

*Status: Point in time view as at 03/04/2006.*

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## SCHEDULE 1

(introduced by section 3(1)(a)(i))

### SCOTTISH PUBLIC AUTHORITIES

#### PART 1

##### MINISTERS, THE PARLIAMENT

- 1 The Scottish Ministers.
- 2 The Scottish Parliament.
- 3 The Scottish Parliamentary Corporate Body.

#### PART 2

##### NON MINISTERIAL OFFICE HOLDERS IN THE SCOTTISH ADMINISTRATION

- 4 The Chief Dental Officer of the Scottish Administration.
- 5 The Chief Medical Officer of the Scottish Administration.
- 6 Her Majesty's Chief Inspector of Constabulary.
- 7 Her Majesty's Chief Inspector of Prisons for Scotland.

VALID FROM 13/10/2008

[<sup>F1</sup>7A The Drinking Water Quality Regulator for Scotland]

#### Textual Amendments

**F1** Sch. 1 para. 7A added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), art. 2, [Sch. 1](#)

- 8 Her Majesty's Inspector of Anatomy for Scotland.
- 9 [<sup>F2</sup>Her Majesty's Chief Inspector of Fire and Rescue Authorities]

#### Textual Amendments

**F2** Words in [Sch. 1 para. 9](#) substituted (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), ss. 89(1), 90, [Sch. 3 para. 22](#) (with s. 77); [S.S.I. 2005/392](#), art. 2(j)(k)

- 10 Her Majesty's inspectors of schools (that is to say, the inspectors of schools appointed by Her Majesty on the recommendation of the Scottish Ministers under the Education (Scotland) Act 1980 (c.44)).
- 11 The Keeper of the Records of Scotland.
- 12 The Keeper of the Registers of Scotland.

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VALID FROM 13/10/2008

[<sup>F3</sup>12A The Office of the Scottish Charity Regulator]

**Textual Amendments**

**F3** Sch. 1 para. 12A added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), art. 2, **Sch. 1**

- 13 A procurator fiscal.
- 14 The Queen's and Lord Treasurer's Remembrancer.
- 15 The Queen's Printer for Scotland.
- 16 The Registrar General of Births, Deaths and Marriages for Scotland.
- 17 The Registrar of Independent Schools in Scotland.
- 18 A rent officer appointed under section 43(3) of the Rent (Scotland) Act 1984 (c.58).

VALID FROM 01/10/2009

[<sup>F4</sup>18A The Scottish Court Service.]

**Textual Amendments**

**F4** Sch. 1 para. 18A inserted (1.10.2009) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), ss. 60(2), 76, **Sch. 3 para. 18**; S.S.I. 2009/318, art. 2, Sch.

- 19 A social work inspector [<sup>F5</sup>appointed under section 4 of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006 (asp 3)].

**Textual Amendments**

**F5** Words in Sch. 1 para. 19 substituted (23.2.2006) by [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#), ss. 8(2), 10(2)

**PART 3**

LOCAL GOVERNMENT

- 20 An assessor appointed under section 27(2) of the Local Government etc. (Scotland) Act 1994 (c.39).
- 21 A council constituted by section 2 of that Act.
- 22 A joint board, within the meaning of section 235(1) of the Local Government (Scotland) Act 1973 (c.65).

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- 23 A licensing board constituted in accordance with the provisions of section 1 of the Licensing (Scotland) Act 1976 (c.66).
- 24 The Strathclyde Passenger Transport Authority.

#### PART 4

#### THE NATIONAL HEALTH SERVICE

- 25 The Clinical Standards Board for Scotland.
- 26 The Common Services Agency for the Scottish Health Service.
- 27 A Health Board, constituted under section 2 of the National Health Service (Scotland) Act 1978.
- 28 The Health Education Board for Scotland.
- 29 The Health Technology Board for Scotland.

VALID FROM 13/10/2008

[<sup>F6</sup>29A The National Waiting Times Centre Board]

#### Textual Amendments

**F6** Sch. 1 para. 29A added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), art. 2, **Sch. 1**

- 30 A local health council, established under section 7 of the National Health Service (Scotland) Act 1978.
- 31 A National Health Service trust.
- 32 NHS 24.

