



# Constitutional Reform and Governance Act 2010

## 2010 CHAPTER 25

An Act to make provision relating to the civil service of the State; to make provision in relation to section 3 of the Act of Settlement; to make provision relating to the ratification of treaties; to make provision relating to the counting of votes in parliamentary elections; to amend the Parliamentary Standards Act 2009 and the European Parliament (Pay and Pensions) Act 1979 and to make provision relating to pensions for members of the House of Commons, Ministers and other office holders; to make provision for treating members of the House of Commons and members of the House of Lords as resident, ordinarily resident and domiciled in the United Kingdom for taxation purposes; to amend the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales; to amend the Public Records Act 1958 and the Freedom of Information Act 2000. [8th April 2010]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

VALID FROM 11/11/2010

## PART 1

### THE CIVIL SERVICE

## CHAPTER 1

### STATUTORY BASIS FOR MANAGEMENT OF THE CIVIL SERVICE

#### *Application*

#### **1 Application of Chapter**

- (1) Subject to subsections (2) and (3), this Chapter applies to the civil service of the State.
- (2) This Chapter does not apply to the following parts of the civil service of the State—
  - (a) the Secret Intelligence Service;
  - (b) the Security Service;
  - (c) the Government Communications Headquarters;
  - (d) the Northern Ireland Civil Service;
  - (e) the Northern Ireland Court Service.
- (3) Further, this Chapter—
  - (a) does not apply in relation to the making, outside the United Kingdom, of selections of persons who are not members of the civil service of the State for appointment to that service for the purpose only of duties to be carried out wholly outside the United Kingdom;
  - (b) does not apply in relation to the appointment of a person to the civil service of the State who was selected for the appointment as mentioned in paragraph (a);
  - (c) does not apply to the civil service of the State so far as it consists of persons—
    - (i) who were appointed to the civil service of the State as mentioned in paragraph (b), and
    - (ii) all of whose duties are carried out wholly outside the United Kingdom.
- (4) In this Chapter references to the civil service—
  - (a) are to the civil service of the State excluding the parts mentioned in subsections (2) and (3)(c);
  - (b) are to be read subject to subsection (3)(a) and (b);
 and references to civil servants are to be read accordingly.

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### *Civil Service Commission*

## **2 Establishment of the Civil Service Commission**

- (1) There is to be a body corporate called the Civil Service Commission (“the Commission”).
- (2) Schedule 1 (which is about the Commission) has effect.
- (3) The Commission has the role in relation to selections for appointments to the civil service set out in sections 11 to 14.
- (4) See also—
  - (a) section 9 (which sets out the Commission's role in dealing with conduct that conflicts with civil service codes of conduct);
  - (b) section 17 (under which the Commission may be given additional functions).

### *Power to manage the civil service*

## **3 Management of the civil service**

- (1) The Minister for the Civil Service has the power to manage the civil service (excluding the diplomatic service).
- (2) The Secretary of State has the power to manage the diplomatic service.
- (3) The powers in subsections (1) and (2) include (among other things) power to make appointments.
- (4) But they do not cover national security vetting (and, accordingly, subsections (1) and (2) do not affect any power relating to national security vetting).
- (5) The agreement of the Minister for the Civil Service is required for any exercise of the power in subsection (2) in relation to—
  - (a) remuneration of civil servants (including compensation payable on leaving the civil service), or
  - (b) the conditions on which a civil servant may retire.
- (6) In exercising his power to manage the civil service, the Minister for the Civil Service shall have regard to the need to ensure that civil servants who advise Ministers are aware of the constitutional significance of Parliament and of the conventions governing the relationship between Parliament and Her Majesty's Government.

## **4 Other statutory management powers**

- (1) All statutory management powers in effect when section 3 comes into force continue to have effect.
- (2) But those and all other statutory management powers are exercisable subject to section 3.
- (3) “Statutory management power” means a power in relation to the management of any part of the civil service conferred by an Act (whenever passed) or an instrument under an Act (whenever made).

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- (4) “Act” includes—
- (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;
- but excludes this Part of this Act.
- (5) Subsection (2) does not apply to a statutory management power conferred by the Superannuation Act 1965 or the Superannuation Act 1972 or an instrument under any of those Acts.

### *Codes of conduct*

#### **5 Civil service code**

- (1) The Minister for the Civil Service must publish a code of conduct for the civil service (excluding the diplomatic service).
- (2) For this purpose, the Minister may publish separate codes of conduct covering civil servants who serve the Scottish Executive or the Welsh Assembly Government.
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be).
- (4) In this Chapter “civil service code” means a code of conduct published under this section as it is in force for the time being.
- (5) The Minister for the Civil Service must lay any civil service code before Parliament.
- (6) The First Minister for Scotland must lay before the Scottish Parliament any civil service code under subsection (2) that covers civil servants who serve the Scottish Executive.
- (7) The First Minister for Wales must lay before the National Assembly for Wales any civil service code under subsection (2) that covers civil servants who serve the Welsh Assembly Government.
- (8) A civil service code forms part of the terms and conditions of service of any civil servant covered by the code.

#### **6 Diplomatic service code**

- (1) The Secretary of State must publish a code of conduct for the diplomatic service.
- (2) In this Chapter “diplomatic service code” means the code of conduct published under this section as it is in force for the time being.
- (3) The Secretary of State must lay the diplomatic service code before Parliament.
- (4) The diplomatic service code forms part of the terms and conditions of service of any civil servant covered by the code.

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## **7 Minimum requirements for civil service and diplomatic service codes**

- (1) This section sets out the provision that must be included in a civil service code or the diplomatic service code in relation to the civil servants covered by the code. (The code may include other provision as well.)
- (2) The code must require civil servants who serve an administration mentioned in subsection (3) to carry out their duties for the assistance of the administration as it is duly constituted for the time being, whatever its political complexion.
- (3) The administrations are—
  - (a) Her Majesty's Government in the United Kingdom;
  - (b) the Scottish Executive;
  - (c) the Welsh Assembly Government.
- (4) The code must require civil servants to carry out their duties—
  - (a) with integrity and honesty, and
  - (b) with objectivity and impartiality.
- (5) But the code need not require special advisers (see section 15) to carry out their duties with objectivity or impartiality.

## **8 Special advisers code**

- (1) The Minister for the Civil Service must publish a code of conduct for special advisers (see section 15).
- (2) For this purpose, the Minister may publish separate codes of conduct covering special advisers who serve the Scottish Executive or the Welsh Assembly Government.
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be).
- (4) In this Chapter “special advisers code” means a code of conduct published under this section as it is in force for the time being.
- (5) Subject to subsection (6), a special advisers code must provide that a special adviser may not—
  - (a) authorise the expenditure of public funds;
  - (b) exercise any power in relation to the management of any part of the civil service of the State;
  - (c) otherwise exercise any power conferred by or under this or any other Act or any power under Her Majesty's prerogative.
- (6) A special advisers code may permit a special adviser to exercise any power within subsection (5)(b) in relation to another special adviser.
- (7) In subsection (5)(c) “Act” includes—
  - (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;
  - (c) Northern Ireland legislation.
- (8) The Minister for the Civil Service must lay any special advisers code before Parliament.

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- (9) The First Minister for Scotland must lay before the Scottish Parliament any special advisers code under subsection (2) that covers special advisers who serve the Scottish Executive.
- (10) The First Minister for Wales must lay before the National Assembly for Wales any special advisers code under subsection (2) that covers special advisers who serve the Welsh Assembly Government.
- (11) A special advisers code forms part of the terms and conditions of service of any special adviser covered by the code.

## **9 Conduct that conflicts with a code of conduct: complaints by civil servants**

- (1) This section applies in relation to any civil service code and the diplomatic service code; and “code” is to be read accordingly.
- (2) Subsection (3) applies if a civil servant (“P”) covered by a code has reason to believe—
  - (a) that P is being, or has been, required to act in a way that conflicts with the code, or
  - (b) that another civil servant covered by the code is acting, or has acted, in a way that conflicts with the code.
- (3) P may complain to the Commission about the matter.
- (4) A code may include provision about the steps that must be taken by a civil servant before making a complaint (and P must take the steps accordingly).
- (5) The Commission—
  - (a) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
  - (b) after considering a complaint, may make recommendations about how the matter should be resolved.
- (6) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
  - (a) civil service management authorities;
  - (b) the complainant;
  - (c) any civil servant whose conduct is covered by the complaint.
- (7) The revision of a code does not affect the application of this section in relation to anything occurring before the revision.

### *Appointment*

## **10 Selections for appointments to the civil service**

- (1) This section applies to the selection of persons who are not civil servants for appointment to the civil service.
- (2) A person's selection must be on merit on the basis of fair and open competition.
- (3) The following selections are excepted from this requirement—

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- (a) a person's selection for an appointment to the diplomatic service either as head of mission or in connection with the person's appointment (or selection for appointment) as Governor of an overseas territory;
  - (b) selection for an appointment as special adviser (see section 15);
  - (c) a selection excepted by the recruitment principles (see sections 11 and 12(1)(b)).
- (4) In determining for the purposes of subsection (1) whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on subsection (3).
- (5) But, in relation to persons selected in reliance on subsection (3)(c), the recruitment principles may disapply subsection (4) in specified cases.

## **11 Recruitment principles**

- (1) The Commission must publish a set of principles to be applied for the purposes of the requirement in section 10(2).
- (2) Before publishing the set of principles (or any revision of it), the Commission must consult the Minister for the Civil Service.
- (3) In this Chapter “recruitment principles” means the set of principles published under this section as it is in force for the time being.
- (4) Civil service management authorities must comply with the recruitment principles.

## **12 Approvals for selections and exceptions**

- (1) The recruitment principles may include provision—
  - (a) requiring the Commission's approval to be obtained for a selection which is subject to the requirement in section 10(2);
  - (b) excepting a selection from that requirement for the purposes of section 10(3)(c).
- (2) The Commission may participate in the process for a selection for which its approval is required by provision within subsection (1)(a).
- (3) It is up to the Commission to decide how it will participate.
- (4) Provision within subsection (1)(b) may be included only if the Commission is satisfied—
  - (a) that the provision is justified by the needs of the civil service, or
  - (b) that the provision is needed to enable the civil service to participate in a government employment initiative that major employers in the United Kingdom (or a part of the United Kingdom) have been asked to participate in.
- (5) Provision within subsection (1)(a) or (b) may be made in any way, including (for example) by reference to—
  - (a) particular appointments or descriptions of appointments;
  - (b) the circumstances in which a selection is made;
  - (c) the circumstances of the person to be selected;
  - (d) the purpose of the requirement to obtain approval or the purpose of the exception.

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- (6) Provision within subsection (1)(b) may also (for example)—
- (a) deal with the way in which selections made in reliance on section 10(3)(c) are to be made;
  - (b) specify terms and conditions that must be included in the terms and conditions of an appointment resulting from a selection made in reliance on section 10(3)(c).
- (7) Provision within subsection (1)(a) or (b) may confer discretions on the Commission or civil service management authorities.

### **13 Complaints about competitions**

- (1) Subsection (2) applies if a person has reason to believe that a selection for an appointment has been made in contravention of the requirement in section 10(2).
- (2) The person may complain to the Commission about the matter.
- (3) The Commission—
- (a) may determine steps that must be taken by a person before making a complaint (and those steps must be taken accordingly);
  - (b) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
  - (c) after considering a complaint, may make recommendations about how the matter should be resolved.
- (4) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
- (a) civil service management authorities;
  - (b) the complainant.

### **14 Monitoring by the Commission**

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish—
- (a) that the principle of selection on merit on the basis of fair and open competition is being upheld in accordance with the requirement in section 10(2) and the recruitment principles, and
  - (b) that the requirement in section 10(2) and the recruitment principles are not being undermined in any way (apart from non-compliance).
- (2) For this purpose, civil service management authorities must provide the Commission with any information it reasonably requires.

*Special advisers*

### **15 Definition of “special adviser”**

- (1) In this Chapter “special adviser” means a person (“P”) who holds a position in the civil service serving an administration mentioned below and whose appointment to that position meets the applicable requirements set out below.



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### *Her Majesty's Government in the United Kingdom*

The requirements are—

- (a) P is appointed to assist a Minister of the Crown after being selected for the appointment by that Minister personally;
- (b) the appointment is approved by the Prime Minister;
- (c) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
- (d) those terms and conditions provide for the appointment to end not later than—
  - (i) when the person who selected P ceases to hold the ministerial office in relation to which P was appointed to assist that person, or
  - (ii) if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment.

### *Scottish Executive*

The requirements are—

- (a) P is appointed to assist the Scottish Ministers (or one or more of the ministers mentioned in section 44(1)(a) and (b) of the Scotland Act 1998) after being selected for the appointment by the First Minister for Scotland personally;
- (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
- (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister.

