

EXECUTIVE NOTE

THE PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003 (AMENDMENT OF SPECIFIED AUTHORITIES) ORDER 2011 S.S.I. 2011/ Draft

1. The above instrument is proposed to be made in exercise of the powers conferred by sections 3(2)(a) and 19 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“the 2003 Act”). The instrument is subject to affirmative resolution procedure.

Policy Objectives

2. The 2003 Act established the Office of the Commissioner for Public Appointments in Scotland (OCPAS) with the role of creating and regulating the process by which people are appointed to bodies and offices specified in Schedule 2 of that Act.

3. The purpose of the instrument is to remove the Parole Board Lord Commissioner of Justiciary appointment from the regulatory remit of OCPAS. The procedure in the past has been for the sponsor team in the Justice Directorate, via the Judicial Office for Scotland, to invite the Lord President to nominate a replacement Lord Commissioner of Justiciary.

4. OCPAS has recently confirmed that the Lord Commissioner of Justiciary appointment is subject to OCPAS procedures, as members of the Parole Board are listed under schedule 2 of the 2003 Act. This means that any such appointment is required to comply with the OCPAS code of practice.

5. In consultation with OCPAS, two options were identified about how these appointments should be dealt with in future:

- run an OCPAS Code compliant appointment round to identify a replacement Lord Commissioner of Justiciary; or
- remove the Parole Board Lord Commissioner of Justiciary appointment from the regulatory remit of OCPAS.

6. The Lord Commissioner of Justiciary appointment is a unique position within the Parole Board, requiring specialist skills and experience, found only amongst the 34 senators of the College of Justice. The Lord President is therefore best placed to determine which of the 34 senators combines the necessary experience with the ability to devote the necessary time to the Parole Board role. We therefore wish to remove the appointment of a Lord Commissioner of Justiciary from the remit of OCPAS.

Consultation

7. The changes made to the schedule of the 2003 Act will have no impact, other than providing clarification that these Parole Board Lord Commissioner of Justiciary

appointments are not covered by the OCPAS remit. OCPAS is aware of these proposals. Public consultation on the order was not considered necessary.

Financial Effects

8. A regulatory impact assessment is not considered necessary because the change is expected to have no financial impact on Scottish businesses.

**Justice Directorate
December 2010**