VALID FROM 13/10/2008

[<sup>F7</sup>32A NHS Education for Scotland]

#### Textual Amendments

**F7** Sch. 1 para. 32A added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), art. 2, **Sch. 1**

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VALID FROM 13/10/2008

[<sup>F8</sup>32B NHS Health Scotland]

**Textual Amendments**

**F8** Sch. 1 para. 32B added (13.10.2008) by The Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2008 (S.S.I. 2008/297), art. 2, **Sch. 1**

VALID FROM 13/10/2008

[<sup>F9</sup>32C NHS Quality Improvement Scotland]

**Textual Amendments**

**F9** Sch. 1 para. 32C added (13.10.2008) by The Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2008 (S.S.I. 2008/297), art. 2, **Sch. 1**

33 A person providing [<sup>F10</sup>primary medical services under a general medical services contract (within the meaning of the National Health Service (Scotland) Act 1978) or] general dental services, general ophthalmic services or pharmaceutical services under Part II of [<sup>F11</sup>that Act], but only in respect of information relating to the provision of those services.

**Textual Amendments**

**F10** Words in Sch. 1 para. 33 substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 5(a)(i)**; S.S.I. 2004/58, **art. 2(3)**  
**F11** Words in Sch. 1 para. 33 substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 5(a)(ii)**; S.S.I. 2004/58, **art. 2(3)**

34 A person providing [<sup>F12</sup>primary medical services] or personal dental services under arrangements made under section 17C of that Act, but only in respect of information relating to the provision of those services.

**Textual Amendments**

**F12** Words in Sch. 1 para. 34 substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1)(2), **Sch. para. 5(b)**; S.S.I. 2005/58, **art. 2(3)**

35 A person providing, in Scotland, piloted services within the meaning of the National Health Service (Primary Care) Act 1997 (c.46), but only in respect of information relating to the provision of those services.

36 The Post Qualification Education Board for Health Service Pharmacists in Scotland.

37 The Scottish Advisory Committee on Distinction Awards.

*Status: Point in time view as at 03/04/2006.*

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- 38 The Scottish Advisory Committee on the Medical Workforce.
- 39 The Scottish Ambulance Service Board.
  
- 40 The Scottish Council for Post Graduate Medical and Dental Education.
- 41 The Scottish Dental Practice Board.
  
- 42 The Scottish Health Advisory Service.
- 43 <sup>F13</sup> .....

**Textual Amendments**

**F13** Sch. 1 para. 43 repealed (1.11.2005) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(2), 43(3), Sch. 3; S.S.I. 2005/492, art. 3(b), Sch. 2

- 44 <sup>F14</sup> .....

**Textual Amendments**

**F14** Sch. 1 Pt. 4: para. relating to the Scottish Hospital Trust repealed (6.5.2004) by Public Appointments and Public Bodies etc. (Scotland) Act 2003, ss. 17, 21(2), Sch. 4 para. 17(a)(i); S.S.I. 2004/198, art. 2(c)

- 45 The State Hospitals Board for Scotland.
- 46 <sup>F15</sup> .....

**Textual Amendments**

**F15** Sch. 1 Pt. 4: para. relating to the Scottish Medical Practices Committee repealed (1.4.2004) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp. 4), ss. 17, 21(2), Sch. 4 para. 17(a)(ii); S.S.I. 2004/148, art. 2(c)

**PART 5**

EDUCATIONAL INSTITUTIONS

- 47 The board of management of a college of further education (expressions used in this paragraph having the same meaning as in section 36(1) of the Further and Higher Education (Scotland) Act 1992 (c.37)).
- 48 A central institution within the meaning of the Education (Scotland) Act 1980.
- 49 An institution in receipt of funding from the [<sup>F16</sup>Scottish Further and Higher Education Funding Council] other than any institution whose activities are principally carried on outwith Scotland.