The reference above to the Scottish Ministers excludes the Lord Advocate and the Solicitor General for Scotland.

### *Welsh Assembly Government*

The requirements are—

- (a) P is appointed to assist the Welsh Ministers (or one or more of the ministers mentioned in section 45(1)(a) and (b) of the Government of Wales Act 2006) after being selected for the appointment by the First Minister for Wales personally;
  - (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
  - (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister.
- (2) In subsection (1), in relation to an appointment for which the selection is made personally by a person designated under section 45(4) of the Scotland Act 1998 or section 46(5) of the Government of Wales Act 2006, the reference to the person who selected P ceasing to hold office as First Minister for Scotland or Wales (as the case may be) is to be read as a reference to the designated person ceasing to be able to exercise the functions of the First Minister by virtue of the designation.

## **16 Annual reports about special advisers**

- (1) The Minister for the Civil Service must—

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- (a) prepare an annual report about special advisers serving Her Majesty's Government in the United Kingdom, and
  - (b) lay the report before Parliament.
- (2) The First Minister for Scotland must—
- (a) prepare an annual report about special advisers serving the Scottish Executive, and
  - (b) lay the report before the Scottish Parliament.
- (3) The First Minister for Wales must—
- (a) prepare an annual report about special advisers serving the Welsh Assembly Government, and
  - (b) lay the report before the National Assembly for Wales.
- (4) A report under this section must contain information about the number and cost of the special advisers.

*Additional functions of the Commission*

**17 Agreements for the Commission to carry out additional functions**

- (1) The Minister for the Civil Service and the Commission may agree that the Commission is to carry out functions in relation to the civil service in addition to those given to it under the other provisions of this Chapter.
- (2) The Commission is to carry out those additional functions accordingly.
- (3) For the purposes of any additional function, civil service management authorities must provide the Commission with any information it reasonably requires.

*Final provisions*

**18 Definitions etc**

- (1) In this Chapter—
  - “civil servant” is read as stated in section 1(4);
  - “civil service” is read as stated in section 1(4);
  - “civil service code” is defined in section 5(4);
  - “civil service management authority” means any person involved in the management of any part of the civil service;
  - “the Commission” is defined in section 2(1);
  - “diplomatic service” means Her Majesty's diplomatic service;
  - “diplomatic service code” is defined in section 6(2);
  - “function” includes power or duty;
  - “information” means information recorded in any form;
  - “recruitment principles” is defined in section 11(3);
  - “special adviser” is defined in section 15;
  - “special advisers code” is defined in section 8(4).
- (2) Subsection (3) applies for the purposes of sections 9(6), 13(4), 14(2) and 17(3).

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- (3) No person may be required to provide information which the person could not be compelled to provide in civil proceedings before the High Court or the Court of Session.

## CHAPTER 2

### CONSEQUENTIAL AND TRANSITIONAL PROVISION

#### 19 Consequential amendments and transitional provision

Schedule 2 (which contains amendments consequential on this Part and transitional provision) has effect.

VALID FROM 11/11/2010

## PART 2

### RATIFICATION OF TREATIES

#### 20 Treaties to be laid before Parliament before ratification

- (1) Subject to what follows, a treaty is not to be ratified unless—
- a Minister of the Crown has laid before Parliament a copy of the treaty,
  - the treaty has been published in a way that a Minister of the Crown thinks appropriate, and
  - period A has expired without either House having resolved, within period A, that the treaty should not be ratified.
- (2) Period A is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (1)(a) is met.
- (3) Subsections (4) to (6) apply if the House of Commons resolved as mentioned in subsection (1)(c) (whether or not the House of Lords also did so).
- (4) The treaty may be ratified if—
- a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why, and
  - period B has expired without the House of Commons having resolved, within period B, that the treaty should not be ratified.
- (5) Period B is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (4)(a) is met.
- (6) A statement may be laid under subsection (4)(a) in relation to the treaty on more than one occasion.
- (7) Subsection (8) applies if—
- the House of Lords resolved as mentioned in subsection (1)(c), but

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(b) the House of Commons did not.

(8) The treaty may be ratified if a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why.

(9) “Sitting day” means a day on which both Houses of Parliament sit.

## **21 Extension of 21 sitting day period**

(1) A Minister of the Crown may, in relation to a treaty, extend the period mentioned in section 20(1)(c) by 21 sitting days or less.

(2) The Minister does that by laying before Parliament a statement—

- (a) indicating that the period is to be extended, and
- (b) setting out the length of the extension.

(3) The statement must be laid before the period would have expired without the extension.

(4) The Minister must publish the statement in a way the Minister thinks appropriate.

(5) The period may be extended more than once.

## **22 Section 20 not to apply in exceptional cases**

(1) Section 20 does not apply to a treaty if a Minister of the Crown is of the opinion that, exceptionally, the treaty should be ratified without the requirements of that section having been met.

(2) But a treaty may not be ratified by virtue of subsection (1) after either House has resolved, as mentioned in section 20(1)(c), that the treaty should not be ratified.

(3) If a Minister determines that a treaty is to be ratified by virtue of subsection (1), the Minister must, either before or as soon as practicable after the treaty is ratified—

- (a) lay before Parliament a copy of the treaty,
- (b) arrange for the treaty to be published in a way that the Minister thinks appropriate, and
- (c) lay before Parliament a statement indicating that the Minister is of the opinion mentioned in subsection (1) and explaining why.

## **23 Section 20 not to apply to certain descriptions of treaties**

(1) Section 20 does not apply to—

- (a) a treaty covered by section 12 of the European Parliamentary Elections Act 2002 (treaty providing for increase in European Parliament's powers not to be ratified unless approved by Act of Parliament);
- (b) a treaty covered by section 5 of the European Union (Amendment) Act 2008 (treaty amending founding Treaties not to be ratified unless approved by Act of Parliament).

(2) Section 20 does not apply to a treaty in relation to which an Order in Council may be made under one or more of the following—

- (a) section 158 of the Inheritance Tax Act 1984 (double taxation conventions);

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- (b) section 2 of the Taxation (International and Other Provisions) Act 2010 (double taxation arrangements);
  - (c) section 173 of the Finance Act 2006 (international tax enforcement arrangements).
- (3) Section 20 does not apply to a treaty concluded (under authority given by the government of the United Kingdom) by the government of a British overseas territory, of any of the Channel Islands or of the Isle of Man.
- (4) Section 20 does not apply to a treaty a copy of which is presented to Parliament by command of Her Majesty before that section comes into force.

#### **24 Explanatory memoranda**

In laying a treaty before Parliament under this Part, a Minister shall accompany the treaty with an explanatory memorandum explaining the provisions of the treaty, the reasons for Her Majesty's Government seeking ratification of the treaty, and such other matters as the Minister considers appropriate.

#### **25 Meaning of “treaty” and “ratification”**

- (1) In this Part “treaty” means a written agreement—
- (a) between States or between States and international organisations, and
  - (b) binding under international law.
- (2) But “treaty” does not include a regulation, rule, measure, decision or similar instrument made under a treaty (other than one that amends or replaces the treaty (in whole or in part)).
- (3) In this Part a reference to ratification of a treaty is a reference to an act of a kind specified in subsection (4) which establishes as a matter of international law the United Kingdom's consent to be bound by the treaty.
- (4) The acts are—
- (a) deposit or delivery of an instrument of ratification, accession, approval or acceptance;
  - (b) deposit or delivery of a notification of completion of domestic procedures.

### **PART 3**

#### **PARLIAMENTARY STANDARDS ETC**

##### *Amendments of the Parliamentary Standards Act 2009*

#### **26 Compliance Officer**

- (1) For section 3(3) and (4) of the Parliamentary Standards Act 2009 (Commissioner for Parliamentary Investigations) substitute—
- “(3) There is to be an officer known as the Compliance Officer for the Independent Parliamentary Standards Authority (“the Compliance Officer”).

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(4) Schedule 2 (which makes provision about the Compliance Officer) has effect.”

(2) For Schedule 2 to that Act substitute the Schedule set out in Schedule 3.

#### Commencement Information

**II** S. 26 in force at 19.4.2010 by S.I. 2010/1277, art. 2(a)

VALID FROM 07/05/2010

#### 27 Membership of Speaker's Committee

(1) Schedule 3 to the Parliamentary Standards Act 2009 (Speaker's Committee for the Independent Parliamentary Standards Authority) is amended as follows.

(2) In paragraph 1—

- (a) omit “and” at the end of sub-paragraph (c), and
- (b) after sub-paragraph (d) insert “, and
- (e) three lay persons appointed by resolution of the House of Commons.”

(3) For the heading of paragraph 2 substitute “ Appointed members ”.

(4) After paragraph 2 insert—

##### 2A “Lay members

- (1) In paragraph 1(e) “lay person” means a person who is not, and has never been, a member of either House of Parliament.
- (2) A motion for a resolution under paragraph 1(e) may be made only with the agreement of the Speaker of the House of Commons.
- (3) The person the subject of the motion must have been selected by the Speaker on merit on the basis of fair and open competition.
- (4) An appointment under paragraph 1(e) is to be for a fixed term not exceeding five years.
- (5) A person who has been appointed under paragraph 1(e) may not be appointed under paragraph 1(e) again.
- (6) A person appointed under paragraph 1(e) ceases to be a member of the Committee if the person becomes a member of either House of Parliament.
- (7) A person appointed under paragraph 1(e) may resign from the Committee by giving notice to the Committee.
- (8) The Speaker of the House of Commons may require the IPSA to pay to members of the Committee appointed under paragraph 1(e) such remuneration and allowances as the Speaker may determine.

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(9) The IPSA must make the payment accordingly.”

#### Commencement Information

**I2** S. 27 in force at 7.5.2010 by S.I. 2010/1277, art. 3(a)

VALID FROM 07/05/2010

## 28 Transparency etc

(1) The Parliamentary Standards Act 2009 is amended as follows.

(2) After section 3 insert—

### “3A General duties of the IPSA

(1) In carrying out its functions the IPSA must have regard to the principle that it should act in a way which is efficient, cost-effective and transparent.

(2) In carrying out its functions the IPSA must have regard to the principle that members of the House of Commons should be supported in efficiently, cost-effectively and transparently carrying out their Parliamentary functions.”

(3) In section 5 (MPs' allowances scheme) after subsection (5) insert—

“(5A) When the scheme (or revision) is laid, the IPSA must publish in a way it considers appropriate—

- (a) the scheme (or revision), and
- (b) a statement of its reasons for adopting that scheme (or making that revision).”

(4) In section 6 (dealing with claims under the MPs' allowances scheme) after subsection (7) insert—

“(8) The IPSA must publish such information as it considers appropriate in respect of—

- (a) each claim made under or by virtue of this section, and
- (b) each payment of an allowance by the IPSA under or by virtue of this section.

(9) The IPSA must publish the information at times it considers appropriate and in a way it considers appropriate.

(10) The IPSA must determine procedures to be followed by the IPSA in relation to publication of the information, and in doing so must consult—

- (a) the Speaker of the House of Commons,
- (b) the Leader of the House of Commons,
- (c) the House of Commons Committee on Standards and Privileges,
- (d) the Compliance Officer, and
- (e) any other person the IPSA considers appropriate.”

*Status: Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

VALID FROM 24/05/2011

## 29 MPs' salaries

(1) For section 4 of the Parliamentary Standards Act 2009 (MPs' salaries) substitute—

### “4 MPs' salaries

- (1) Members of the House of Commons are to receive a salary for the relevant period.
- (2) The salaries are to be paid by the IPSA.
- (3) Salaries are to be paid on a monthly basis in arrears.
- (4) The amounts of the salaries are to be determined by the IPSA (see section 4A).
- (5) “Relevant period”, in relation to a person who is a member of the House of Commons, means the period beginning with the day after the day of the poll for the parliamentary election at which the member was elected and ending with—
  - (a) if the person is a member immediately before Parliament is dissolved, the day of the poll for the parliamentary general election which follows the dissolution;
  - (b) otherwise, the day on which the person ceases to be a member.
- (6) No payment of salary is to be made to a member before the member has made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation).
- (7) The duty of the IPSA to pay a salary to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons.

