

*Status: Point in time view as at 11/11/2010.*

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

## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 2

#### THE CIVIL SERVICE COMMISSION

#### PART 1 **U.K.**

##### 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.

###### **Commencement Information**

**II** Sch. 1 para. 1 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *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.

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(9) In sub-paragraph (8)—

“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.

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

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**Commencement Information**

**I3** Sch. 1 para. 3 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Status: Point in time view as at 11/11/2010.*

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

*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.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 2 U.K.**

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.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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).

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Committees*

- 9 (1) The Commission may establish committees.
- (2) A committee of the Commission may establish sub-committees.

*Status: Point in time view as at 11/11/2010.*

*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) Members of a committee or sub-committee may include persons who are not members of the Commission.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Staff*

- 11 The Commission may employ staff.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

*Status: Point in time view as at 11/11/2010.*

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

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

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

*Status: Point in time view as at 11/11/2010.*

*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. 1 para. 15 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *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—
- (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).

#### **Commencement Information**

**I16** Sch. 1 para. 16 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

#### *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.

*Status: Point in time view as at 11/11/2010.*

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

- (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.

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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;
  - (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.

**Commencement Information**

**I19** Sch. 1 para. 19 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)



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## SCHEDULE 2 **U.K.**

Section 19

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

#### PART 1 **U.K.**

##### 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”.

###### **Commencement Information**

**I20** Sch. 2 para. 1 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

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

###### **Commencement Information**

**I21** Sch. 2 para. 2 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

###### *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”.

###### **Commencement Information**

**I22** Sch. 2 para. 3 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

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

###### **Commencement Information**

**I23** Sch. 2 para. 4 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

- 5 (1) Amend section 2 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)*

(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).”

**Commencement Information**

**I24** Sch. 2 para. 5 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Civil Service (Management Functions) Act 1992 (c. 61)*

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 “*Civil service (excluding the diplomatic service)*”.

**Commencement Information**

**I25** Sch. 2 para. 6 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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”.

**Commencement Information**

**I26** Sch. 2 para. 7 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Government of Wales Act 1998 (c. 38)*

8 In paragraph 3(1) and (2) of Schedule 6 for “Her Majesty's Home Civil Service” substitute “the civil service of the State”.

*Status: Point in time view as at 11/11/2010.*

*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**

**I27** Sch. 2 para. 8 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Scotland Act 1998 (c. 46)*

- 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 section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Scottish Ministers etc.”
- (5) Omit subsection (9).

**Commencement Information**

**I28** Sch. 2 para. 9 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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).”

**Commencement Information**

**I29** Sch. 2 para. 10 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

- 11 (1) Amend section 81 as follows.

*Status: Point in time view as at 11/11/2010.*

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

(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.”

**Commencement Information**

**I30** Sch. 2 para. 11 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

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

**Commencement Information**

**I31** Sch. 2 para. 12 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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).”

**Commencement Information**

**I32** Sch. 2 para. 13 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Extradition Act 2003 (c. 41)*

14 (1) Amend section 101 as follows.

(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—

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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)*

“(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).”

**Commencement Information**

**I33** Sch. 2 para. 14 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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).

**Commencement Information**

**I34** Sch. 2 para. 15 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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)”.

**Commencement Information**

**I35** Sch. 2 para. 16 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

- 17 (1) Amend section 3 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)*

(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).”

**Commencement Information**

**I36** Sch. 2 para. 17 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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);”.

**Commencement Information**

**I37** Sch. 2 para. 18 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 2** **U.K.**

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;

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- (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.

**Commencement Information**

**I38** Sch. 2 para. 19 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I39** Sch. 2 para. 20 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

- 21 This is revoked.

**Commencement Information**

**I40** Sch. 2 para. 21 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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;”.”

*Status: Point in time view as at 11/11/2010.*

*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**

**I41** Sch. 2 para. 22 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

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

**Commencement Information**

**I42** Sch. 2 para. 23 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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 ”.

**Commencement Information**

**I43** Sch. 2 para. 24 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 3 U.K.**

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.

**Commencement Information**

**I44** Sch. 2 para. 25 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)



*Status: Point in time view as at 11/11/2010.*

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

*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.

**Commencement Information**

**I45** Sch. 2 para. 26 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I46** Sch. 2 para. 27 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

*Status: Point in time view as at 11/11/2010.*

*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) 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
  - (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.

**Commencement Information**

**I47** Sch. 2 para. 28 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I48** Sch. 2 para. 29 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

*Status: Point in time view as at 11/11/2010.*

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

- (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.

**Commencement Information**

**I49** Sch. 2 para. 30 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I50** Sch. 2 para. 31 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.
- (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).

**Commencement Information**

**I51** Sch. 2 para. 32 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 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).

**Commencement Information**

**I52** Sch. 2 para. 33 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Status: Point in time view as at 11/11/2010.*

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

*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.

**Commencement Information**

**I53** Sch. 2 para. 34 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.
- (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.

*Status: Point in time view as at 11/11/2010.*

*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**

**I54** Sch. 2 para. 35 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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).