*Status: Point in time view as at 03/04/2006.*

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#### Textual Amendments

- F16** Words in Sch. 1 para. 49 substituted (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005](#) (asp 6), ss. 32, 36, **Sch. 3 para. 12(a)**; S.S.I. 2005/419, **art. 2(1)**

### PART 6

#### POLICE

- 50 A chief constable of a police force in Scotland.
- 51 A joint police board constituted by an amalgamation scheme made or approved under the Police (Scotland) Act 1967 (c.77).
- 52 The Police Advisory Board for Scotland.

VALID FROM 01/04/2007

- [<sup>F17</sup>52A The Scottish Police Services Authority, but only in respect of information relating to the provision of the police support services within the meaning of section 3(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.]

#### Textual Amendments

- F17** [Sch. 1 para. 52A](#) inserted (1.4.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), ss. 101, 104, **Sch. 6 para. 11(a)**, S.S.I. 2007/84, reg. 3(3)

### PART 7

#### OTHERS

- 53 The Accounts Commission for Scotland.
- 54 The Advisory Committee on Sites of Special Scientific Interest.
- 55 <sup>F18</sup> .....

#### Textual Amendments

- F18** Sch. 1 Pt. 7: para. relating to the Ancient Monuments Board for Scotland repealed (31.5.2008) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003](#) (asp 4), ss. 17, 21(2), **Sch. 4 para. 17(b)(i)**; S.S.I. 2003/219, **art 2(1)(c)**

- 56 An area tourist board established by virtue of section 172(1) of the Local Government (Scotland) Act 1994 (c.39).
- 57 Audit Scotland.
- 58 The Auditor General for Scotland.

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- 59 The Board of Trustees for the National Galleries of Scotland.  
60 The Board of Trustees of the National Museums of Scotland.  
61 The Board of Trustees of the Royal Botanic Garden, Edinburgh.  
61A [<sup>F19</sup>Bòrd na Gàidhlig]

**Textual Amendments**

**F19** Sch. 1 para. 61A inserted (13.2.2006) by virtue of [Gaelic Language \(Scotland\) Act 2005 \(asp 7\)](#), ss. 12, 13, [Sch. 2 para. 3](#); S.S.I. 2006/31, [art. 2](#)

- 62 The Central Advisory Committee on Justices of the Peace.

VALID FROM 13/10/2008

- [<sup>F20</sup>62ZA The Commissioner for Children and Young People in Scotland]

**Textual Amendments**

**F20** Sch. 1 para. 62ZA added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), [art. 2](#), [Sch. 1](#)

- [<sup>F21</sup>62A A community justice authority.]

**Textual Amendments**

**F21** Sch. 1 para. 62A inserted (3.4.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), s. [21\(2\)](#), [24\(2\)](#); S.S.I. 2006/48, [art. 3\(2\)](#), [Sch. Pt. 2](#)

- [<sup>F22</sup>62B The Convener of the Water Customer Consultation Panels (appointed under paragraph 5(1) of schedule 1 to the Water Industry (Scotland) Act 2002 (asp 3)) and those Panels.]

**Textual Amendments**

**F22** Sch. 1 para. 62B inserted (1.4.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), ss. 32, 37(2), [Sch. 5 para. 9\(a\)](#) (with s. 36); S.S.I. 2006/167, [art. 2](#), [Sch. 1](#)

- 63 The Crofters Commission.  
64 The Deer Commission for Scotland.  
65 The Fisheries Committee continued in existence by paragraph 5 of Schedule 9 to the Electricity Act 1989 (c.29).  
66 The General Teaching Council for Scotland.

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VALID FROM 13/10/2008

[<sup>F23</sup>66A Her Majesty's Chief Inspector of Prosecution in Scotland]

**Textual Amendments**

**F23** Sch. 1 para. 66A added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), art. 2, **Sch. 1**

67 Highlands and Islands Enterprise.

[<sup>F24</sup>67A The Historic Environment Advisory Council for Scotland.]

**Textual Amendments**

**F24** Sch. 1 para. 67A inserted (1.6.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), ss. 17, 21(2), **Sch. 4 para. 17(c)(ii)**; S.S.I. 2003/219, **art. 2(2)(c)**

68 <sup>F25</sup> .....