### 4A Determination of MPs' salaries

- (1) This section is about determinations under section 4(4).
- (2) A determination may provide for higher salaries to be payable to members while holding an office or position specified for the purposes of this subsection in a resolution of the House of Commons.
- (3) A determination by virtue of subsection (2) may make different provision for different offices or positions or different classes of member (and may include exceptions).
- (4) A determination may include a formula or other mechanism for adjusting salaries from time to time.
- (5) A determination (other than the first determination) may have retrospective effect.
- (6) The IPSA must review the current determination (and make a new determination as appropriate)—



**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.  
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- (a) in the first year of each Parliament;
  - (b) at any other time it considers appropriate.
- (7) In reviewing a determination (and before making the first determination) the IPSA must consult—
- (a) the Review Body on Senior Salaries,
  - (b) persons appearing to the IPSA to represent persons likely to be affected by the determination or the review,
  - (c) the Minister for the Civil Service,
  - (d) the Treasury, and
  - (e) any other person the IPSA considers appropriate.
- (8) After making a determination, the IPSA must publish in a way it considers appropriate—
- (a) the determination, and
  - (b) a statement of how it arrived at the determination.
- (9) If the IPSA reviews the current determination but decides not to make a new determination, it must publish in a way it considers appropriate a statement of how it arrived at that decision.
- (10) The IPSA may delegate to the Review Body on Senior Salaries its function of reviewing a determination (but not its function of deciding whether or not to make a new determination).”
- (2) The first determination under section 4(4) of the Parliamentary Standards Act 2009 does not have to come into effect before 1 April 2012; and section 4A(6)(a) of that Act does not apply in relation to a Parliament that begins before that date.
- (3) Until the first determination under section 4(4) of that Act comes into effect, the amounts of the salaries payable by the Independent Parliamentary Standards Authority under section 4 of that Act are to be determined in accordance with the relevant resolutions of the House of Commons.

#### Commencement Information

**I3** S. 29 in force at 24.5.2011 by S.I. 2011/1274, art. 2(a)

VALID FROM 07/05/2010

#### 30 MPs' allowances scheme

In section 5 of the Parliamentary Standards Act 2009 (MPs' allowances scheme) after subsection (8) insert—

“(8A) Any duty of the IPSA to pay an allowance to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons.”

*Status: Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)*

### Commencement Information

**I4** S. 30 in force at 7.5.2010 by S.I. 2010/1277, art. 3(c)

VALID FROM 07/05/2010

### 31 Allowances claims

- (1) Section 6 of the Parliamentary Standards Act 2009 (dealing with claims under the MPs' allowances scheme) is amended as follows.
- (2) Omit subsections (4) and (5).
- (3) In subsection (6) for paragraph (b) substitute—
  - “(b) provision for deducting amounts within subsection (6A) from allowances payable under the scheme or salaries payable under section 4;
  - (c) provision about how such deductions, and deductions under paragraph 5 or 12 of Schedule 4, are to be made.”
- (4) After subsection (6) insert—
 

“(6A) This subsection applies to amounts which a member (under section 9(8) or otherwise) has agreed to repay, in respect of amounts paid to the member under the MPs' allowances scheme that should not have been allowed.”
- (5) After section 6 of that Act insert—

#### “6A Review of IPSA's determination

- (1) This section applies if—
  - (a) the IPSA determines under section 6(3) that a claim is to be refused or that only part of the amount claimed is to be allowed, and
  - (b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration).
- (2) The Compliance Officer must—
  - (a) consider whether the determination (or the altered determination) is the determination that should have been made, and
  - (b) in light of that consideration, decide whether or not to confirm or alter it.
- (3) The Compliance Officer must give the IPSA a statement of any decision under subsection (2)(b), and may include a statement of the Compliance Officer's findings about the way in which the IPSA has dealt with the claim.
- (4) The IPSA must make any payments or adjustments necessary to give effect to the Compliance Officer's decision; but it must not do so until—
  - (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.

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**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.  
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- (5) A relevant appeal is—
- (a) an appeal under subsection (6) brought before the end of the period mentioned in subsection (7), or
  - (b) a further appeal in relation to the Compliance Officer's decision which—
    - (i) is brought before the end of the usual period for bringing such an appeal, and
    - (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.
- (6) The member may appeal to the First-tier Tribunal against a decision of the Compliance Officer under subsection (2)(b).
- (7) The appeal must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (8) The appeal is by way of a rehearing.
- (9) On an appeal under subsection (6) the Tribunal may—
- (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (10) If the Tribunal allows the appeal (in whole or in part) it may—
- (a) order the IPSA to make any payments or adjustments necessary to give effect to that decision;
  - (b) make any other order it thinks fit.
- (11) If the Tribunal dismisses the appeal it may make any other order it thinks fit.
- (12) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).”
- (6) In section 7 of that Act (information and guidance about taxation)—
- (a) before subsection (1) insert—
    - “(A1) The IPSA must—
    - (a) prepare guidance for members of the House of Commons about making claims under the MPs' allowances scheme;
    - (b) review the guidance regularly and revise it as appropriate;
    - (c) publish the guidance in a way the IPSA considers appropriate;
    - (d) provide to any member on request such further advice about making claims as the IPSA considers appropriate.”, and
  - (b) in the heading omit “about taxation”.

**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

VALID FROM 07/05/2010

### 32 MPs' code of conduct relating to financial interests

Omit section 8 of the Parliamentary Standards Act 2009 (MPs' code of conduct relating to financial interests) and the italic heading before it.

#### Commencement Information

**I5** S. 32 in force at 7.5.2010 by S.I. 2010/1277, art. 3(e)

VALID FROM 27/07/2010

### 33 Investigations

For section 9 of the Parliamentary Standards Act 2009 (investigations) substitute—

#### “9 Investigations

- (1) The Compliance Officer may conduct an investigation if the Compliance Officer has reason to believe that a member of the House of Commons may have been paid an amount under the MPs' allowances scheme that should not have been allowed.
- (2) An investigation may be conducted—
  - (a) on the Compliance Officer's own initiative,
  - (b) at the request of the IPSA,
  - (c) at the request of the member, or
  - (d) in response to a complaint by an individual.
- (3) For the purposes of the investigation the member and the IPSA—
  - (a) must provide the Compliance Officer with any information (including documents) the Compliance Officer reasonably requires, and
  - (b) must do so within such period as the Compliance Officer reasonably requires.
- (4) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer, prepare a statement of the Compliance Officer's provisional findings.
- (5) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer about the provisional findings, prepare a statement of the Compliance Officer's findings (subject to subsection (7)).
- (6) Provisional findings under subsection (4) and findings under subsection (5) may include—
  - (a) a finding that the member failed to comply with subsection (3),

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- (b) findings about the role of the IPSA in the matters under investigation, including findings that the member's being paid an amount under the MPs' allowances scheme that should not have been allowed was wholly or partly the IPSA's fault.
- (7) If subsection (8) applies, the Compliance Officer need not make a finding under subsection (5) as to whether the member was paid an amount under the MPs' allowances scheme that should not have been allowed.
- (8) This subsection applies if—
- (a) the member accepts a provisional finding that the member was paid an amount under the MPs' allowances scheme that should not have been allowed,
  - (b) such other conditions as may be specified by the IPSA are, in the Compliance Officer's view, met in relation to the case, and
  - (c) the member agrees to repay to the IPSA, in such manner and within such period as the Compliance Officer considers reasonable, such amount as the Compliance Officer considers reasonable (and makes the repayment accordingly).
- (9) Before specifying conditions under subsection (8)(b) the IPSA must consult the persons listed in section 9A(6).
- (10) References in this section (and section 9A) to a member of the House of Commons include a former member of that House.

#### **9A Procedures etc**

- (1) The IPSA must determine procedures to be followed by the Compliance Officer in relation to investigations under section 9.
- (2) The procedures must in particular include provision about—
- (a) complaints under section 9(2)(d),
  - (b) representations under section 9(4),
  - (c) representations under section 9(5), and
  - (d) the circumstances in which the Compliance Officer must publish the documents listed in subsection (4).
- (3) Provision under subsection (2)(b) must include provision giving the member who is the subject of the investigation—
- (a) an opportunity to be heard in person, and
  - (b) an opportunity, where the Compliance Officer considers it appropriate, to call and examine witnesses.
- (4) The documents referred to in subsection (2)(d) are—
- (a) statements of provisional findings under section 9(4),
  - (b) statements of findings under section 9(5), and
  - (c) agreements under section 9(8).
- (5) The IPSA must also determine procedures to be followed by the Compliance Officer as to the circumstances in which the Compliance Officer must publish—
- (a) statements under section 6A(3), and

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- (b) penalty notices under paragraph 6 of Schedule 4.
- (6) Procedures under this section must be fair, and before determining procedures the IPSA must consult—
- (a) the Speaker of the House of Commons,
  - (b) the Leader of the House of Commons,
  - (c) the House of Commons Committee on Standards and Privileges,
  - (d) the Compliance Officer, and
  - (e) any other person the IPSA considers appropriate.”

#### Commencement Information

**I6** S. 33 in force at 27.7.2010 by S.I. 2010/1931, art. 3(c) (with arts. 4, 5)

VALID FROM 27/07/2010

### 34 Enforcement

- (1) After section 9A of the Parliamentary Standards Act 2009 insert—

#### “9B Enforcement

- (1) Schedule 4 (which makes provision about the enforcement powers of the Compliance Officer) has effect.
- (2) The Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under Schedule 4 which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards.”

- (2) After Schedule 3 to that Act insert the Schedule set out in Schedule 4.

#### Commencement Information

**I7** S. 34 in force at 27.7.2010 by S.I. 2010/1931, art. 3(d) (with arts. 4, 5)

VALID FROM 27/07/2010

### 35 Relationships with other bodies etc

- After section 10 of the Parliamentary Standards Act 2009 insert—

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**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

#### “10A Relationships with other bodies etc

- (1) The IPSA and the Compliance Officer must prepare a joint statement setting out how the IPSA and the Compliance Officer will work with the following—
  - (a) the Parliamentary Commissioner for Standards,
  - (b) the Director of Public Prosecutions,
  - (c) the Commissioner of Police of the Metropolis, and
  - (d) any other person the IPSA and the Compliance Officer consider appropriate.
- (2) Before preparing the statement the IPSA and the Compliance Officer must consult the persons listed in subsection (1).
- (3) Nothing in sections 9 to 9B (or Schedule 4) affects the disciplinary powers of the House of Commons.
- (4) The powers conferred by sections 9 to 9B (and Schedule 4) may be exercised in relation to the conduct of a member of the House of Commons even if—
  - (a) the member is or has been the subject of criminal proceedings in relation to that conduct (whether or not convicted of an offence);
  - (b) the House of Commons is exercising or has exercised any of its disciplinary powers in relation to that conduct.
- (5) References in subsection (4) to a member of the House of Commons include a former member of that House.”

#### Commencement Information

**18** S. 35 in force at 27.7.2010 by S.I. 2010/1931, art. 3(e)

VALID FROM 07/05/2010

#### **36 Further functions of the IPSA and Commissioner**

Omit section 11 of the Parliamentary Standards Act 2009 (further functions of the IPSA and Commissioner).

#### Commencement Information

**19** S. 36 in force at 7.5.2010 by S.I. 2010/1277, art. 3(f)

**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

VALID FROM 07/05/2010

### 37 Expiry of provisions of the Parliamentary Standards Act 2009

Omit section 15 of the Parliamentary Standards Act 2009 (expiry of provisions of the Act).

#### Commencement Information

**I10** S. 37 in force at 7.5.2010 by S.I. 2010/1277, art. 3(g)

### 38 Consequential amendments

Schedule 5 (which makes consequential amendments relating to sections 26 to 37) has effect.

#### Commencement Information

**I11** S. 38 in force at 19.4.2010 for specified purposes by S.I. 2010/1277, art. 2(b)

VALID FROM 24/05/2011

#### *Other provision*

### 39 Resettlement grants for MEPs

- (1) The European Parliament (Pay and Pensions) Act 1979 is amended as follows.
- (2) In section 3 (resettlement grants for persons ceasing to be MEPs) for subsections (1) to (3) substitute—
  - “(1) The IPSA may make a scheme providing for allowances to be payable to persons to whom this section applies, in connection with their ceasing to be Representatives.
  - (2) It may do so only if a scheme under section 5 of the Parliamentary Standards Act 2009 (MPs' allowances scheme) makes provision for allowances to be payable in connection with persons ceasing to be Members on a dissolution of Parliament.
  - (3) A scheme under this section must make provision which is as nearly equivalent to the provision made by the scheme under section 5 of that Act as the IPSA considers practicable.
- (3A) The IPSA must send to the Speaker of the House of Commons for laying before both Houses of Parliament—
  - (a) any scheme made by it under this section, and
  - (b) a statement of the reasons for making the scheme.



**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.  
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(3B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.

(3C) This section applies to a person who is a Representative immediately before the end of a five-year period, and either—

- (a) does not stand for election to the European Parliament at the general election of representatives to the European Parliament held in that period, or
- (b) does so stand at that election (whether for the same or a different electoral region) and is not elected.

