

## SCHEDULE 1

Article 3(2)

### Modifications to the Act

1. The Act is amended in accordance with this Schedule.
2. Omit section 2 (functions of the Commissioners) and schedule 1 (consequential amendments).
3. For section 3 (status of Commission and Commissioners) substitute—

#### **“Status of Commissioner and Commissioner’s staff**

- 3.—(1) Neither the Commissioner nor any member of the Commissioner’s staff—
  - (a) is a servant or agent of the Crown,
  - (b) has any status, immunity or privilege of the Crown.
- (2) The Commissioner’s property is not to be regarded as property of, or property held on behalf of, the Crown.
- (3) The Commissioner is, as such, to be regarded as a juristic person distinct from the natural person holding the office.”
4. In section 4 (independence of Commissioners)—
  - (a) for “their respective functions, the Commissioners are” substitute “the Commissioner’s functions, the Commissioner is”;
  - (b) in paragraph (b), for “Executive” substitute “Government”; and
  - (c) in the title, for “Commissioners” substitute “Commissioner”.
5. For section 5 (protection of Commission from actions for defamation) substitute—

#### **“Protection from actions for defamation**

- 5.—(1) For the purposes of the law of defamation—
  - (a) any statement made by the Commissioner or a member of the Commissioner’s staff in pursuance of the Commissioner’s functions under the Ethical Standards Act or the Parliamentary Standards Act is absolutely privileged,
  - (b) any statement made by the Commissioner or a member of the Commissioner’s staff in pursuance of the Commissioner’s other functions has qualified privilege, and
  - (c) any statement made to the Commissioner or any member of the Commissioner’s staff in pursuance of the purposes of the Ethical Standards Act, the Parliamentary Standards Act or the Public Appointments Act has qualified privilege.
- (2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c.31).”
6. Omit section 6 (designation of Chief Commissioner).
7. In section 7 (appointment of acting Commissioner)—
  - (a) in subsection (1), for “a” in the first two places it occurs, substitute “the”;
  - (b) omit subsection (3);
  - (c) in subsection (4), for “a” in the second place it occurs, substitute “the”;
  - (d) in subsection (5) for “Commission’s” substitute “Commissioner’s”;
  - (e) omit subsection (6); and

(f) in subsection (7)(d) omit “in respect of whom the acting Commissioner was appointed”.

**8.** For the cross-heading immediately before section 1 (establishment, members and functions of the Commission for Ethical Standards in Public Life in Scotland) substitute—

*“The Commissioner”.*

**9.** In section 8(1) (disqualification)—

- (a) for “a Commissioner” substitute “the Commissioner”; and
- (b) in paragraph (f), for “Commission” substitute “Commissioner”.

**10.** In section 9 (terms of office and remuneration)—

- (a) in subsections (1) and (5), for “Each” substitute “The”;
- (b) in subsections (2) and (3), for “A” substitute “The”;
- (c) in subsection (6), for “each” substitute “the”; and
- (d) in subsection (9), for “a” substitute “the”.

**11.** In section 10(1) (pensions etc.)—

- (a) for “The Commission may, with the approval of the Parliamentary corporation,” substitute “The Parliamentary corporation may”; and
- (b) for “a” substitute “the”.

**12.** In section 11 (subsequent appointments etc. of former Commissioner)—

- (a) in subsection (1)—
  - (i) for “a Commissioner” substitute “the Commissioner”;
  - (ii) in paragraph (a), for “Commission” substitute “Commissioner”; and
  - (iii) in paragraph (e), for “a” substitute “the”; and
- (b) in subsection (2)(a), for “a” substitute “the”.

**13.** In section 12 (general powers)—

- (a) in subsection (1)—
  - (i) for “Commission” substitute “Commissioner”; and
  - (ii) for “its” in both places it occurs, substitute “the Commissioner’s”;
- (b) in subsection (2), for “Commission” substitute “Commissioner”;
- (c) in subsection (4)—
  - (i) for “Commission” substitute “Commissioner”; and
  - (ii) from “it” to the end, substitute “, or on behalf of, the Commissioner in the performance of, or in connection with, the Commissioner’s functions.”; and
- (d) in subsection (5)—
  - (i) for “Commission” substitute “Commissioner”; and
  - (ii) omit “by it”.

**14.** In section 13 (payment of witnesses’ expenses)—

- (a) for “Commission” substitute “Commissioner”; and
- (b) for “it” substitute “the Commissioner”.