**Textual Amendments**

**F25** Sch. 1 Pt. 7: para. relating to the Historic Buildings Council for Scotland repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp. 4\)](#), ss. 17, 21(2), **Sch. 4 para. 17(b)(ii)**; S.S.I. 2003/219, **art. 2(1)(c)**

VALID FROM 01/06/2009

[<sup>F26</sup>68A The Judicial Appointments Board for Scotland]

**Textual Amendments**

**F26** Sch. 1 para. 68A inserted (1.6.2009) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), ss. 9(4), 76, **Sch. 1 para. 21**, S.S.I. 2009/192, **art. 2**, Sch.

69 A justice of the peace advisory committee.

70 Learning and Teaching Scotland.

71 The Local Government Boundary Commission for Scotland.

72 The Mental Welfare Commission for Scotland.

73 A National Park authority, established by virtue of schedule 1 to the National Parks (Scotland) Act 2000 (asp 10).

74 The Parole Board for Scotland.

75 A person appointed for Scotland under section 3(1) of the Local Government and Housing Act 1989 (c.42).

[<sup>F27</sup>75A The Public Transport Users' Committee for Scotland.]



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#### Textual Amendments

**F27** Sch. 1 para. 75A inserted (3.4.2006) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 41(4), 54(2)**; [S.S.I. 2005/454](#), **art. 2**, **Sch. 3**

VALID FROM 13/10/2008

[<sup>F28</sup>75B      [Quality Meat Scotland](#)]

#### Textual Amendments

**F28** Sch. 1 para. 75B added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), **art. 2**, **Sch. 1**

VALID FROM 13/10/2008

[<sup>F29</sup>75C      [The Risk Management Authority](#)]

#### Textual Amendments

**F29** Sch. 1 para. 75C added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), **art. 2**, **Sch. 1**

76            [The Royal Commission on the Ancient and Historical Monuments of Scotland.](#)

77            [The Scottish Agricultural Wages Board.](#)

78            [The Scottish Arts Council.](#)

79            [The Scottish charities nominee, appointed under section 12 of the Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c.40\).](#)

80            [The Scottish Children’s Reporter Administration.](#)

PROSPECTIVE

[<sup>F30</sup>  
<sup>F31</sup>80A      [The Scottish Civil Enforcement Commission.\]\]](#)

#### Textual Amendments

**F30** Sch. 1 para. 63A inserted (16.2.2017) by [The Crown Estate Scotland \(Interim Management\) Order 2017 \(S.S.I. 2017/36\)](#), **arts. 1(1), 21(4)**

**F31** Sch. 1 para. 80A inserted (prosp.) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 226(1), 227(3)**, **Sch. 5 para. 28** (with s. 223)

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VALID FROM 01/04/2008

[<sup>F32</sup>80B The Scottish Commission for Human Rights.]

**Textual Amendments**

**F32** Sch. 1 para. 80B inserted (1.4.2008) by [Scottish Commission for Human Rights Act 2006 \(asp 16\)](#), ss. 1(2), 22(3), [Sch. 1 para. 17](#) (with s. 22(2)); S.S.I. 2008/112, [art. 2](#)

81 The Scottish Commission for the Regulation of Care.

82 <sup>F33</sup> .....

**Textual Amendments**

**F33** Sch. 1 Pt. 7: para. relating to the Scottish Conveyancing and Executry Services Board repealed (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp. 4\)](#), ss. 17, 21(2), [Sch. 4 para. 17\(b\)\(iii\)](#); S.S.I. 2003/384, [art. 2\(d\)](#)

83 The Scottish Criminal Cases Review Commission.

84 Scottish Enterprise.

85 The Scottish Environment Protection Agency.

[<sup>F34</sup>85A The Scottish Further and Higher Education Funding Council.]

**Textual Amendments**

**F34** Sch. 1 para. 85A inserted (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), ss. 32, 36, [Sch. 3 para. 12\(b\)](#); S.S.I. 2005/419, [art. 2\(1\)](#)

86 <sup>F35</sup> .....

**Textual Amendments**

**F35** Sch. 1 para. 86 repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), ss. 32, 36, [Sch. 3 para. 12\(c\)](#); S.S.I. 2005/419, [art. 2\(1\)](#)

87 <sup>F36</sup> .....