(3D) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section.”

(3) Omit section 3A (power to amend section 3).

(4) In section 7(1)(b) (expenses and receipts) for “grant” substitute “ allowance ”.

#### Commencement Information

**I12** S. 39 in force at 24.5.2011 by S.I. 2011/1274, art. 2(c)

VALID FROM 24/10/2011

#### 40 Parliamentary and other pensions

Schedule 6 (which makes provision about pensions for members of the House of Commons, ministers and other office holders) has effect.

#### Commencement Information

**I13** S. 40 in force at 24.10.2011 for specified purposes by S.I. 2011/2485, art. 2(1)(2)(a)

### PART 4

#### TAX STATUS OF MPs AND MEMBERS OF THE HOUSE OF LORDS

#### 41 Tax status of MPs and members of the House of Lords

(1) Subsection (2) applies if a person is for any part of a tax year—

- (a) a member of the House of Commons, or
- (b) a member of the House of Lords.

(2) The person is to be treated for the purposes of the taxes listed in subsection (3) as resident, ordinarily resident and domiciled in the United Kingdom for the whole of that tax year.

(3) The taxes are—

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*Status: Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the  
 Constitutional Reform and Governance Act 2010. (See end of Document for details)*

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- (a) income tax,
  - (b) capital gains tax, and
  - (c) inheritance tax.
- (4) For the purposes of this section a person—
- (a) becomes a member of the House of Commons when (having been elected to that House) the person makes and subscribes the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), and
  - (b) ceases to be a member of that House when—
    - (i) the Parliament to which the person was elected is dissolved, or
    - (ii) the person's seat is otherwise vacated.
- (5) For the purposes of this section and section 42 a person is a member of the House of Lords if the person is entitled to receive writs of summons to attend that House.
- (6) In relation to a member of the House of Lords, in subsection (1) the reference to any part of a tax year excludes any part of the year during which—
- (a) section 137(3) of the Constitutional Reform Act 2005 applies to the member, or
  - (b) the member is entitled to receive writs of summons to attend the House of Lords by virtue of being an archbishop or bishop.
- (7) This section applies in relation to the tax year 2010-11 and subsequent tax years.
- (8) But in applying this section to the tax year 2010-11—
- (a) if the Parliament in which this Act is passed is dissolved in that tax year, ignore a person's membership of the House of Commons in that Parliament, and
  - (b) in any event, ignore a person's membership of the House of Lords at any time before the end of the period of 3 months beginning with the day on which section 42 comes into force.
- (9) In this section, in relation to inheritance tax—
- (a) “tax year” means a year beginning on 6 April and ending on the following 5 April, and
  - (b) “the tax year 2010-11” means the tax year beginning on 6 April 2010.
- (10) In determining for the purposes of this section and section 42 whether a person is entitled to receive writs of summons to attend the House of Lords, ignore—
- (a) section 2 of the Forfeiture Act 1870;
  - (b) sections 426A and 427 of the Insolvency Act 1986.

#### **42 Tax status of members of the House of Lords: transitional provision**

- (1) This section applies if, before the end of the period of 3 months beginning with the day on which this section comes into force, a member of the House of Lords (“M”) gives written notice to the Clerk of the Parliaments that M does not want section 41 to apply to M.
- (2) M shall not be a member of the House of Lords at any time after the notice is given and accordingly—
- (a) M shall not be entitled to receive writs of summons to attend the House, and
  - (b) any writ of summons previously issued to M has no further effect.

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**Status:** Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

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- (3) If M is a person excepted from section 1 of the House of Lords Act 1999 by virtue of section 2 of that Act—
  - (a) M shall no longer be excepted from section 1 of the 1999 Act, and
  - (b) if M counted towards the limit under section 2(2) of the 1999 Act, that limit is reduced by one.
- (4) But section 3(1)(b) of the 1999 Act does not apply in relation to M before the end of the period of three years beginning with the date on which the notice is given.
- (5) If M is not such a person, M ceases to be disqualified by virtue of M's peerage (or dignity) for—
  - (a) voting at elections to the House of Commons, or
  - (b) being, or being elected as, a member of that House.
- (6) But subsection (5)(b) does not apply before the end of the period of three years beginning with the date on which the notice is given.
- (7) In relation to M, any reference in section 1(3) or (4)(b) of the Representation of the People Act 1985 to a register of parliamentary electors is to be read as including—
  - (a) any register of local government electors in Great Britain, and
  - (b) any register of local electors in Northern Ireland,which was required to be published on any date before the notice is given.
- (8) If, after the notice is given, a peerage is conferred on M or M succeeds to a peerage, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage. If subsection (3)(a) has applied to M, it does not stop M becoming excepted from section 1 of the House of Lords Act 1999 again by filling a vacancy under section 2 of that Act after the notice is given.
- (9) If, after the notice is given, M becomes the person who is to hold the office of Earl Marshal or perform the office of Lord Great Chamberlain, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of the peerage that led to M becoming the person who is to hold or perform the office in question.
- (10) A person to whom regulation 4 of the European Parliament (House of Lords Disqualification) Regulations 2008 (S.I. 2008/1647) applies is to be treated as a member of the House of Lords for the purposes of this section.

VALID FROM 11/11/2010

## PART 5

### TRANSPARENCY OF GOVERNMENT FINANCIAL REPORTING TO PARLIAMENT

#### **43 Inclusion in departmental estimates of resources used by designated bodies**

- (1) The Government Resources and Accounts Act 2000 is amended as follows.
- (2) After section 4 insert—

*Status:* Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

### *“Departmental estimates*

#### **4A Inclusion in departmental estimates of resources used by designated bodies**

- (1) An estimate for a government department for approval by the House of Commons in respect of a financial year must be prepared in accordance with directions issued by the Treasury.
- (2) The Treasury may direct that the estimate is to include information relating to resources expected to be used by any body that is a designated body in relation to the department.
- (3) For the purposes of this section a body is a “designated” body in relation to a government department if—
  - (a) it is designated in relation to the department by an order made by the Treasury, or
  - (b) it falls within a description of body designated in relation to the department by such an order.
- (4) A body, or a description of body, may be designated in relation to a government department for a particular financial year or generally.
- (5) Subsections (6) and (7) apply if the Treasury—
  - (a) expect the use of resources by a body in a financial year to involve payments out of a devolved Consolidated Fund to or for the benefit of the body, but
  - (b) do not expect the use of resources by the body in the year to involve payments out of the Consolidated Fund of the United Kingdom to or for the benefit of the body.
- (6) If an order is in force under which the body would (but for this subsection) be a designated body for the year in relation to a government department—
  - (a) the Treasury must notify the department that the conditions in subsection (5) are met in the case of the body for the year, and
  - (b) the body is to be treated as if it were not designated for the year in relation to the department.
- (7) If no such order is in force, the Treasury may not make one.
- (8) Before designating a body, or a description of body, the Treasury must, where they think it appropriate, consult—
  - (a) the Scottish Ministers,
  - (b) the Department of Finance and Personnel for Northern Ireland, or
  - (c) the Welsh Ministers.
- (9) In determining for any purpose whether a body has a particular relationship with a government department (for example, whether it is controlled by, or otherwise dependent on, the department), the following must be disregarded—
  - (a) the fact that an estimate for the department in respect of a financial year includes information relating to the body, and

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- (b) the fact that the department's resource accounts for a financial year prepared under section 5 include information relating to the body.
- (10) An order under subsection (3) is to be made by statutory instrument.
- (11) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section “a devolved Consolidated Fund” means—
  - (a) the Scottish Consolidated Fund,
  - (b) the Consolidated Fund of Northern Ireland, or
  - (c) the Welsh Consolidated Fund.”
- (3) In section 5(1) (resource accounts: preparation), for paragraphs (a) and (b) substitute—
  - “(a) resources acquired, held or disposed of during the year by—
    - (i) the department, or
    - (ii) any body that is a designated body under section 4A in relation to the department for the year, and
  - (b) the use of resources during the year by the department or any such body.”
- (4) In section 6(1) (resource accounts: scrutiny by the Comptroller and Auditor General), for paragraph (d) substitute—
  - “(d) that—
    - (i) the financial transactions of the department, and
    - (ii) the financial transactions of any body that is a designated body under section 4A in relation to the department for the year in question,are in accordance with any relevant authority.”

#### **44 Corresponding provision in relation to Wales**

- (1) Part 5 of the Government of Wales Act 2006 (finance) is amended as follows.
- (2) After section 126 insert—

##### **“126A Inclusion in Budget motions of resources used by designated bodies**

- (1) A Budget motion for a financial year may include information relating to resources expected to be used by any body that is a designated body in relation to a relevant person.
- (2) For the purposes of this section a body is a “designated” body in relation to a relevant person if—
  - (a) it is designated in relation to the relevant person by an order made by the Welsh Ministers, or
  - (b) it falls within a description of body designated in relation to the relevant person by such an order.
- (3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally.

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- (4) If the Welsh Ministers expect the use of resources by a body in a financial year to involve payments out of a relevant Consolidated Fund to or for the benefit of the body, they may not make an order under which the body would be a designated body for the year unless the Treasury have consented to the making of the order.
- (5) “A relevant Consolidated Fund” means—
- (a) the Consolidated Fund of the United Kingdom,
  - (b) the Scottish Consolidated Fund, or
  - (c) the Consolidated Fund of Northern Ireland.
- (6) The Welsh Ministers must, where they think it appropriate, consult the Treasury before designating a body or a description of body.
- (7) In determining for any purpose whether a body has a particular relationship with a relevant person (for example, whether it is controlled by, or otherwise dependent on, the person), the following must be disregarded—
- (a) the fact that the provisions of a Budget motion relating to the relevant person in respect of a financial year include information relating to the body, and
  - (b) the fact that the relevant person's accounts for a financial year prepared under this or any other Act include information relating to the body.
- (8) An order under subsection (2) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) But subsection (9) does not apply if a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (3) Schedule 8 (Auditor General for Wales) is amended as follows.
- (4) In paragraph 13 (accounts of Auditor General), after sub-paragraph (1) insert—
- “(1A) The directions which the Treasury may give under sub-paragraph (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Auditor General.”
- (5) In paragraph 15 (audit of accounts of Auditor General)—
- (a) in sub-paragraph (5)(b)—
    - (i) for “the Auditor General”, in the first place, substitute “ a relevant person ”; and
    - (ii) for “the Auditor General”, in the second place, substitute “ the relevant person ”; and
  - (b) after sub-paragraph (5) insert—
 

“(5A) In sub-paragraph (5)(b) “relevant person” means—

    - (a) the Auditor General, or
    - (b) any person to whose financial affairs and transactions the accounts are to relate by virtue of paragraph 13(1A).”

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(6) In paragraph 17(8) (access of Auditor General to documents), after paragraph (b) insert—

“(ba) in a case within that paragraph relating to any accounts which the Public Services Ombudsman for Wales is directed to prepare under paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, the Ombudsman and any person to whose financial affairs and transactions the accounts are to relate by virtue of sub-paragraph (1A) of that paragraph.”

(7) In paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (accounts), after sub-paragraph (1) insert—

“(1A) The directions which the Treasury may give under sub-paragraph (1)(b) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Ombudsman.”

VALID FROM 19/01/2011

## PART 6

### PUBLIC RECORDS AND FREEDOM OF INFORMATION

VALID FROM 30/11/2012

#### 45 Transfer of records to Public Record Office

(1) In section 3 of the Public Records Act 1958 (selection and preservation of public records)—

- (a) in subsection (4) (transfer to Public Record Office or to other appointed place of deposit of public records selected for permanent preservation), for “thirty years” substitute “ 20 years ”, and
- (b) after that subsection insert—

“(4A) Until the end of the period of 10 years beginning with the commencement of section 45 of the Constitutional Reform and Governance Act 2010, subsection (4) has effect subject to any order made under subsection (2) of that section.”

(2) The Lord Chancellor may by order make transitional, transitory or saving provision in connection with the coming into force of subsection (1)(a).

(3) An order under subsection (2) may in particular—

- (a) provide for the time within which any records are to be transferred to the Public Record Office or other place of deposit referred to in section 3(4) of the Public Records Act 1958, and
- (b) make different provision in relation to records of different descriptions.

(4) An order under this section is to be made by statutory instrument.