**15.** In section 14 (strategic plans)—

- (a) in subsection (1)—

- (i) for “Commission” in the first place it occurs, substitute “Commissioner”; and
    - (ii) for “Commission and each Commissioner propose to perform their respective” substitute “Commissioner proposes to perform the Commissioner’s”;
  - (b) in subsection (2)—
    - (i) in paragraph (a), omit “Commission’s and each”; and
    - (ii) in paragraph (b), for “Commission and each Commissioner propose” substitute “Commissioner proposes”;
  - (c) in subsection (3)—
    - (i) for “Commission” in the first place it occurs, substitute “Commissioner”; and
    - (ii) in paragraph (b), for “Commission think” substitute “Commissioner thinks”; and
  - (d) in subsections (5), (6) and (7), for “Commission” substitute “Commissioner”.
- 16.** In section 15 (procedure and validity of acts)—
- (a) omit subsections (1), (2) and (4);
  - (b) in subsection (3), for “a” in both places it occurs, substitute “the”; and
  - (c) in the title, for “Procedure and validity” substitute “Validity”.
- 17.** In section 16 (delegation)—
- (a) omit subsections (1) and (2);
  - (b) in subsection (3)—
    - (i) for “a Commissioner” substitute “the Commissioner”;
    - (ii) omit “the other Commissioner or”; and
    - (iii) for “Commission’s” substitute “Commissioner’s”; and
  - (c) in subsection (4)—
    - (i) for “either of the Commissioners” substitute “the Commissioner”; and
    - (ii) for “that” substitute “the”.
- 18.** In the cross-heading immediately before section 12 (general powers), for “*Commission*” substitute “*Commissioner*”.
- 19.** In section 17 (staff)—
- (a) in subsection (1)—
    - (i) for “Commission” substitute “Commissioner”;
    - (ii) omit “, for the purposes of section 1(7),”; and
    - (iii) for “it” substitute “the Commissioner”; and
  - (b) in subsection (2)—
    - (i) for “Commission” substitute “Commissioner”; and
    - (ii) for “its” substitute “the Commissioner’s”.
- 20.** In section 18 (advisers, assessors and other services)—
- (a) in subsection (1)—
    - (i) for “Commission may obtain for itself or for a Commissioner” substitute “Commissioner may obtain”; and
    - (ii) for “Commission” in the second place it occurs, substitute “Commissioner”; and
  - (b) in subsection (2)—

- (i) for “Commission” substitute “Commissioner”; and
- (ii) for “it” substitute “the Commissioner”.

**21.** In section 19 (accountable officer)—

- (a) in subsection (1)—
  - (i) for “a Commissioner” substitute “the Commissioner”; and
  - (ii) for “Commission’s” substitute “Commissioner’s”;
- (b) in subsection (2), for “Commission” in the three places it occurs, substitute “Commissioner”; and
- (c) in subsection (3)—
  - (i) after “officer” in the first place it occurs, insert “is not the Commissioner and”; and
  - (ii) in paragraph (a), for “Commission” substitute “Commissioner”.

**22.** In section 20 (budget)—

- (a) in subsection (1)—
  - (i) for “Commission” substitute “Commissioner”; and
  - (ii) for “its” substitute “the Commissioner’s”; and
- (b) in subsections (2), (3) and (4), for “Commission” in the four places it occurs, substitute “Commissioner”.

**23.** In section 21 (funding)—

- (a) in subsection (1)(a), for “each” substitute “the”;
- (b) in subsection (1)(b)—
  - (i) for “Commission” substitute “Commissioner”;
  - (ii) for “its” substitute “the Commissioner’s”; and
  - (iii) for “it” substitute “the Commissioner”;
- (c) in subsection (1)(c)—
  - (i) omit “Commission and each”;
  - (ii) for “it or, as the case may be, that” substitute “the”; and
  - (iii) for “its or, as the case may be, that” substitute “the”; and
- (d) in subsection (2), for “Commission” substitute “Commissioner”.

**24.** In section 22 (accounts and audit), for “Commission” in both places it occurs, substitute “Commissioner”.

**25.** In section 23 (location of office)—

- (a) for “Commission” substitute “Commissioner”; and
- (b) for “Commission’s” substitute “Commissioner’s”.

**26.** In section 24 (sharing of premises, staff, services and other resources), for “Commission” substitute “Commissioner”.

**27.** In section 25 (annual reports)—

- (a) in subsection (1)—
  - (i) for “Commission” in the first place it occurs, substitute “Commissioner”;
  - (ii) for “by the Commission and each of the Commissioners of their respective”, substitute “of the Commissioner’s”;

- (b) in subsection (2)—
  - (i) for “functions of the Public Standards Commissioner for Scotland” substitute “Commissioner’s functions under the Ethical Standards Act and the Parliamentary Standards Act”; and
  - (ii) in paragraph (a), for “that” substitute “the”;
- (c) in subsection (3)—
  - (i) for “functions of the Public Appointments Commissioner for Scotland” substitute “Commissioner’s functions under the Public Appointments Act”; and
  - (ii) in paragraph (b), for “that” substitute “the”;
- (d) omit subsection (4); and
- (e) in subsections (6) and (7), for “Commission” substitute “Commissioner”.

**28.** Omit section 26 (Commission and Commissioners to be subject to investigations by Scottish Public Services Ombudsman).

**29.** Omit section 27 (Commission and Public Appointments Commissioner for Scotland to be subject to Freedom of Information (Scotland) Act).

**30.** In section 28 (interpretation of Part 1)—

- (a) omit the definition of “Commission”;
- (b) for the definition of “Commissioner” substitute—
  - ““Commissioner” means the Commissioner for Ethical Standards in Public Life in Scotland,
  - “the Ethical Standards Act” means the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7),”; and
- (c) after the definition of “Parliamentary corporation” insert—
  - ““the Parliamentary Standards Act” means the Scottish Parliamentary Standards Commissioner Act 2002 (asp 16), and
  - “the Public Appointments Act” means the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4).”.

**31.** For the heading to Part 1 substitute—

***“THE COMMISSIONER FOR ETHICAL  
STANDARDS IN PUBLIC LIFE IN SCOTLAND”.***

**32.** In section 29 (standardising and other enactments)—

- (a) omit subsection (7); and
- (b) after subsection (11) insert—
  - “(12) In this section, “the Ethical Standards Act”, “the Parliamentary Standards Act” and “the Public Appointments Act” have the same meanings given by section 28.”.

**33.** Omit section 30 (interpretation).