Chief executive and other staff

- 6 (1) Environmental Standards Scotland is to have, as a member of staff, a chief executive.
- (2) The chief executive may not be a member of Environmental Standards Scotland.
- (3) The Scottish Ministers are to appoint the first chief executive with the approval of the Scottish Parliament.
- (4) Environmental Standards Scotland is to appoint each subsequent chief executive.
- (5) Environmental Standards Scotland may appoint other staff.
- (6) The chief executive and other staff are to be appointed on such terms and conditions as Environmental Standards Scotland, with the approval of the Scottish Ministers, determines.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Committees

- 7 (1) Environmental Standards Scotland may establish committees.
- (2) The membership of a committee may include (but may not consist entirely of) persons who are not members of Environmental Standards Scotland but those persons are not entitled to vote at meetings.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Authority to perform functions

- 8 (1) Environmental Standards Scotland may authorise—
- (a) any of its members,
 - (b) any committee established by it,
 - (c) its chief executive, or
 - (d) any other member of its staff,
- to perform such of its functions (and to such extent) as it may determine.
- (2) The giving of authority under sub-paragraph (1) to perform a function does not—
- (a) affect Environmental Standards Scotland's responsibility for the performance of the function, or
 - (b) prevent Environmental Standards Scotland from performing the function itself.

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I8 Sch. 1 para. 8 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Regulation of procedure

- 9 Environmental Standards Scotland may regulate its own procedure (including quorum) and that of any committee.

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I9 Sch. 1 para. 9 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Validity of things done

- 10 The validity of anything done by Environmental Standards Scotland or its committees is not affected by—
- (a) a vacancy in membership,
 - (b) a defect in the appointment of a member,
 - (c) the disqualification of a person from being a member after appointment.

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I10 Sch. 1 para. 10 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

General powers

- 11 Environmental Standards Scotland may do anything which appears to it—
- (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
 - (b) to be otherwise conducive to the performance of its functions.

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I11 Sch. 1 para. 11 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Annual report

- 12 (1) Environmental Standards Scotland must, as soon as practicable after the end of each financial year—
- (a) prepare and publish a report on its activities during that year,
 - (b) send a copy of the report to the Scottish Ministers, and
 - (c) lay a copy of the report before the Scottish Parliament.
- (2) It is for Environmental Standards Scotland to determine the form and content of each report.

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I12 Sch. 1 para. 12 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Resources

- 13 (1) The Scottish Ministers must seek to ensure that the amount of resources allocated for use by Environmental Standards Scotland is reasonably sufficient to enable it to perform its functions.
- (2) Each report prepared under paragraph 12 must include an assessment by Environmental Standards Scotland of whether the amount of resources allocated for use by it in the financial year to which the report relates was sufficient to enable it to perform its functions.
- (3) Sub-paragraph (2) does not affect the generality of paragraph 12(2).

Commencement Information

I13 Sch. 1 para. 13 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Initial members: transitional provision

- 14 (1) This paragraph applies if—
- (a) before the commencement date, a body known as Environmental Standards Scotland is established (the “non-statutory Environmental Standards body”) in pursuance of a resolution of the Scottish Parliament—
 - (i) endorsing the establishment of the body by that name, and
 - (ii) approving the appointment of persons nominated to be its chairing and other members, and
 - (b) the body is still in existence immediately before the commencement date.
- (2) The person who was, immediately before the commencement date, the chairing member of the non-statutory Environmental Standards body is, on that date, taken to have been appointed under paragraph 2(1)(a) as the member to chair Environmental Standards Scotland.
- (3) Any person who was, immediately before the commencement date, a member (other than the chairing member) of the non-statutory Environmental Standards body is, on that date, taken to have been appointed under paragraph 2(1)(b) as a member of Environmental Standards Scotland.
- (4) A person to whom sub-paragraph (2) or (3) applies is referred to in this paragraph as an “initial member”.
- (5) An initial member's period of appointment as a member—
- (a) is to continue to be the same as that for which the member had been appointed as a member of the non-statutory Environmental Standards body, and
 - (b) accordingly expires at the time at which the period of appointment as a member of the non-statutory Environmental Standards body would have expired.

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- (6) Except as may be agreed between the Scottish Ministers and an initial member, the other terms of the member's appointment are to continue to be the same as the terms on which the member had been appointed as a member of the non-statutory Environmental Standards body so far as consistent with this Act.
- (7) In this paragraph, “commencement date” means the day on which section 19 comes into force.

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I14 Sch. 1 para. 14 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

Application of legislation relating to public bodies

- 15 (1) In schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies), before the entry relating to Food Standards Scotland insert— “ Environmental Standards Scotland ”.
- (2) In schedule 1 of the Freedom of Information (Scotland) Act 2002 (Scottish public authorities: non ministerial office holders in the Scottish Administration), after paragraph 7A insert—
“7AA Environmental Standards Scotland.”.
- (3) In schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (specified authorities), under the heading “Executive bodies”, before the entry relating to Food Standards Scotland insert— “ Environmental Standards Scotland ”.
- (4) In schedule 8 of the Public Services Reform (Scotland) Act 2010 (information on exercise of public functions: listed public bodies), before the entry relating to Food Standards Scotland insert— “ Environmental Standards Scotland ”.
- (5) In the schedule of the Public Records (Scotland) Act 2011 (authorities to which Part 1 applies), under the heading “Scottish Administration”, before the entry relating to Food Standards Scotland insert— “ Environmental Standards Scotland ”.
- (6) In the schedule of the Procurement Reform (Scotland) Act 2014 (contracting authorities: Scottish Administration and Scottish Parliament), after paragraph 13D insert—
“13E Environmental Standards Scotland.”.
- (7) In schedule 1 of the Gender Representation on Public Boards (Scotland) Act 2018 (public authorities), before the entry relating to Food Standards Scotland insert—

“Environmental Standards Scotland”.

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I15 Sch. 1 para. 15 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(b)

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