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- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **46 Freedom of information**

- (1) Schedule 7 (which makes amendments of the Freedom of Information Act 2000) has effect.
- (2) The Secretary of State may by order make transitional, transitory or saving provision in connection with the coming into force of paragraph 4 of Schedule 7 (which reduces from 30 years to 20 years the period at the end of which a record becomes a historical record for the purposes of Part 6 of the Freedom of Information Act 2000).
- (3) An order under subsection (2) may in particular—
- (a) make provision about the time when any records are to become historical records for the purposes of Part 6 of the Freedom of Information Act 2000, and
  - (b) make different provision in relation to records of different descriptions.
- (4) An order under subsection (2) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

### **PART 7**

#### MISCELLANEOUS AND FINAL PROVISIONS

#### **47 Section 3 of the Act of Settlement**

- (1) For the avoidance of doubt, the repeal in section 18(7) of the Electoral Administration Act 2006 of the entry in Schedule 7 to the British Nationality Act 1981 (entry which modified certain disqualifications imposed by section 3 of the Act of Settlement) applied only so far as the modification made by that entry related to—
- (a) membership of the House of Commons, or
  - (b) anything from which a person is disqualified by virtue of a disqualification from membership of that House.
- (2) Section 3 of the Act of Settlement has effect accordingly, and has done so since the coming into force of section 18 of the Electoral Administration Act 2006.

#### **48 Parliamentary elections: counting of votes**

- (1) Schedule 1 to the Representation of the People Act 1983 (parliamentary elections rules) is amended as follows.
- (2) In rule 44 (attendance at counting of votes) after paragraph (5) insert—
- “(6) In making arrangements under this rule, the returning officer shall have regard to the duty imposed on him by rule 45(3A) below.”



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- (3) In rule 45 (the count)—
- (a) after paragraph (3) insert—
- “(3A) The returning officer shall take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within the period of four hours starting with the close of the poll.”;
- (b) after paragraph (7) insert—
- “(8) The Electoral Commission shall issue guidance to returning officers on the duty imposed by paragraph (3A) above.”
- (4) After rule 53 insert—

#### 53ZA “Counting of votes: statement by returning officer

- (1) In a contested election, if the counting of the votes given on the ballot papers did not begin within the period specified in rule 45(3A) above, the returning officer shall before the expiry of the period of 30 days starting with the day on which the poll closed—
- (a) prepare and publish a statement giving the information specified in paragraph (2) below, and
- (b) deliver it to the Electoral Commission.
- (2) The statement must—
- (a) specify the time at which the counting of the votes given on the ballot papers began,
- (b) describe the steps taken under rule 45(3A) above, and
- (c) explain why the counting of the votes given on the ballot papers did not start within the period specified in rule 45(3A) above.
- (3) Where a statement is delivered to the Electoral Commission under paragraph (1)(b) above, the Commission shall specify in any election report they produce that a statement has been delivered to them under that paragraph in respect of the constituency to which the statement relates.
- (4) In paragraph (3) above “election report” means a report under section 5(1) or (2A) of the Political Parties, Elections and Referendums Act 2000 in relation to the parliamentary election in question.”

#### 49 Meaning of “Minister of the Crown”

In this Act “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### 50 Financial provision

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

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## **51 Power to make consequential provision**

- (1) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make such provision as the Minister or Ministers consider appropriate in consequence of any provision of this Act.
- (2) An order under subsection (1) may—
  - (a) amend, repeal or revoke any existing statutory provision;
  - (b) include supplementary, incidental, transitional, transitory or saving provision.
- (3) “Existing statutory provision” means—
  - (a) a provision of an Act passed on or before the last day of the Session in which this Act is passed;
  - (b) a provision of subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) made on or before that day.
- (4) An order under subsection (1) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (1) which amends or repeals a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing an order under subsection (1) which does not amend or repeal a provision of an Act is subject to annulment in pursuance of a resolution of either House of Parliament.

## **52 Extent, commencement, transitional provision and short title**

- (1) An amendment or repeal contained in this Act has the same extent as the Act or instrument or relevant part of the Act or instrument to which the amendment or repeal relates (ignoring extent by virtue of an Order in Council).
- (2) This Act comes into force on such day as a Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order appoint; and different days may be appointed for different purposes.
- (3) Subsection (2) does not apply to the following provisions of this Act (which accordingly come into force on the day this Act is passed)—
  - (a) section 41;
  - (b) section 42;
  - (c) the provisions of this Part.
- (4) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.
- (5) An order under subsection (2) or (4) is to be made by statutory instrument.
- (6) This Act may be cited as the Constitutional Reform and Governance Act 2010.

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## SCHEDULES

VALID FROM 11/11/2010

### SCHEDULE 1

Section 2

#### THE CIVIL SERVICE COMMISSION

#### PART 1

#### THE COMMISSIONERS

##### *Membership of the Commission*

- 1
- (1) The Commission is to consist of at least seven members.
  - (2) One of those is to be the First Civil Service Commissioner appointed under paragraph 2.
  - (3) The others are to be Civil Service Commissioners appointed under paragraph 3.

##### *Appointment of First Civil Service Commissioner*

- 2
- (1) This paragraph is about the appointment of the First Civil Service Commissioner (“First Commissioner”).
  - (2) The First Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service.
  - (3) A person's selection for recommendation must be on merit on the basis of fair and open competition.
  - (4) Before selecting a person, the Minister must consult—
    - (a) the First Ministers for Scotland and Wales, and
    - (b) the relevant opposition leaders (see sub-paragraph (8)).
  - (5) The terms on which the First Commissioner holds office are determined by the Minister for the Civil Service.
  - (6) The period of the appointment is to be no more than five years.
  - (7) A person cannot be appointed as First Commissioner more than once.
  - (8) The relevant opposition leaders are the registered leaders of the registered parties in opposition to Her Majesty's Government in the United Kingdom which had the highest and second highest national vote at the previous parliamentary general election.
  - (9) In sub-paragraph (8)—

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“registered leader”, in relation to a party, means the person registered as that party's leader in accordance with section 24 of the Political Parties, Elections and Referendums Act 2000;

“registered party” means a party registered in a register of political parties maintained by the Electoral Commission in accordance with section 23 of that Act.

#### *Appointment of Civil Service Commissioners*

- 3
- (1) This paragraph is about the appointment of Civil Service Commissioners (“Commissioners”).
  - (2) A Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service.
  - (3) A person's selection for recommendation must be on merit on the basis of fair and open competition.
  - (4) A person must not be selected without the agreement of the First Commissioner.
  - (5) The terms on which a Commissioner holds office are determined by the Minister.
  - (6) The period of the appointment is to be no more than five years.
  - (7) The Minister must not make a determination under sub-paragraph (5) without the agreement of the First Commissioner.
  - (8) A person cannot be appointed as a Commissioner more than once.
  - (9) A person cannot be a Commissioner and the First Commissioner at the same time.
  - (10) But, if the office of First Commissioner is vacant, the Minister may authorise a Commissioner to carry out the functions of First Commissioner until the vacancy is filled.
  - (11) Sub-paragraphs (12) and (13) apply in relation to the appointment as Commissioner of a person holding another public office (including an office under the Crown) if the Minister and the First Commissioner are both satisfied that the functions of the other public office are concerned with matters similar to matters with which the Commission's functions are concerned.
  - (12) The Minister and the First Commissioner may agree to disapply sub-paragraph (3) or (6).
  - (13) The terms determined under sub-paragraph (5) may—
    - (a) provide for the person to cease to hold office as Commissioner if the person ceases to hold the other public office;
    - (b) restrict the functions that the person may carry out as Commissioner.

#### *Payment of remuneration and allowances etc*

- 4
- (1) The terms mentioned in paragraph 2(5) or 3(5) may provide for the Commission—
    - (a) to pay remuneration and allowances to the person appointed;
    - (b) to make provision for a pension in relation to that person.
  - (2) The Commission must make the payments or provision accordingly.

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### *Resignation or removal from office*

- 5 (1) This paragraph is about resignation or removal from the office of First Commissioner or Commissioner.
- (2) A person may resign from office by giving written notice to the Minister for the Civil Service.
- (3) Her Majesty may, on the recommendation of the Minister, remove a person from office if a condition in sub-paragraph (4) is met.
- (4) The conditions are that—
- (a) the person is absent from three successive meetings of the Commission without the Commission's approval;
  - (b) the person is convicted of an offence (see sub-paragraph (5));
  - (c) the person becomes bankrupt (see sub-paragraph (6));
  - (d) the person is unfit or unable to carry out the functions of the office.
- (5) For the purpose of determining if a person is convicted of an offence—
- (a) it does not matter where the person is convicted;
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (6) A person becomes bankrupt if—
- (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person's estate is sequestrated.

### *Compensation for loss of office of First Commissioner or Commissioner*

- 6 The Minister for the Civil Service may direct the Commission to pay compensation if—
- (a) a person ceases to hold office as First Commissioner or Commissioner, and
  - (b) the Minister is satisfied that, because of the circumstances in which the person ceased to hold office, compensation should be paid to the person.

## **PART 2**

### **THE COMMISSION**

#### *Status of the Commission and its property*

- 7 (1) The Commission (including its members and employees) is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission's property is not to be regarded as property of, or held on behalf of, the Crown.

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#### *Powers*

- 8 (1) The Commission may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.
- (2) But the Commission may not borrow money except with the agreement of the Minister for the Civil Service.
- (3) Nothing in this Schedule which specifies powers of the Commission limits the generality of sub-paragraph (1).

#### *Committees*

- 9 (1) The Commission may establish committees.
- (2) A committee of the Commission may establish sub-committees.
- (3) Members of a committee or sub-committee may include persons who are not members of the Commission.

#### *Procedure and proceedings*

- 10 (1) The Commission may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) The validity of proceedings of the Commission or a committee or sub-committee is not affected by—
- (a) a vacancy among the members, or
  - (b) a defect in the appointment of a member.

#### *Staff*

- 11 The Commission may employ staff.

#### *Pensions*

- 12 (1) Employment by the Commission is included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.
- (2) The offices of First Commissioner and Commissioner are included among the offices to which such a scheme may apply.
- (3) Accordingly, in Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply)—
- (a) at the end of the list of “Royal Commissions and other Commissions” insert “ Civil Service Commission ”,
  - (b) in the list of “Offices” insert, at the appropriate place, “ Civil Service Commissioner ”, and
  - (c) in that list the reference to the First Civil Service Commissioner is to be read as a reference to the office of the First Civil Service Commissioner established by this Schedule.
- (4) The Commission must pay the Minister for the Civil Service the sums determined by the Minister in relation to any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

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(5) The payments must be made at the times directed by the Minister.

*Arrangements for assistance*

- 13 (1) The Commission may make arrangements with other persons for the provision of assistance to the Commission.
- (2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance.
- (3) Arrangements may provide for the making of payments by the Commission.

*Delegation*

- 14 (1) The Commission may delegate functions to—
- (a) any of its members;
  - (b) any of its committees;
  - (c) any of its employees;
  - (d) a person with whom arrangements are made under paragraph 13 or a person (including a civil servant) assisting the Commission under such arrangements.
- (2) A committee may delegate functions (including functions delegated to it) to a sub-committee.

*Financial provisions*

- 15 (1) The Minister for the Civil Service must pay to the Commission the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Commission's functions.
- (2) When making a payment, the Minister may impose conditions—
- (a) about how some or all of the money is to be used;
  - (b) requiring the Commission to follow specified procedures in relation to its costs and expenditure.
- (3) Before making a determination under sub-paragraph (1) or imposing a condition under sub-paragraph (2), the Minister must consult the Commission.

*Accounts*

- 16 (1) The Commission must keep proper accounts and proper records in relation to them.
- (2) The Commission must prepare a statement of accounts for each financial year (see paragraph 18).
- (3) The statement must give a true and fair view of—
- (a) the state of the Commission's affairs at the end of the financial year, and
  - (b) the Commission's income and expenditure and cash flows in the financial year.
- (4) The statement must be in compliance with any directions given by the Minister for the Civil Service with the Treasury's approval as to—

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- (a) the information to be contained in the statement,
  - (b) the manner in which the information is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared.
- (5) The Commission must send the statement to the Minister at such time as the Minister may direct.
- (6) The Minister must then send the statement to the Comptroller and Auditor General.
- (7) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement, and
  - (b) lay copies of the statement and the report before Parliament (unless it has been arranged for the Minister to do so).

#### *Reports*

- 17 (1) The Commission—
- (a) must, as soon as practicable after the end of each financial year (see paragraph 18), prepare a report about the carrying out of its functions during the year, and
  - (b) may, in exceptional cases, prepare a report at any other time about any matter relating to the carrying out of its functions.
- (2) As soon as practicable after preparing a report under sub-paragraph (1), the Commission must give a copy of the report to the Minister for the Civil Service and to the First Ministers for Scotland and Wales.
- (3) The Commission must then publish the report in the way the Commission thinks appropriate.
- (4) The Minister for the Civil Service must lay a copy of the report before Parliament (unless it has been arranged for the Comptroller and Auditor General to do so).
- (5) The First Minister for Scotland must lay a copy of the report before the Scottish Parliament.
- (6) The First Minister for Wales must lay a copy of the report before the National Assembly for Wales.