**Textual Amendments**

**F36** Sch. 1 para. 87 repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), ss. 32, 36, [Sch. 3 para. 12\(c\)](#); S.S.I. 2005/419, [art. 2\(1\)](#)

88 Scottish Homes.

89 The Scottish Industrial Development Advisory Board.

90 The Scottish Information Commissioner.

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91 The Scottish Law Commission.

92 The Scottish Legal Aid Board.

VALID FROM 01/10/2008

[<sup>F37</sup>92A The Scottish Legal Complaints Commission.]

**Textual Amendments**

**F37** Sch. 1 para. 92A inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 81, 82, [Sch. 5 para. 5](#) (with s. 77); S.S.I. 2008/311, [art. 2\(i\)](#)

VALID FROM 13/10/2008

[<sup>F38</sup>92B The Scottish Local Authorities Remuneration Committee]

**Textual Amendments**

**F38** Sch. 1 para. 92B added (13.10.2008) by [The Freedom of Information \(Scotland\) Act 2002 \(Scottish Public Authorities\) Amendment Order 2008 \(S.S.I. 2008/297\)](#), [art. 2](#), [Sch. 1](#)

93 Scottish Natural Heritage.

94 The Scottish Prison Complaints Commission.

95 The Scottish Public Services Ombudsman.

96 The Scottish Qualifications Authority.

97 The Scottish Records Advisory Council.

98 Scottish Screen.

99 The Scottish Social Services Council.

100 The Scottish Sports Council.

101 The Scottish Tourist Board.

102 Scottish Water.

103 Social Inclusion Partnerships.

104 The Standards Commission for Scotland.

105 The Trustees of the National Library of Scotland.

VALID FROM 01/04/2007

[<sup>F39</sup>105A VisitScotland.]

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#### Textual Amendments

**F39** Sch. 1 para. 105A inserted (1.4.2007) by [Tourist Boards \(Scotland\) Act 2006 \(asp 15\)](#), ss. 4, 5(1), **Sch. 2 para. 8(b)**; S.S.I. 2007/47, **art. 2**

106 The Water Industry [<sup>F40</sup>Commission] for Scotland.

#### Textual Amendments

**F40** Word in Sch. 1 para. 106 substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), ss. 32, 37(2), **Sch. 5 para. 9(b)** (with s. 36); S.S.I. 2005/351, **art. 2**, Sch. 2 (with art. 3)

## SCHEDULE 2

*(introduced by section 42(12))*

### THE SCOTTISH INFORMATION COMMISSIONER

#### *Status*

1 The Commissioner and that officer's staff are not to be regarded as servants or agents of the Crown or as having any status, immunity or privilege of the Crown; and the Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

#### *Pensions, allowances, etc.*

2 (1) The Parliamentary corporation may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to hold the office of Commissioner and (without prejudice to that generality) may—

- (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
- (b) for the purposes of this sub-paragraph, establish and administer one or more pension schemes.

(2) The references in sub-paragraph (1) to pensions, allowances and gratuities include references to, as the case may be, pensions, allowances or gratuities by way of compensation for loss of office.

#### *Staff*

3 (1) The Commissioner may appoint such staff, on such terms and conditions, as that officer may determine.

(2) The Commissioner may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of such staff and (without prejudice to that generality) may—

- (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
- (b) for the purposes of this sub-paragraph, establish and administer one or more pension schemes.

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- (3) The references in sub-paragraph (2) to pensions, allowances and gratuities include references to, as the case may be, pensions, allowances or gratuities by way of compensation for loss of employment.
- (4) A determination under sub-paragraph (1) requires, and arrangements under sub-paragraph (2) require, the approval of the Parliamentary corporation.

