

Status: Point in time view as at 01/04/2004.

Changes to legislation: Health Service Commissioners Act 1993, SCHEDULE 1 is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1(3).

THE ^{F1}ENGLISH AND SCOTTISH] COMMISSIONERS

Textual Amendments

- F1** Sch. 1: words in heading inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(2)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F2} *Introductory*

Textual Amendments

- F2** Sch. 1 para A1 and crossheading inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F3}A1 In this Schedule references to a Commissioner (or Health Service Commissioner) are to the Health Service Commissioner for England or the Health Service Commissioner for Scotland or to either of those Commissioners (as the context requires).]

Textual Amendments

- F3** Sch. 1 para. A1 inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Appointment of Commissioners

- 1 (1) Her Majesty may by Letters Patent appoint a person to be a Commissioner and a person so appointed shall hold office during good behaviour.
- (2) A person appointed to be a Commissioner—
- may at his own request be relieved of office by Her Majesty, or
 - ^{F4}except in the case of the Health Service Commissioner for Scotland]may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament; ^{F5}or
 - in the case of the Health Service Commissioner for Scotland may be removed from office by Her Majesty in consequence of a resolution of the Scottish Parliament;]

and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five.

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- (3) Her Majesty may declare the office of Commissioner to have been vacated if satisfied that the person appointed to be the Commissioner is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.

Textual Amendments

- F4** Words in Sch. 1 para. 1(2)(b) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(a); S.I. 1998/3178, art. 3
- F5** Sch. 1 para. 1(2)(c) and preceding “or” inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(b); S.I. 1998/3178, art. 3

Appointment of acting Commissioners

- 2 (1) [^{F6}Where either] of the offices of Commissioner becomes vacant, Her Majesty may, pending the appointment of the new Commissioner, appoint a person under this paragraph to act as that Commissioner at any time during the period of twelve months beginning with the date on which the vacancy arose.
- (2) A person appointed under this paragraph shall hold office during Her Majesty’s pleasure and, subject to that, shall hold office—
- (a) until the appointment of the new Commissioner or the expiry of the period of twelve months beginning with the date on which the vacancy arose, whichever occurs first, and
 - (b) in other respects, in accordance with the terms and conditions of his appointment which shall be such as the Secretary of State may, with the approval of the Treasury, determine.
- (3) A person appointed under this paragraph shall, while he holds office, be treated for all purposes except those of paragraphs 4 to 10 as the Commissioner.

Textual Amendments

- F6** Words in Sch. 1 para. 2(1) substituted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 16(4) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

Modifications etc. (not altering text)

- C1** Sch 1. para. 2: transfer of certain functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 24

Ineligibility of certain persons for appointment

- 3 (1) A person who is a member of a relevant health service body shall not be appointed a Commissioner or acting Commissioner; and a person so appointed shall not, during his appointment, become a member of such a body.
- (2) For this purpose a “relevant health service body” means—
- (a) in relation to the Health Service Commissioner for England ^{F7} . . . or a person appointed to act as such, a body mentioned in section 2(1) or (2), and
 - (b) in relation to the Health Service Commissioner for Scotland or a person appointed to act as such, a body mentioned in section 2(3) or any management committee of such a body.

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Textual Amendments

F7 Words in [Sch. 1 para. 3\(2\)\(a\)](#) repealed (1.7.1999) by [1998 c. 38, ss. 112, 152, Sch. 10 para. 16\(5\)](#), [Sch. 18 Pt. I](#) (with [ss. 137\(1\), 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1999/1290, art. 4](#)

[^{F8}3A (1) A person who is a relevant family health service provider shall not be appointed a Commissioner or acting Commissioner; and a person so appointed shall not, during his appointment, become a relevant family health service provider.

(2) For this purpose a “relevant family health service provider” means—

- (a) in relation to the Health Service Commissioner for England ^{F9} . . . or a person appointed to act as such, a person mentioned in [section 2A\(1\) or \(2\)](#), and
- (b) in relation to the Health Service Commissioner for Scotland or a person appointed to act as such, a person mentioned in [section 2A\(3\)](#).]

Textual Amendments

F8 [Sch. 1 para. 3A](#) inserted (1.4.1996) by [1996 c. 5, s. 3, Sch. 1 para. 7](#); [S.I. 1996/970, art. 2\(1\)](#)

F9 Words in [Sch. 1 para. 3A\(2\)\(a\)](#) repealed (1.7.1999) by [1998 c. 38, ss. 112, 152, Sch. 10 para. 16\(5\)](#), [Sch. 18 Pt. I](#) (with [ss. 137\(1\), 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1999/1290, art. 4](#)

Salaries

4 [^{F10}(a)] There shall be paid to the holder of the office of a Commissioner the same salary as if he were employed in the civil service of the State in such appointment as the House of Commons may by resolution from time to time determine; and any such resolution may take effect from the date on which it is passed or from such other date as may be specified in it.

[^{F11}(b) in relation to the Health Service Commissioner for Scotland the reference in subparagraph (a) above to the House of Commons shall be construed as a reference to the Scottish Parliament.]

Textual Amendments

F10 [Sch. 1 para. 4](#): “(a)” inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112\(4\)\(c\)\(i\)](#); [S.I. 1998/3178, art. 3](#)

F11 [Sch. 1 para. 4\(b\)](#) inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112\(4\)\(c\)\(ii\)](#); [S.I. 1998/3178, art. 3](#)

5 The salary payable to a holder of the office of a Commissioner shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he has previously been appointed or elected.