#### *Meaning of “financial year”*

- 18 For the purposes of paragraphs 16 and 17, each of the following is a “financial year”—
- (a) the period which begins when section 2 of this Act comes into force and ends with the following 31 March;
  - (b) each successive period of 12 months.

#### *Documentary evidence*

- 19 (1) The application of the Commission's seal is to be authenticated by the signature of any of the following—
- (a) a member of the Commission;
  - (b) if the Commission's staff includes a chief executive, the chief executive;



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- (c) any person authorised (whether generally or specifically) for the purpose by anyone within paragraph (a) or (b).
- (2) A document purporting to be duly executed under the Commission's seal or signed on its behalf—
- (a) is to be received in evidence, and
- (b) is to be taken to be executed or signed in that way, unless the contrary is proved.
- (3) This paragraph does not extend to Scotland.

VALID FROM 11/11/2010

## SCHEDULE 2

Section 19

### CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION RELATING TO PART 1

#### PART 1

##### CONSEQUENTIAL AMENDMENTS TO ACTS OF PARLIAMENT

###### *Parliamentary Commissioner Act 1967 (c. 13)*

- 1 In Schedule 2, in the note about the Cabinet Office, omit “and Head of the Home Civil Service”.

###### *Superannuation Act 1972 (c. 11)*

- 2 In section 2(10) for “home civil service or the diplomatic service” substitute “civil service of the State”.

###### *House of Commons Disqualification Act 1975 (c. 24)*

- 3 In Schedule 1—
- (a) in Part 2, at the appropriate place, insert “The Civil Service Commission”;
- (b) in Part 3 omit “Civil Service Commissioner”.

###### *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 4 In Part 2 of Schedule 1, at the appropriate place, insert “The Civil Service Commission”.

###### *House of Commons (Administration) Act 1978 (c. 36)*

- 5 (1) Amend section 2 as follows.

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(2)	In subsections (2) and (3) for “Home Civil Service” (wherever appearing) substitute “ statutory home civil service ”.
(3)	After subsection (4) insert—
	“(5) The statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”
	<i>Civil Service (Management Functions) Act 1992 (c. 61)</i>
6	(1) Amend section 1 as follows.
	(2) For subsections (1) and (2) substitute—
	“(1) This section applies to the functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 (management of the civil service, excluding the diplomatic service).
	(2) The Minister for the Civil Service may, to such extent and subject to such conditions as the Minister thinks fit, delegate a function to which this section applies to any other servant of the Crown.”
	(3) Omit subsection (5).
	(4) For the italic cross-heading before section 1 substitute “ <i>Civil service (excluding the diplomatic service)</i> ”.
7	In section 2(1)(a) for “Her Majesty's Home Civil Service” substitute “ the civil service (excluding the diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 ”.
	<i>Government of Wales Act 1998 (c. 38)</i>
8	In paragraph 3(1) and (2) of Schedule 6 for “Her Majesty's Home Civil Service” substitute “ the civil service of the State ”.
	<i>Scotland Act 1998 (c. 46)</i>
9	(1) Amend section 51 as follows.
	(2) In subsection (2) for “Home Civil Service” substitute “ civil service of the State ”.
	(3) For subsection (3) substitute—
	“(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
	(a) subsection (1), and
	(b) any other enactment about the appointment of persons mentioned in subsection (2).”
	(4) For subsection (4) substitute—
	“(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by

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section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Scottish Ministers etc.”

(5) Omit subsection (9).

*Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)*

10 (1) Amend section 24 as follows.

(2) In subsection (3)(c)(iii) for “Her Majesty's Home Civil Service” substitute “ the statutory home civil service ”.

(3) After subsection (7) insert—

“(8) In this section “the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

*Regulation of Investigatory Powers Act 2000 (c. 23)*

11 (1) Amend section 81 as follows.

(2) In subsection (7) for “home civil service or diplomatic service” substitute “ statutory civil service (or any part of it) ”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory civil service” means—

- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but
- (b) also includes the Government Communications Headquarters.”

*Freedom of Information Act 2000 (c. 36)*

12 In Part 6 of Schedule 1 for “The Civil Service Commissioners” substitute “ The Civil Service Commission ”.

*Tax Credits Act 2002 (c. 21)*

13 (1) Amend section 52 as follows.

(2) In subsection (7) for “Her Majesty's Home Civil Service” substitute “ the statutory home civil service ”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

*Extradition Act 2003 (c. 41)*

14 (1) Amend section 101 as follows.

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(2) In subsection (5) for “home civil service or diplomatic service” substitute “ statutory civil service (or any part of it) ”.

(3) After subsection (5) insert—

“(6) In subsection (5) “the statutory civil service” means the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

*Government of Wales Act 2006 (c. 32)*

15 (1) Amend section 52 as follows.

(2) In subsections (2) and (9) for “Home Civil Service” substitute “ civil service of the State ”.

(3) For subsection (3) substitute—

“(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—

(a) subsection (1), and

(b) any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government.”

(4) For subsection (4) substitute—

“(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.”

(5) Omit subsection (10).

*Police and Justice Act 2006 (c. 48)*

16 In paragraph 7(4)(c) of Schedule 1 for “Her Majesty's Home Civil Service” substitute “ the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act) ”.

*Parliament (Joint Departments) Act 2007 (c. 16)*

17 (1) Amend section 3 as follows.

(2) In subsection (2) for “Home Civil Service” (wherever appearing) substitute “ statutory home civil service ”.

(3) After subsection (3) insert—

“(4) The statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

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*Crossrail Act 2008 (c. 18)*

- 18 (1) Amend Schedule 12 as follows.
- (2) In paragraphs 13(3) and 16(2)(a) and (b) for “Her Majesty's Home Civil Service” substitute “ any part of the statutory home civil service ”.
- (3) In paragraph 20(2), after the definition of “enactment”, insert—
- ““the statutory home civil service” means the civil service (excluding Her Majesty's diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act);”.

**PART 2**

CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

*Civil Service Orders in Council*

- 19 The following are revoked—
- (a) the Civil Service Order in Council 1995;
  - (b) the Civil Service (Amendment) Order in Council 1995;
  - (c) the Civil Service (Amendment) Order in Council 1996;
  - (d) the Civil Service (Amendment) Order in Council 1997;
  - (e) the Civil Service (Amendment) Order in Council 1998;
  - (f) the Civil Service (Amendment) Order in Council 1999;
  - (g) the Civil Service (Amendment) Order in Council 2000;
  - (h) the Civil Service (Amendment) Order in Council 2001;
  - (i) the Civil Service (Amendment) Order in Council 2002;
  - (j) the Civil Service (Amendment) Order in Council 2004;
  - (k) the Civil Service (Amendment) Order in Council 2005;
  - (l) the Civil Service (Amendment) Order in Council 2007;
  - (m) the Civil Service (Amendment) (No. 2) Order in Council 2007;
  - (n) the Civil Service (Amendment) (No. 3) Order in Council 2007;
  - (o) the Civil Service (Amendment) Order in Council 2008;
  - (p) the Civil Service (Amendment) (No. 2) Order in Council 2008.

*Diplomatic Service Orders in Council*

- 20 The following are revoked—
- (a) the Diplomatic Service Order in Council 1991;
  - (b) the Diplomatic Service (Amendment) Order in Council 1994;
  - (c) the Diplomatic Service (Amendment) (No. 2) Order in Council 1994;
  - (d) the Diplomatic Service (Amendment) Order in Council 1995;
  - (e) the Diplomatic Service (Amendment) Order in Council 2004;
  - (f) the Diplomatic Service (Amendment) Order in Council 2009.

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*Servants of the Crown (Parliamentary, European Assembly  
 and Northern Ireland Assembly Candidature) Order 1987*

21 This is revoked.

*Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311)*

22 (1) Amend Schedule 1 as follows.

(2) For “Head of the Home Civil Service” (wherever appearing) substitute “ designated permanent secretary ”.

(3) After paragraph 12(2)(d) insert—

“(da) after the definition of “the Deputy Chairman” insert—

““the designated permanent secretary” means the permanent secretary in the civil service of the State designated by the Minister for the Civil Service for the purposes of this Part;”.

23 In Schedules 3 and 4 for “Head of the Home Civil Service” (wherever appearing) substitute “ designated permanent secretary ”.

*Charities and Trustee Investment (Scotland) Act 2005 (Consequential  
 Provisions and Modifications) Order 2006 (S.I. 2006/242)*

24 In article 2(2) for “Home Civil Service” substitute “ civil service of the State ”.

### PART 3

#### TRANSITIONAL PROVISION RELATING TO THE CIVIL SERVICE COMMISSION

##### *Definitions*

25 (1) This paragraph applies for the purposes of this Part of this Schedule.

(2) A person is a “member of the old commission” if the person is one of Her Majesty’s Civil Service Commissioners for the purposes of the 1995 Order or the 1991 Order.

(3) References to “the old commission” are to be read accordingly.

(4) A person is “head of the old commission” if the person is the First Civil Service Commissioner in relation to the old commission.

(5) “Commission” has the same meaning as in Chapter 1 of this Part of this Act.

(6) “First Commissioner” and “Commissioner” have the same meanings as in Schedule 1 to this Act.

(7) “The 1995 Order” and “the 1991 Order” mean, respectively, the Civil Service Order in Council 1995 and the Diplomatic Service Order in Council 1991.

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*Head of the old commission to become First Commissioner*

- 26 (1) The person who is head of the old commission immediately before section 2 of this Act comes into force becomes the First Commissioner on that section coming into force.
- (2) Sub-paragraphs (3) and (4) below apply instead of paragraph 2(5) and (6) of Schedule 1 to this Act.
- (3) The person holds office as the First Commissioner for a period equal to the remaining part of the period for which the person was appointed as head of the old commission.
- (4) The other terms on which the person holds office as the First Commissioner are—
- (a) the same terms as those on which the person held office as head of the old commission, or
  - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (5) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.
- (6) The person's becoming First Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 2(7) of Schedule 1 to this Act.

*Restriction on period of office if First Commissioner is former head of the old commission*

- 27 (1) This paragraph applies if the person who is the First Commissioner is a former head of the old commission.
- (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.
- (3) The five year rule is that the total of the following must not exceed five years—
- (a) the period or periods for which the person holds office as the First Commissioner, and
  - (b) the period or periods for which the person is head of the old commission.

*Members of the old commission to become Commissioners*

- 28 (1) The persons who are members of the old commission immediately before section 2 comes into force become Commissioners on that section coming into force.
- (2) Sub-paragraph (1) does not apply to the person who is the head of the old commission.
- (3) Sub-paragraphs (4) and (5) below apply instead of paragraph 3(5) and (6) of Schedule 1 to this Act.
- (4) A person holds office as Commissioner for a period equal to the remaining part of the period for which the person was appointed as a member of the old commission.
- (5) The other terms on which the person holds office as Commissioner are—
- (a) the same terms as those on which the person held office as a member of the old commission, or

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(b) if the person agrees, the terms determined by the Minister for the Civil Service.

(6) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.

(7) The person's becoming Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 3(8) of Schedule 1 to this Act.

*Restriction on period of office for former member of old commission*

29 (1) This paragraph applies if a person who is a Commissioner is a former member of the old commission.

(2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.

(3) The five year rule is that the total of the following must not exceed five years—

(a) the period or periods for which the person holds office as Commissioner, and

(b) the period or periods for which the person is a member of the old commission.

(4) Sub-paragraph (3)(a) and (b) does not include any period for which the person is also Her Majesty's Commissioner for Public Appointments.

(5) Sub-paragraph (3)(b) does not include any period for which the person is also head of the old commission.

*Audits of recruitment policies and practices*

30 (1) This paragraph applies in relation to an audit under article 4(3) of the 1995 Order or the 1991 Order that is started, but not completed, before the coming into force of section 2 of this Act.

(2) So far as the audit is within the Commission's function under section 14 of this Act, the Commission may continue and complete the audit.

*Requirements to publish recruitment information*

31 Any requirement under article 4(4) of the 1995 Order or the 1991 Order imposed before the coming into force of section 2 of this Act must be complied with notwithstanding the revocation of the Order by Part 2 of this Schedule.

*Appeals by civil servants*

32 (1) This paragraph applies in relation to an appeal under article 4(5) of the 1995 Order or the 1991 Order that is made, but not determined, before the coming into force of section 2 of this Act.

(2) The Commission may continue with and determine the appeal and paragraphs (a) to (c) of article 4(5) of the 1995 Order or the 1991 Order (as the case may be) continue to apply accordingly.



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*Changes to legislation:* There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

(3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).