#### *Accountable officer*

- 4 (1) The Parliamentary corporation is to designate the Commissioner or a member of that officer's staff as the accountable officer for the purposes of this paragraph.
- (2) The functions of the accountable officer are—
  - (a) those specified in sub-paragraph (3); and
  - (b) where the accountable officer is not the Commissioner, the duty set out in sub-paragraph (4),and the accountable officer is answerable to the Parliament for the exercise of those functions.
- (3) The functions referred to in sub-paragraph (2)(a) are—
  - (a) signing the accounts of the expenditure and receipts of the Commissioner;
  - (b) ensuring the propriety and regularity of the finances of the Commissioner; and
  - (c) ensuring that the resources of the Commissioner are used economically, efficiently and effectively.
- (4) The duty referred to in sub-paragraph (2)(b) is a duty, where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of the functions specified in sub-paragraph (3), to—
  - (a) obtain written authority from the Commissioner before taking the action; and
  - (b) send a copy of that authority as soon as possible to the Auditor General.

#### *Accounts*

- 5 (1) The Commissioner must—
  - (a) keep accounts; and
  - (b) prepare annual accounts in respect of each financial year,in accordance with such directions as the Scottish Ministers may give that officer.
- (2) The Commissioner must send a copy of the annual accounts to the Auditor General for Scotland for auditing.
- (3) The financial year of the Commissioner is—
  - (a) the period beginning with the date on which the Commissioner is appointed and ending with 31st March next following that date; and
  - (b) each successive period of twelve months ending with 31st March.
- (4) If requested by any person, the Commissioner must make available at any reasonable time, without charge, in printed or in electronic form, the audited accounts, so that they may be inspected by that person.

*Status: Point in time view as at 03/04/2006.*

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### General powers

- 6 The Commissioner may do anything which appears necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of that officer's functions; and without prejudice to that generality, may in particular—
- (a) acquire and dispose of land and other property; and
  - (b) enter into contracts.

## SCHEDULE 3

(introduced by section 54)

### POWERS OF ENTRY AND INSPECTION

#### Modifications etc. (not altering text)

- C1 Sch. 3 applied (with modifications) (1.1.2005) by [The Environmental Information \(Scotland\) Regulations 2004 \(S.S.I. 2004/520\)](#), [reg 17\(1\)\(2\)](#) (with [reg. 3](#))

### Grant of warrants

- 1 (1) If a sheriff is satisfied by evidence on oath supplied by the Commissioner that there are reasonable grounds for suspecting—
- (a) that a Scottish public authority has failed or is failing to comply with—
    - (i) any of the requirements of Part 1 of this Act;
    - (ii) so much of a notice given to it by the Commissioner under subsection (5) of section 49 as, by virtue of subsection (6)(b) of that section, requires steps to be taken; or
    - (iii) an information notice or an enforcement notice; or
  - (b) that an offence under section 65(1) has been or is being committed,
- and that evidence of such a failure to comply or of the commission of the offence is to be found on any premises specified as part of that evidence, the sheriff, subject to paragraph 2, may grant to the Commissioner such warrant as is mentioned in subparagraph (2).
- (2) The warrant is one which authorises the Commissioner, or any member of the Commissioner's staff, at any time within seven days after the date of the warrant—
- (a) to enter and search the premises;
  - (b) to inspect and seize any documents or other material found there which may constitute the evidence in question; and
  - (c) to inspect, examine, operate and test any equipment found there in which information held by the authority may be recorded.
- 2 (1) A sheriff must not grant the warrant unless satisfied—
- (a) that the Commissioner has given seven days' notice in writing to the occupier of the premises demanding access to them; and
  - (b) that either—
    - (i) access was demanded at a reasonable hour and was unreasonably refused; or

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- (ii) although entry to the premises was granted, the occupier unreasonably refused to comply with a request by the Commissioner, or any member of the Commissioner's staff, to permit the Commissioner or any such member of staff to do any of the things referred to in paragraph 1(2); and
  - (c) that the occupier has, after the refusal, been notified by the Commissioner of the application for the warrant and has had an opportunity of being heard by the sheriff on the question of whether or not it should be granted.
- (2) Sub-paragraph (1) does not apply if the sheriff is satisfied that the case is one of urgency or that compliance with the provisions of that sub-paragraph would defeat the object of the entry.