**Commencement Information**

**I55** Sch. 2 para. 36 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I56** Sch. 2 para. 37 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

**PART 4 U.K.**

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.

*Status: Point in time view as at 11/11/2010.*

*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) 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.

**Commencement Information**

**I57** Sch. 2 para. 38 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I58** Sch. 2 para. 39 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 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

*Status: Point in time view as at 11/11/2010.*

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

- (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).

**Commencement Information**

**I59** Sch. 2 para. 40 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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 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.

**Commencement Information**

**I60** Sch. 2 para. 41 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

- 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.

**Commencement Information**

**I61** Sch. 2 para. 42 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*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.

**Commencement Information**

**I62** Sch. 2 para. 43 in force at 11.11.2010 by S.I. 2010/2703, art. 2(a)

*Status: Point in time view as at 11/11/2010.*

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

SCHEDULE 3 U.K.

Section 26

PARLIAMENTARY STANDARDS ACT 2009: SUBSTITUTED SCHEDULE 2

**Commencement Information**

**I63** [Sch. 3](#) in force at 19.4.2010 by [S.I. 2010/1277](#), [art. 2\(c\)](#)

“SCHEDULE 2 U.K.

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.

*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.



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*Status: Point in time view as at 11/11/2010.*

*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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#### *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.

#### *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.

*Status: Point in time view as at 11/11/2010.*

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

### *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. ” ”

## SCHEDULE 4 U.K.

Section 34

### PARLIAMENTARY STANDARDS ACT 2009: NEW SCHEDULE 4

#### **Commencement Information**

**I64** Sch. 4 in force at 27.7.2010 by [S.I. 2010/1931](#), [art. 3\(g\)](#) (with arts. 4, 5)

## “SCHEDULE 4 U.K.

Section 9B

### ENFORCEMENT

## PART 1 U.K.

### 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—

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*Status: Point in time view as at 11/11/2010.*

*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) 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.
- (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;

*Status: Point in time view as at 11/11/2010.*

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

- (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.
- (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.

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*Status: Point in time view as at 11/11/2010.*

*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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- (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.
- (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 U.K.**

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.

*Status: Point in time view as at 11/11/2010.*

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

- (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.

*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.

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*Status: Point in time view as at 11/11/2010.*

*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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- (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.
- (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—

*Status: Point in time view as at 11/11/2010.*

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

- (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 U.K.

Section 38

### PARLIAMENTARY STANDARDS: CONSEQUENTIAL AMENDMENTS

#### PART 1 U.K.

##### AMENDMENTS OF THE PARLIAMENTARY STANDARDS ACT 2009

1 The Parliamentary Standards Act 2009 is amended as follows.

**Commencement Information**

**I65** 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**

**I66** Sch. 5 para. 2(a) in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(i)

**I67** 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. ”

**Commencement Information**

**I68** Sch. 5 para. 3 in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(ii)

- 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 ”.



*Status: Point in time view as at 11/11/2010.*

*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

**I69** Sch. 5 para. 4(1)(2)(a) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(iii)

**I70** Sch. 5 para. 4(2)(b) in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(iii)

**I71** Sch. 5 para. 4(3) in force at 27.7.2010 by S.I. 2010/1931, art. 3(h)(i)

- 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

**I72** Sch. 5 para. 5(1)(3) in force at 19.4.2010 by S.I. 2010/1277, art. 2(d)(iv)

**I73** Sch. 5 para. 5(2) in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(iv)

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

#### Commencement Information

**I74** Sch. 5 para. 6 in force at 7.5.2010 by S.I. 2010/1277, art. 3(i)(v)

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

*Status: Point in time view as at 11/11/2010.*

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

- (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**

- I75** Sch. 5 para. 7(1) in force at 19.4.2010 by S.I. 2010/1277, **art. 2(d)(v)**  
**I76** Sch. 5 para. 7(2)(3)(c)(4)(c) in force at 7.5.2010 by S.I. 2010/1277, **art. 3(i)(vi)**  
**I77** Sch. 5 para. 7(3)(b)(4)(b)(5) in force at 27.7.2010 by S.I. 2010/1931, **art. 3(h)(ii)**  
**I78** Sch. 5 para. 7(4)(d) in force at 19.4.2010 for specified purposes by S.I. 2010/1277, **art. 2(d)(v)**  
**I79** Sch. 5 para. 7(4)(d) in force at 27.7.2010 in so far as not already in force by S.I. 2010/1931, **art. 3(h)(ii)**

VALID FROM 24/05/2011

**PART 2 U.K.**

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). ”
- (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—

*Status: Point in time view as at 11/11/2010.*

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

- (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)—
- (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 U.K.

Section 40

PARLIAMENTARY AND OTHER PENSIONS

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*Status: Point in time view as at 11/11/2010.*

*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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VALID FROM 19/01/2011

SCHEDULE 7 **U.K.**

Section 46

AMENDMENTS OF FREEDOM OF INFORMATION ACT 2000

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**Status:**

Point in time view as at 11/11/2010.

**Changes to legislation:**

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