



# House of Commons (Administration) Act 1978

## 1978 CHAPTER 36

An Act to make further provision for the administration of the House of Commons. [20th July 1978]

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

### **1 The House of Commons Commission**

- (1) There shall be a body of Commissioners named the House of Commons Commission to perform the functions conferred on it by this Act.
- (2) The Commission shall consist of—
  - (a) Mr. Speaker,
  - (b) the Leader of the House of Commons,
  - (c) a member of the House of Commons nominated by the Leader of the Opposition,
  - (d) three other members of the House of Commons appointed by the House of Commons, none of whom shall be a Minister of the Crown.
- (3) As soon as possible after the end of the year 1978-79, and of each subsequent financial year, the Commission shall prepare and present to the House of Commons a report on the exercise of its functions in that year, and shall cause it to be printed.
- (4) In this section—

" Leader of the House of Commons " means the Minister of the Crown for the time being nominated as such by the Prime Minister,

" Leader of the Opposition " means the person who is the Leader of the Opposition in the House of Commons for the purposes of section 2 of the Ministerial and other Salaries Act 1975.

(5) Schedule 1 to this Act has effect as respects the Commission.

## **2 Functions of Commission**

- (1) The Commission shall appoint all staff in the House Departments, and shall determine their numbers and their remuneration and other terms and conditions of service.
- (2) The Commission shall ensure that the complementing, grading and pay of staff in the House Departments are kept broadly in line with those in the Home Civil Service, and that, so far as consistent with the requirements of the House of Commons, the other conditions of service of staff in the House Departments are also kept broadly in line with those in the Home Civil Service.
- (3) The Commission shall ensure that the pensions and other similar benefits of staff in or formerly in the House Departments are kept in line with the provisions of the principal Civil Service Pension Scheme (as it applies for the time being to the Home Civil Service), but need not do so in the case of staff for whom provision for such benefits was made under another scheme before they entered service in the House Departments and continues to be so made in respect of such service.
- (4) Subsection (1) above does not apply to the power to appoint, or the tenure of office of, the Clerk of the House of Commons, any Clerk Assistant, the Serjeant at Arms or Mr. Speaker's personal staff.

## **3 Financial provisions**

- (1) For the year 1979-80 and each subsequent financial year the Commission shall prepare and lay before the House of Commons an estimate for that year of the expenses of the House Departments and, to such extent as the Commission may determine, of any other expenses incurred for the service of the House of Commons.
- (2) The Commission may appoint a member of the staff in the House Departments to be the officer ("the Accounting Officer ") responsible for accounting for the sums paid out of money provided by Parliament for the service of the House of Commons.
- (3) All fees and other sums payable to the House of Commons shall be paid into the Consolidated Fund.

## **4 The House Departments**

- (1) In this Act " House Departments " means—
  - (a) the Department of the Clerk of the House of Commons,
  - (b) the Department of the Speaker,
  - (c) the Department of the Serjeant at Arms, (d) the Department of the Library,
  - (e) the Administration Department,
  - (f) the Department of the Official Report of the House of Commons,and any other House Department provided for under subsection (3) below.
- (2) In this section " the Department of the Official Report of the House of Commons " means that branch of the Department of the Speaker which immediately before the passing of this Act had the function of producing that report, and accordingly on that passing that branch shall become a separate department and shall cease to be part of

the Department of the Speaker, without prejudice however to any power exercisable by the Commission in relation to either department under subsection (3) below.

- (3) The Commission may from time to time—
  - (a) increase or reduce the number of House Departments,
  - (b) allocate functions to any House Department,
  - (c) for those purposes make such arrangements for and in connection with the creation, division, amalgamation or abolition of any House Department (including one created after the passing of this Act) as appear to the Commission expedient.
- (4) The Commission may from time to time direct that all or any of the provisions of this Act relating to staff in the House Departments shall apply to any office or post which is not in a House Department but falls within subsection (5) below, and to the staff appointed, or to be appointed, to any such office or post, and may further direct that the holder of any such office or post shall be treated as having been appointed by the Commission.
- (5) An office or post falls within this subsection if staff appointed to it are employed in or for the purposes of the House of Commons.
- (6) Subsection (4) above does not apply to the power to appoint, or the tenure of office of, Mr. Speaker's personal staff.

