

CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8: Special advisers code

90. *Section 8* makes provision for a code of conduct for special advisers. The code published under this section will be along the lines of the existing special advisers' code, which can be viewed at the following website:

www.cabinetoffice.gov.uk/propriety_and_ethics/special_advisers/code.aspx.
91. *Section 8* specifies that the code of conduct for special advisers must provide that a special adviser may not authorise the expenditure of public funds, exercise any power in relation to the management of any part of the civil service (except in relation to another special adviser) or otherwise exercise any statutory or prerogative power. The code of conduct for special advisers will state that special advisers must not be responsible for the line management (including appraisal, reward, promotion or disciplining) of civil servants who are not special advisers.
92. *Section 8* also enables the Minister for the Civil Service to publish separate codes of conduct for special advisers who serve the Scottish Executive or the Welsh Assembly Government after first consulting the First Ministers of Scotland and Wales on the content of the code relevant to their respective administrations.
93. There is no Parliamentary procedure attached to the obligation in *subsection (8)* for the Minister for the civil service to lay the code before Parliament. *Subsections (9)* and *(10)* provide that the First Ministers of Scotland and Wales are also required to lay the code relevant to their administration before the Scottish Parliament and National Assembly for Wales respectively.
94. Under *subsection (11)* the applicable code or codes form part of a special adviser's terms and conditions.