6 (1) Where a person holds—

- (a) the office of Parliamentary Commissioner, and
- (b) [^{F12}either or both] of the offices of Health Service Commissioner,

he shall, so long as he does so, be entitled only to the salary pertaining to the office of Parliamentary Commissioner.

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- (2) Where a person holds [^{F13}both] of the offices of Health Service Commissioner he shall, so long as he does so, be entitled only to the salary pertaining to such one of those offices as he selects.

Textual Amendments

- F12** Words in Sch. 1 para. 6(1)(b) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(6)(a)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F13** Words in Sch. 1 para. 6(2) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(6)(b)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Modifications etc. (not altering text)

- C2** Sch. 1 para. 6 extended (1.7.1999) by S.I. 1999/1351, **art. 17(5)(a)**; S.I. 1998/3178, **art. 3**

Pensions and other benefits

- 7 Schedule 1 to the ^{M1}Parliamentary Commissioner Act 1967 (which relates to pensions and other benefits) has effect with respect to persons who hold or have held office as a Commissioner as it has effect with respect to persons who hold or have held office as the Parliamentary Commissioner.

Marginal Citations

- M1** 1967 c. 13.

- 8 In computing the salary of a former holder of the office of Commissioner for the purposes of Schedule 1 to the 1967 Act, there shall be disregarded—
- (a) any abatement of that salary under paragraph 5,
 - (b) any temporary abatement of that salary in the national interest, and
 - (c) any voluntary surrender of that salary in whole or in part.
- 9 (1) In this paragraph, “relevant office” means the office of Parliamentary Commissioner or any of the offices of Health Service Commissioner.
- (2) The Treasury may by regulations provide that Schedule 1 to the Parliamentary Commissioner Act 1967 shall have effect, in relation to persons who have held more than one relevant office, with such modifications as it considers necessary in consequence of those persons having held more than one such office; and different regulations may be made in pursuance of paragraph 4 of Schedule 1 to the 1967 Act in relation to different relevant offices.
- (3) A person shall not be entitled to make simultaneously different elections in pursuance of paragraph 1 or 2 of Schedule 1 to the 1967 Act in respect of different relevant offices.
- (4) Where a person has made or is treated as having made an election in pursuance of paragraph 1 or 2 of Schedule 1 to the 1967 Act in respect of any relevant office, he shall be deemed to have made the same election in respect of all such other offices to which he is, or is subsequently, appointed.

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- (5) No account shall be taken for the purposes of Schedule 1 to the 1967 Act of a period of service in a relevant office if salary in respect of the office was not paid for that period.
- (6) Regulations under this paragraph may make such incidental or supplementary provision as the Treasury considers necessary.
- (7) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C3 Sch. 1 para. 9: transfer of certain functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 24

- 10 In any case where a person makes an election under paragraph 2(1)(a) of Schedule 1 to the ^{M2}Parliamentary Commissioner Act 1967 (as substituted by Part II of Schedule 4 to the ^{M3}Judicial Pensions and Retirement Act 1993) so that Schedule 1 to the 1967 Act continues to have effect in relation to him as it did before the coming into force of Part II of Schedule 4 to the 1993 Act, this Schedule shall have effect—
- (a) as if in paragraph 7 the words “hold or” (in both places) and in paragraph 9(3) and (4) the words “or 2” (in both places) were omitted, and
 - (b) as if for the reference in paragraph 9(2) to paragraph 4 of Schedule 1 to the 1967 Act there were substituted a reference to paragraph 8 of that Schedule.

Marginal Citations

M2 1967 c. 13.

M3 1993 c. 8.

Staff and advisers

- 11 (1) A Commissioner may appoint such officers as he may determine with the approval of the Treasury as to numbers and conditions of service.

^{F14}(2)

Textual Amendments

F14 Sch. 1 para. 11(2) repealed (1.7.1999) by 1998 c. 38, ss. 112, 152, Sch. 10 para. 16(7), Sch. 18 Pt. I (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/1290, art. 4

- 12 Any functions of a Commissioner under this Act may be performed by any officer of the Commissioner authorised by him for that purpose, or by any officer so authorised of [^{F15}the other Commissioner, the Health Service Commissioner for Wales, the Parliamentary Commissioner or the Welsh Administration Ombudsman].

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Textual Amendments

F15 Words in Sch. 1 para. 12 substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(8)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- 13 (1) To assist him in any investigation a Commissioner may obtain advice from any person who, in his opinion, is qualified to give it.
- (2) A Commissioner may pay to any such person from whom he obtains advice under this paragraph such fees or allowances as he may determine with the approval of the Treasury.

Financial provisions

- 14 The expenses of a Commissioner [^{F16}except the Health Service Commissioner for Scotland] under this Act—
- (a) shall be paid out of money provided by Parliament, and
- (b) shall not exceed such amount as the Treasury may sanction.

Textual Amendments

F16 Words in Sch. 1 para. 14 inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 112(4)(d)**; S.I. 1998/3178, **art. 3**

- 15 Any salary, pension or other benefit payable by virtue of paragraph 2 and paragraphs 4 to 9 shall be charged on and issued out of the Consolidated Fund.

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