33 (1) This paragraph applies in relation to a matter occurring before the coming into force of section 2 of this Act which could have been made the subject of an appeal under article 4(5) of the 1995 Order or the 1991 Order immediately before the coming into force of that section.

(2) The Commission may hear and determine an appeal in relation to the matter and article 4(5) of the 1995 Order or the 1991 Order (as the case may be) is to apply accordingly.

(3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).

#### *First annual report*

34 (1) This paragraph applies to the first report that the Commission is required to prepare under paragraph 17(1)(a) of Schedule 1 to this Act.

(2) The report must, for the relevant period, include the information required by—  
(a) article 8(1)(a) to (c) of the 1995 Order;  
(b) article 4A(1)(a) to (c) of the 1991 Order.

(3) For this purpose it does not matter if any of that information relates to a part of the civil service of the State to which Chapter 1 of this Part of this Act does not apply.

(4) “The relevant period” means the period—  
(a) beginning with—  
(i) for the purposes of sub-paragraph (2)(a), the end of the period covered by the last report published under article 8(1) of the 1995 Order;  
(ii) for the purposes of sub-paragraph (2)(b), the end of the period covered by the last report published under article 4A(1) of the 1991 Order;  
(b) ending when section 2 of this Act comes into force.

#### *Transfer of property, rights and liabilities*

35 (1) The Minister for the Civil Service may make a scheme—  
(a) specifying property, rights and liabilities of the Crown (or held on behalf of the Crown) that are relevant to the old commission's functions, and  
(b) transferring the specified property, rights and liabilities to the Commission; and the transfer has effect in accordance with the terms of the scheme.

(2) The scheme may operate in relation to property, rights and liabilities—  
(a) whether or not they would otherwise be capable of being transferred,  
(b) without any instrument or other formality being required, and  
(c) irrespective of any kind of requirement for consent that would otherwise apply.

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- (3) The scheme may include supplementary, incidental, transitional, transitory or saving provision, including (in particular) provision—
- (a) for the continuing effect of things done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
  - (b) for the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
  - (c) for references to the Crown or a person who acts on behalf of the Crown in any agreement (whether written or not) or instrument or other document to be treated as or as including references to the Commission;
  - (d) for shared ownership, use or access.

*Information previously held by old commission*

- 36 (1) The Minister for the Civil Service must make arrangements for the Commission to be provided with any information—
- (a) which was held by (or on behalf of) the old commission for the purposes of the old commission's functions, and
  - (b) which the Commission reasonably requires for the purposes of its functions.
- (2) For the purposes of the Data Protection Act 1998 and the Freedom of Information Act 2000, any requests made to the old commission relating to information provided to the Commission under sub-paragraph (1) are to be dealt with by the Commission (so far as they were not dealt with by the old commission).

*Preparatory work*

- 37 (1) During the preparatory period the old commission may carry out, in the name and on behalf of the Commission, any functions given to the Commission by Schedule 1 to this Act.
- (2) “The preparatory period” is the period that—
- (a) starts when this Act is passed, and
  - (b) ends when section 2 of this Act comes into force.

**PART 4**

OTHER TRANSITIONAL PROVISION

*Application of section 16(1) of the Interpretation Act 1978*

- 38 (1) In this Part of this Schedule “old management functions” means functions that cease to be exercisable on the coming into force of section 3 of this Act.
- (2) Section 16(1) of the Interpretation Act 1978 applies in relation to an old management function ceasing to be exercisable as if—
- (a) the function had been conferred by an Act, and
  - (b) that Act were repealed by section 3 of this Act.

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- (3) So far as not covered by sub-paragraph (2), section 16(1) of the 1978 Act applies in relation to the revocation of an Order in Council by Part 2 of this Schedule as if it were the repeal of an Act.

*Power to manage the civil service*

- 39 (1) Anything done under old management functions by—
- (a) a Minister of the Crown, or
  - (b) any other servant of the Crown under a delegation under section 1 of the Civil Service (Management Functions) Act 1992,
- is treated as done under subsection (1) or (2) of section 3 of this Act (as the case may be) so far as necessary or appropriate for continuing its effect after the coming into force of section 3.
- (2) Civil servants who, immediately before section 3 comes into force, held their positions in the civil service under or subject to old management functions, continue to hold their positions but under or subject to subsection (1) or (2) of that section (as the case may be).
- (3) The powers in subsections (1) and (2) of section 3 may (in particular) be used to deal with transitional matters.
- (4) Section 1 of this Act applies for the purposes of this paragraph as it applies for the purposes of Chapter 1 of this Part of this Act.
- 40 (1) So far as—
- (a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or
  - (b) a relevant transferred function is not an old management function,
- the subject matter of the Order or function reverts to Her Majesty and may be dealt with (including delegated) by Her accordingly.
- (2) Civil servants who, immediately before this paragraph comes into force, held their positions in the civil service of the State under or subject to—
- (a) an Order in Council revoked by Part 2 of this Schedule so far as it was not made under old management functions, or
  - (b) a relevant transferred function so far as it is not an old management function,
- continue to hold their positions but on the basis mentioned in sub-paragraph (1).
- (3) “Relevant transferred function” means a function which—
- (a) has been delegated by Her Majesty in relation to the management of the civil service of the State (excluding the Northern Ireland Civil Service), and
  - (b) has been the subject of a transfer of functions Order (as that term was defined in section 1(5) of the Civil Service (Management Functions) Act 1992 before its repeal by Part 1 of this Schedule).

*Selection on merit etc*

- 41 (1) In determining for the purposes of section 10(1) of this Act whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on an exception made by the old commission (within the meaning of Part

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3 of this Schedule) from a requirement for selection for the appointment to be on merit on the basis of fair and open competition.

(2) But the recruitment principles (within the meaning of Chapter 1 of this Part of this Act) may disapply sub-paragraph (1) in specified cases.

42 For the purpose of determining whether a selection for an appointment complies with the requirement in section 10(2) of this Act in a case in which the selection process began before section 10(2) comes into force, account must be taken of anything done under or in relation to the selection process before section 10(2) comes into force.

*Special advisers*

43 (1) This paragraph applies to a person who, immediately before the coming into force of this paragraph, holds a position in the civil service of the State for which the person was selected for appointment in reliance on article 3(2), (4) or (5) of the Civil Service Order in Council 1995.

(2) For the purposes of Chapter 1 of this Part of this Act the person is treated as a special adviser so long as the person remains in that position on the same terms and conditions.

SCHEDULE 3

Section 26

PARLIAMENTARY STANDARDS ACT 2009: SUBSTITUTED SCHEDULE 2

**Commencement Information**

**I14** Sch. 3 in force at 19.4.2010 by S.I. 2010/1277, art. 2(c)

“SCHEDULE 2

Section 3

COMPLIANCE OFFICER

*Appointment of Compliance Officer*

- 1 (1) The Compliance Officer is to be appointed by the IPSA.  
 (2) The person to be appointed must be selected by the IPSA on merit on the basis of fair and open competition.

*Terms and conditions: general*

- 2 (1) Subject to the provisions of this Schedule, the Compliance Officer holds office in accordance with the terms and conditions of the Compliance Officer's appointment.  
 (2) Those terms and conditions are to be determined by the IPSA.

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#### *Term of office*

- 3 (1) The Compliance Officer is to be appointed for a fixed term not exceeding five years.
- (2) A person who has been appointed as the Compliance Officer may not be appointed again.

#### *Resignation and removal from office*

- 4 (1) A person may resign from the office of Compliance Officer by giving written notice to the IPSA.
- (2) The IPSA may remove a person from the office of Compliance Officer if the person—
- (a) is convicted of an offence (see sub-paragraph (3)),
  - (b) becomes bankrupt (see sub-paragraph (4)), or
  - (c) is unfit or unable to carry out the functions of the office.
- (3) For the purposes of determining if the person is convicted of an offence—
- (a) it does not matter where the person is convicted, and
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (4) A person becomes bankrupt if—
- (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person's estate is sequestrated.

#### *Remuneration*

- 5 (1) The terms and conditions on which a person is appointed as the Compliance Officer may provide for the IPSA—
- (a) to pay remuneration and allowances to the person;
  - (b) to make provision for a pension in relation to that person.
- (2) The IPSA must make the payment or provision accordingly.

#### *Status*

- 6 (1) The Compliance Officer is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Compliance Officer's property is not to be regarded as property of, or property held on behalf of, the Crown.

#### *Funding*

- 7 (1) The IPSA must provide the Compliance Officer with adequate resources for the Compliance Officer's functions.
- (2) In particular, the IPSA is responsible for providing staff to assist in the carrying out of those functions.

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#### *Annual report*

- 8 (1) As soon as practicable after the end of each financial year, the Compliance Officer must—
- (a) prepare a report about the performance of the Compliance Officer's functions during that financial year, and
  - (b) send the report to the IPSA.
- (2) The IPSA must send the report to the Speaker of the House of Commons, who must lay it before each House of Parliament.
- (3) When the Speaker lays the report, the Compliance Officer must publish it in such manner as the Compliance Officer considers appropriate.
- (4) “Financial year” means—
- (a) the period beginning with the day on which a Compliance Officer is first appointed and ending with the next following 31 March, and
  - (b) each successive period of 12 months.

#### *Vacancy in office of Compliance Officer*

- 9 (1) This paragraph applies if the office of Compliance Officer is vacant.
- (2) The IPSA may authorise a member of the IPSA's staff provided under paragraph 7(2) to carry out the functions of the Compliance Officer during the vacancy.
- (3) In relation to a vacancy of more than six months, the functions of the Compliance Officer may not be carried out by virtue of sub-paragraph (2) after the first six months.

#### *Disqualification*

- 10 (1) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”
- (2) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”

#### *Freedom of information*

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities) at the appropriate place insert— “ Compliance Officer for the Independent Parliamentary Standards Authority. ”

#### *Public records*

- 12 In Schedule 1 to the Public Records Act 1958 (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— “ Compliance Officer for the Independent Parliamentary Standards Authority.” ”

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**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

VALID FROM 27/07/2010

## SCHEDULE 4

Section 34

### PARLIAMENTARY STANDARDS ACT 2009: NEW SCHEDULE 4

#### “SCHEDULE 4

Section 9B

#### ENFORCEMENT

### PART 1

#### RECOVERY OF OVERPAYMENTS

##### *Power to give repayment direction*

- 1 (1) This paragraph applies where the Compliance Officer—
  - (a) has conducted an investigation in respect of a member of the House of Commons under section 9, and
  - (b) has made findings under section 9(5) that the member was paid an amount under the MPs' allowances scheme (the “overpayment”) that—
    - (i) should not have been allowed, and
    - (ii) has not been repaid.
- (2) The Compliance Officer—
  - (a) if sub-paragraph (3) applies, may give the member a direction under this paragraph (a “repayment direction”), and
  - (b) otherwise, must give the member a repayment direction.
- (3) This sub-paragraph applies if the Compliance Officer has made findings under section 9(5) that the member's being paid an amount under the MPs' allowances scheme that should not have been allowed was wholly or partly the IPSA's fault.
- (4) A repayment direction must require the member to pay to the IPSA—
  - (a) if sub-paragraph (3) applies, such amount (not exceeding the amount of the overpayment) as the Compliance Officer considers reasonable, and
  - (b) otherwise, the amount of the overpayment.
- (5) The repayment direction must specify the period (the “repayment period”) before the end of which that amount is to be paid.
- (6) A repayment direction may also require the member to do one or both of the following before the end of the repayment period—
  - (a) pay to the IPSA interest on the amount mentioned in sub-paragraph (4), at the rate and in relation to the period specified in the direction;
  - (b) pay to the IPSA an amount reasonably representing the costs incurred by the IPSA in relation to the overpayment, including the costs of the Compliance Officer in conducting the investigation.

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*Changes to legislation: There are currently no known outstanding effects for the  
 Constitutional Reform and Governance Act 2010. (See end of Document for details)*

- (7) The Compliance Officer must send a copy of the repayment direction to the IPSA.
- (8) References in this Part of this Schedule to a member of the House of Commons include a former member of that House.
- (9) In this Schedule “overpayment”, “repayment direction” and “repayment period” have the meaning given by this paragraph (but in relation to the repayment period, see further paragraph 4(3)).

*Guidance etc*

- 2 (1) The IPSA must prepare guidance about the circumstances in which the Compliance Officer should include in a repayment direction a requirement under paragraph 1(6) (a) or (b).
- (2) The guidance must include guidance about whether the Compliance Officer should include such a requirement if paragraph 1(3) applies.
- (3) The amount mentioned in paragraph 1(6)(b) is to be calculated by the Compliance Officer in accordance with a scheme prepared by the IPSA for that purpose.
- (4) Before preparing guidance under sub-paragraph (1) or a scheme under sub-paragraph (3) the IPSA must consult the persons listed in section 9A(6).