## **5 Short title, etc.**

- (1) This Act may be cited as the House of Commons (Administration) Act 1978.
- (2) In this Act—
  - " the Accounting Officer " has the meaning given by section 3(2) of this Act,
  - " the Commission " means the House of Commons Commission,
  - " House Departments " has the meaning given by section 4(1) of this Act.
- (3) Schedule 2 to this Act (supplementary and consequential provisions) shall have effect.
- (4) The enactments in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (5) The following provisions of this Act, namely—
  - section 2,
  - paragraphs 3 to 5 of Schedule 2, and
  - Schedule 3,shall not come into force until 1st January 1979.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE COMMISSION

##### *Incorporation*

1 The Commission shall be a body corporate.

##### *Members other than Mr. Speaker and the Leader of the House*

- 2 (1) Subject to paragraph 3 of this Schedule, a member of the Commission, other than an ex officio member, shall vacate his office—
- (a) if he ceases to be a member of the House of Commons, or
  - (b) if another person is nominated or appointed in his place.
- (2) Subject to sub-paragraph (1) above, a member of the Commission, other than an ex officio member, shall hold office for the duration of the Parliament in which he is nominated or appointed, and for the further period provided by paragraph 3 of this Schedule.
- (3) A member of the Commission, other than an ex officio member, may resign at any time by notice to the Commission.
- (4) Past service is no bar to nomination or appointment as a member of the Commission.
- (5) In this paragraph, and paragraph 3 of this Schedule, "ex officio member " means Mr. Speaker and the Leader of the House of Commons.

##### *Dissolution of Parliament*

- 3 (1) On a dissolution of Parliament the person who is then Mr. Speaker shall continue in office as a member of the Commission until a Speaker is chosen by the new Parliament.
- (2) Subject to sub-paragraph (3) below, on a dissolution of Parliament the members of the Commission who are not ex officio members shall continue in office until members are nominated or appointed in their place.
- (3) Where at any time after Parliament has been dissolved it appears that a member of the Commission who is not an ex officio member—
- (a) has not been validly nominated as a candidate at the ensuing general election; or
  - (b) although so nominated, has not been elected a Member of Parliament at that election,
- that member shall resign from the Commission forthwith ; but nothing in sub-paragraph (2) above or this sub-paragraph shall be taken as preventing any such member from resigning otherwise than in pursuance of this sub-paragraph.

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*Chairman*

4 Mr. Speaker shall be chairman of the Commission.

*Delegation of Commission's functions*

- 5 (1) The Commission may delegate to Mr. Speaker any of its functions under section 2 of this Act.
- (2) The Commission may also delegate—
- (a) to any person who is the head of any House Department, or to two or more of those persons jointly, any of its functions concerning staff in the House Departments,
  - (b) to the Accounting Officer, whether he is the head of any House Department or not, any of its functions under subsections (2) and (3) of section 2 of this Act
- (3) Anything done by or in relation to a person to whom functions are delegated under this paragraph in the discharge of the Commission's functions shall have the same effect as if done by or in relation to the Commission.
- (4) Any delegation made under this paragraph or any amendment or revocation of such a delegation shall be mentioned in the report under section 1(3) of this Act.
- (5) Notwithstanding any delegation under this paragraph, the Commission shall retain the ultimate responsibility for considering representations made in relation to matters affecting the interests, in connection with their employment, of staff in the House Departments by trade unions who are recognised by the Commission in respect of such staff, and for the conduct of consultations and negotiations about such matters with those trade unions.
- (6) In sub-paragraph (5) above, " trade union" has the same meaning as in the Trade Union and Labour Relations Act 1974 and " recognised ", in relation to a trade union, has the same meaning as in Part IV of the Employment Protection Act 1975.

*Proceedings and business*

- 6 (1) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission, or by any defect in the appointment or nomination of any Commissioner.
- (2) The Commission may determine its own procedure.
- (3) The Commission may appoint one of the Commissioners to act as chairman at any meeting of the Commission in the absence of Mr. Speaker.

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## SCHEDULE 2

Section 5.

### SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

#### *Mr. Speaker to act after dissolution of Parliament*

- 1 For the purposes of this Act and section 122 of the Employment Protection Act 1975, the Speaker at the time of a dissolution of Parliament shall be deemed to remain Speaker for the further period for which he holds office by virtue of paragraph 3(1) of Schedule 1 to this Act.

#### *Deputy Speaker acting for Mr. Speaker*

- 2 (1) While Mr. Speaker is temporarily absent from the House during a session of Parliament a Deputy Speaker having power to act under section 1 of the Deputy Speaker Act 1855 may exercise the functions of Mr. Speaker under this Act.
- (2) The said functions shall include any functions delegated to Mr. Speaker under paragraph 5 of Schedule 1 to this Act, but an appointment made in exercise of functions so delegated shall be only for such time as the Deputy Speaker has power under this paragraph to exercise the functions of Mr. Speaker.