#### *Execution of warrants*

- 3 A person executing the warrant may use such reasonable force as may be necessary.
- 4 The warrant must be executed at a reasonable hour, unless it appears to the person executing it that there are grounds for suspecting that the evidence in question would not be found if it were so executed.
- 5 (1) If the premises in respect of which the warrant is granted are occupied by a Scottish public authority and any officer or employee of the authority is present when the warrant is executed, that officer or employee must be shown the warrant and supplied with a copy of it; and if no such officer or employee is present a copy of the warrant must be left in a prominent place on the premises.
- (2) If the premises in respect of which the warrant is granted are occupied by a person other than a Scottish public authority and that person is present when the warrant is executed, the person must be shown the warrant and supplied with a copy of it; and if the person is not present a copy of the warrant must be left in a prominent place on the premises.
- 6 (1) A person seizing anything in pursuance of the warrant must give a receipt for it if asked to do so.
- (2) Anything so seized may be retained for so long as is necessary in all the circumstances; but the person in occupation of the premises must be given a copy of anything that is seized if that person so requests and the person executing the warrant considers that it can be done without undue delay.

#### *Matters exempt from inspection and seizure*

- 7 The powers of inspection and seizure conferred by the warrant are not exercisable in respect of information which is exempt information by virtue of section 31(1).
- 8 (1) Subject to the provisions of this paragraph, the powers of inspection and seizure conferred by the warrant are not exercisable in respect of—
- (a) a communication between professional legal adviser and client in connection with the giving of legal advice to the client with respect to the client's obligations, liabilities or rights under this Act; or
  - (b) a communication between professional legal adviser and client, or between such adviser or client and another person, made in connection with or in contemplation of proceedings under or arising out of this Act and for the purpose of such proceedings.

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- (2) Sub-paragraph (1) applies also to—
- (a) a copy or other record of such communication as is there mentioned; and
  - (b) a document or article enclosed with or referred to in such communication if made in connection with the giving of any advice or, as the case may be, in connection with or in contemplation of and for the purpose of such proceedings as are there mentioned.
- (3) This paragraph does not apply to anything in the possession of a person other than the professional legal adviser or client or to anything held with the intention of furthering a criminal purpose.
- (4) In this paragraph references to the client of a professional legal adviser include references to a person representing such a client.
- 9        If the person in occupation of premises in respect of which the warrant is granted objects to the inspection or seizure under it of any material on the grounds that the material consists partly of matters in respect of which those powers are not exercisable, that person must, if requested, provide in response to the warrant a copy of so much of the material as is material in relation to which the powers are exercisable.

### *Offences*

- 10        (1) A person who—
- (a) intentionally obstructs a person who is executing the warrant; or
  - (b) fails, without reasonable excuse, to give the person who is executing the warrant such assistance as that person may reasonably require for executing it,
- is guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

### *Vessels, vehicles etc.*

- 11        In this schedule, “premises” includes vessel, vehicle, aircraft or hovercraft, and references to the occupier of premises include references to the person in charge of a vessel, vehicle, aircraft or hovercraft.

## SCHEDULE 4

*(introduced by section 71(2))*

### CONSEQUENTIAL AMENDMENTS TO SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002

- 1        In section 19(8) of the Scottish Public Services Ombudsman Act 2002 (asp 11) (which restricts the purposes for which information obtained by the Ombudsman from the Information Commissioner may be disclosed)—
- (a) the words from “the Information Commissioner” to “Freedom of Information Act 2000 (c.36)” become paragraph (a); and
  - (b) after that paragraph, there is inserted the word “or” and the following paragraph—



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“(b) the Scottish Information Commissioner by virtue of section 63 of the Freedom of Information (Scotland) Act 2002 (asp 13),”.

- 2 In schedule 5 to that Act (which specifies persons or bodies to whom the Ombudsman in certain circumstances may disclose information in relation to certain matters), after the entry relating to the Information Commissioner, there is inserted—

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“The Scottish Information Commissioner

1. A matter in respect of which the Commissioner could exercise any power conferred by—  
 (a) section 44 (recommendations as to good practice) of the Freedom of Information (Scotland) Act 2002 (asp 13); or  
 (b) Part 4 (enforcement) of that Act  
 2. The commission of an offence under section 65 (offence of altering etc. records with intent to prevent disclosure) of that Act”.

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