*Appeal against repayment direction*

- 3 (1) A member who has been given a repayment direction under paragraph 1 may appeal to the First-tier Tribunal against—
  - (a) the Compliance Officer's findings under section 9(5);
  - (b) if paragraph 1(3) applies, the Compliance Officer's decision to give the member a repayment direction;
  - (c) if paragraph 1(3) applies, the amount the member is required to repay because of paragraph 1(4)(a);
  - (d) a requirement contained in the repayment direction because of paragraph 1(6).
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the repayment direction is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (3) An appeal under this paragraph is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may—
  - (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (5) If the Tribunal allows the appeal (in whole or in part) it may—
  - (a) revoke the repayment direction;
  - (b) revoke or vary any requirement contained in the repayment direction;
  - (c) make any other order it thinks fit.
- (6) If the Tribunal dismisses the appeal it may make any other order it thinks fit.



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- (7) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

*Extension of repayment period*

- 4 (1) The member may at any time before the end of the repayment period make an application to the Compliance Officer for the Compliance Officer to extend (or further extend) the repayment period.
- (2) The Compliance Officer must notify the IPSA of any decision by the Compliance Officer to extend (or further extend) the repayment period.
- (3) If the Compliance Officer extends (or further extends) the repayment period, references in this Schedule to the repayment period are to that period as extended (or further extended) by the Compliance Officer.
- (4) The member may appeal to the First-tier Tribunal against the Compliance Officer's decision on an application under this paragraph.
- (5) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (6) The appeal is by way of a rehearing.
- (7) The Tribunal may—
- (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (8) If the Tribunal allows the appeal (in whole or in part) it may—
- (a) revoke or vary the Compliance Officer's decision;
  - (b) make any other order it thinks fit.
- (9) If the Tribunal dismisses the appeal it may make any other order it thinks fit.
- (10) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

*Enforcement of repayment direction*

- 5 (1) This paragraph applies to any amount which a member is required by a repayment direction to pay to the IPSA, but only when—
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is—
- (a) an appeal under paragraph 3 brought before the end of the period mentioned in paragraph 3(2), or
  - (b) a further appeal in relation to the repayment direction which—
    - (i) is brought before the end of the usual period for bringing such an appeal, and
    - (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.

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- (3) The IPSA may recover the amount by making deductions from—
  - (a) any salary payable to the member under section 4;
  - (b) any allowances payable to the member under the MPs' allowances scheme.
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the Compliance Officer, as if it were payable under an order of that court.
- (5) In Scotland the amount is recoverable as if the repayment direction were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

## PART 2

### PENALTIES

#### *Power to impose penalties*

- 6 (1) If sub-paragraph (3) or (4) applies to a member of the House of Commons, the Compliance Officer may by notice (a “penalty notice”) impose a penalty on the member.
- (2) A “penalty” means a sum of money payable by the member to the IPSA.
- (3) This sub-paragraph applies if the Compliance Officer has made a finding under section 9(5) that the member has without reasonable excuse failed to comply with a requirement under section 9(3) (provision of information to Compliance Officer).
- (4) This sub-paragraph applies if the Compliance Officer is satisfied that the member has without reasonable excuse failed to comply with any requirement contained in a repayment direction.
- (5) The Compliance Officer must send a copy of the penalty notice to the IPSA.
- (6) References in this Part of this Schedule to a member of the House of Commons include a former member of that House.
- (7) In this Schedule “penalty notice” and “penalty” have the meanings given by this paragraph.

#### *Amount of penalty*

- 7 (1) The penalty notice must state the amount of the penalty.
- (2) The amount of the penalty must not exceed £1,000.
- (3) The amount in sub-paragraph (2) may be increased (or further increased) by an order made by a Minister of the Crown.
- (4) An order under sub-paragraph (3) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

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*Changes to legislation:* There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

*Information to be contained in notice*

- 8 (1) The penalty notice must (as well as stating the amount of the penalty) include information as to—
- (a) the reasons for imposing the penalty,
  - (b) the period before the end of which the penalty is to be paid,
  - (c) how the penalty may be paid,
  - (d) the procedure and time limit for appealing,
  - (e) the effect of paragraph 12, and
  - (f) any other matter specified by the IPSA.
- (2) Before specifying a matter the IPSA must consult the persons listed in section 9A(6).

*Guidance etc*

- 9 (1) The IPSA must prepare guidance about—
- (a) the circumstances in which the Compliance Officer should impose a penalty under paragraph 6, and
  - (b) how the Compliance Officer should determine the amount of the penalty.
- (2) Before preparing the guidance the IPSA must consult the persons listed in section 9A(6).

*Review of penalty*

- 10 (1) The Compliance Officer may at any time review a decision to impose a penalty on a member under paragraph 6.
- (2) Following the review the Compliance Officer may cancel the penalty or reduce the amount of the penalty.
- (3) If the Compliance Office does either of those things, the Compliance Officer must notify the IPSA.
- (4) If the penalty (or part of the penalty) has already been paid the IPSA must repay the member accordingly.

*Appeal against penalty*

- 11 (1) A member on whom a penalty has been imposed under paragraph 6 may appeal to the First-tier Tribunal.
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the penalty notice is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (3) The appeal is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may—
- (a) allow the appeal and cancel the penalty,
  - (b) allow the appeal and reduce the penalty, or
  - (c) dismiss the appeal.

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 Constitutional Reform and Governance Act 2010. (See end of Document for details)*

- (5) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

*Enforcement of penalty*

- 12 (1) This paragraph applies to the amount of a penalty imposed on a member under paragraph 6, but only when—
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is—
- (a) an appeal under paragraph 11 brought before the end of the period mentioned in paragraph 11(2), or
  - (b) a further appeal in relation to the penalty notice which—
    - (i) is brought before the end of the usual period for bringing such an appeal, and
    - (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.
- (3) The IPSA may recover the amount by making deductions from—
- (a) any salary payable to the member under section 4;
  - (b) any allowances payable to the member under the MPs' allowances scheme.
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the Compliance Officer, as if it were payable under an order of that court.
- (5) In Scotland the amount is recoverable as if the penalty notice were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

*Payment of penalty into Consolidated Fund*

- 13 The IPSA must pay into the Consolidated Fund—
- (a) the amount of any penalty paid to the IPSA, and
  - (b) where the IPSA makes a deduction under paragraph 12(3), an amount corresponding to the amount of the deduction.”

SCHEDULE 5

Section 38

PARLIAMENTARY STANDARDS: CONSEQUENTIAL AMENDMENTS

**PART 1**

AMENDMENTS OF THE PARLIAMENTARY STANDARDS ACT 2009

- 1 The Parliamentary Standards Act 2009 is amended as follows.

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**Changes to legislation:** There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010. (See end of Document for details)

#### Commencement Information

**I15** Sch. 5 para. 1 in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(i)

- 2 In section 2(2) (effect of Act on House of Lords)—
- (a) omit paragraph (a), and
  - (b) in paragraph (c) for “paragraphs 4(2) and 8(1)” substitute “ paragraph 8(2) ”.

#### Commencement Information

**I16** Sch. 5 para. 2(b) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(ii)

- 3 In section 5(8) (allowances) for the words from “and” to the end substitute “ and in relation to any such allowances, references in this Act to a member of the House of Commons include a former member of that House. ”

- 4 (1) Section 12 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Commissioner” substitute “the Compliance Officer” , and
  - (b) omit the definition of “the MPs' code of conduct relating to financial interests”.
- (3) In subsection (2)—
- (a) after “committee” (in each place) insert “ or officer ”, and
  - (b) in paragraph (a) for “its” substitute “ the ”.

#### Commencement Information

**I17** Sch. 5 para. 4(1)(2)(a) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(iii)

- 5 (1) Section 13 (transitional provision) is amended as follows.
- (2) Omit subsection (2)(b) and (c).
- (3) In subsection (4) and (6)(c) for “Commissioner” substitute “ Compliance Officer ”.

#### Commencement Information

**I18** Sch. 5 para. 5(1)(3) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(iv)

- 6 In section 14 (commencement) omit subsection (2)(d).

- 7 (1) Schedule 1 (the IPSA) is amended as follows.

VALID FROM 07/05/2010

VALID FROM 07/05/2010

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- (2) Omit paragraph 10 and the heading above it.
- (3) In paragraph 18(1)—
- (a) for paragraph (a) substitute—
    - “(a) section 4 (MPs' salaries), so far as relating to the payment (but not the determination) of salaries,”
  - (b) in paragraph (c), after “claims)” insert “ (except as mentioned in sub-paragraph (2) below) ”, and
  - (c) omit the words following paragraph (c).
- (4) In paragraph 18(2)—
- (a) before paragraph (a) insert—
    - “(za) sections 4 and 4A (MPs' salaries) (except as mentioned in sub-paragraph (1) above),”
  - (b) after paragraph (a) insert—
    - “(aa) section 6(10) (determining procedures for publication of allowances claims),”
  - (c) omit paragraph (b) (and the “and” following it), and
  - (d) for paragraph (c) substitute—
    - “(c) section 9(8)(b) and (9) (determining conditions),
    - (d) section 9A (determining procedures for investigations etc),
    - (e) paragraphs 1, 2(2), 4(2) and 9(2) of Schedule 2 (appointment and removal of Compliance Officer etc), and
    - (f) paragraphs 2, 8 and 9 of Schedule 4 (scheme, guidance etc for Compliance Officer).”
- (5) In paragraph 22(8) for “Any repayments” substitute “ Any payments received by the IPSA as a result of a repayment direction under Schedule 4, and any repayments otherwise ”.

#### Commencement Information

**I19** Sch. 5 para. 7(1) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(v)

**I20** Sch. 5 para. 7(4)(d) in force at 19.4.2010 for specified purposes by S.I. 2010/1277, art. 2(d)(v)

VALID FROM 24/05/2011

## PART 2

### AMENDMENTS OF OTHER ACTS

#### *European Parliament (Pay and Pensions) Act 1979 (c. 50)*

- 8 (1) In section 1(2) (salaries of MEPs) for paragraphs (a) and (b) substitute “ the same as that of the salary payable for that period, under section 4 of the Parliamentary Standards Act 2009, to a Member who does not hold an office or position specified in a resolution of the House of Commons for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions). ”

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- (2) Omit section 5 (salary to be used for calculating pension benefits).
- (3) In section 8(1) (interpretation) omit the definition of “a Member's ordinary salary” and “a Member's pensionable salary”.

*Parliamentary and other Pensions Act 1987 (c. 45)*

- 9 In section 5(2) (interpretation) for the words from “such resolutions” to the end substitute—

- “(a) section 4 of the Parliamentary Standards Act 2009, or
- (b) in relation to a time before that section was in force, the resolutions of the House of Commons then in force relating to the remuneration of its members.”

*Ministerial and other Pensions and Salaries Act 1991 (c. 5)*

- 10 In section 4 (grants to persons ceasing to hold ministerial and other offices)—

- (a) omit subsection (3),
- (b) after that subsection insert—

“(3A) The annual amount of the salary paid to a person in respect of the office of Chairman of Ways and Means or Deputy Chairman of Ways and Means is the difference between—

- (a) the annual amount of the salary payable under section 4 of the Parliamentary Standards Act 2009 to a person holding that office, and
- (b) the annual amount of the salary payable under that section to a member of the House of Commons who does not hold an office or position specified in a resolution of that House for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions).”, and
- (c) omit subsection (7).

*Scotland Act 1998 (c. 46)*

- 11 (1) Section 82 (limits on salaries of MSPs) is amended as follows.

- (2) In subsection (1)—

- (a) before paragraph (a) insert—

“(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),” and

- (b) in paragraph (a) for “either House of Parliament” substitute “the House of Lords”.

- (3) In subsection (2)(b) for “(1)(a)” substitute “(1)(za), (a)”.

*Government of Wales Act 2006 (c. 32)*

- 12 (1) Section 21 (limits on salaries of Assembly members) is amended as follows.

- (2) In subsection (1)—

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- (a) before paragraph (a) insert—
    - “(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),” and
  - (b) in paragraph (a) for “either House of Parliament” substitute “ the House of Lords ”.
- (3) In subsection (2)(b) for “(1)(a)” substitute “ (1)(za), (a) ”.

VALID FROM 24/10/2011

SCHEDULE 6 Section 40

PARLIAMENTARY AND OTHER PENSIONS

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VALID FROM 19/01/2011

SCHEDULE 7 Section 46

AMENDMENTS OF FREEDOM OF INFORMATION ACT 2000

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**Status:**

Point in time view as at 19/04/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010.