#### *Transitional provision*

- 3 All persons employed in the House Departments immediately before the coming into force of section 2 of this Act, other than those mentioned in subsection (4) of that section, shall be treated for all purposes as if their appointments had been made by the Commission.

#### *Contracts of Employment Act 1972 (c.53)*

- 4 In section 5(4) of the Contracts of Employment Act 1972 (written statement to be given to employee on change in his employer), in paragraph (b), after the word " Act " insert the words " or section 122(7A) of the Employment Protection Act 1975 ".

#### *Employment Protection Act 1975 (c.71)*

- 5 (1) Section 122 of the Employment Protection Act 1975 (application of employment legislation to House of Commons) shall be amended in accordance with this paragraph.
- (2) In paragraphs (b) and (c) of subsection (1), after the words " construed as", in each place where they occur, insert the word " including ".
- (3) For subsections (3) to (7) substitute the following subsections—
- “(3) Nothing in any rule of law or the law or practice of Parliament shall prevent a relevant member of House of Commons staff from bringing a civil employment claim before the court or from bringing before an industrial tribunal proceedings of any description which could be brought before such a tribunal by any person who is not such a member.

- (4) In this section—

' relevant member of the House of Commons staff ' means—

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- (a) any person appointed by the House of Commons Commission (in this section referred to as the Commission) or employed in the refreshment department; and
  - (b) any member of Mr. Speaker's personal staff;
- 'civil employment claim' means a claim arising out of or relating to a contract of employment or any other contract connected with employment, or a claim in tort arising in connection with a person's employment; and
- 'the court' means the High Court or the county court.
- (5) It is hereby declared that for the purposes of the enactments applied by subsections (1) and (2) above and of the Redundancy Payments Act 1965 (where applicable to relevant members of House of Commons staff) and for the purposes of any civil employment claim—
- (a) the Commission is the employer of staff appointed by the Commission; and
  - (b) Mr. Speaker is the employer of his personal staff and of any person employed in the refreshment department and not falling within paragraph (a) above;
- but the foregoing provision shall have effect subject to subsection (6) below.
- (6) The Commission or, as the case may be, Mr. Speaker may designate for all or any of the purposes mentioned in subsection (5) above—
- (a) any description of staff other than Mr. Speaker's personal staff; and
  - (b) in relation to staff so designated, any person ;
- and where a person is so designated he, instead of the Commission or Mr. Speaker, shall be deemed for the purposes to which the designation relates to be the employer of the persons in relation to whom he is so designated.
- (7) Where any proceedings are brought by virtue of this section against the Commission or Mr. Speaker or any person designated under subsection (6) above, the person against whom the proceedings are brought may apply to the court or industrial tribunal, as the case may be, to have some other person against whom the proceedings could at the time of the application be properly brought substituted for him as a party to those proceedings.
- (7A) For the purposes mentioned in subsection (5) above a person's employment in or for the purposes of the House of Commons shall not, provided he continues to be employed in such employment, be treated as terminated by reason only of a change (whether effected before or after the passing of the House of Commons (Administration) Act 1978, and whether effected by virtue of that Act or otherwise) in his employer and (provided he so continues) his first appointment to such employment shall be deemed after the change to have been made by his employer for the time being, and accordingly—
- (a) he shall be treated for the purposes so mentioned as being continuously employed by that employer from the commencement of such employment until its termination; and
  - (b) anything done by or in relation to his employer for the time being in respect of such employment before the change shall be so treated as having been done by or in relation to the person who is his employer for the time being after the change.

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(7B) In subsection (7A) above ' employer for the time being' in relation to a person who has ceased to be employed in or for the purposes of the House of Commons, means the person who was his employer immediately before he ceased to be so employed, except that where some other person would have been his employer for the time being if he had not ceased to be so employed, it means that other person.”.

(4) In subsection (8) (power to amend subsections (4) to (6)), for the words " subsections (4) to (6) " substitute the words " subsections (4) to (7) ".

### SCHEDULE 3

Section 5.

#### REPEALS

Chapter	Short Title	Extent of Repeal
<a href="#">52 Geo. 3. c. 11.</a>	House of Commons (Offices) Act 1812.	The whole Act.
<a href="#">4 &amp; 5 Will. 4. c.70.</a>	House of Commons Officers Act 1834.	The whole Act.
<a href="#">9 &amp; 10 Vict. c.77.</a>	House of Commons Offices Act 1846.	The whole Act.
<a href="#">12 &amp; 13 Vict. c. 72.</a>	House of Commons Offices Act 1849.	The whole Act.
<a href="#">1975 c. 71.</a>	Employment Protection Act 1975.	In section 122, subsection (9). In Part IV of Schedule 16, paragraph 1.