

Status: Point in time view as at 01/04/1996.

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SCHEDULES

SCHEDULE 1

Section 1(3).

THE COMMISSIONERS

VALID FROM 01/07/1999

[^{F1} Introductory

Textual Amendments

- F1** 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**

- F2A1** 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

- F2** 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—
- (a) may at his own request be relieved of office by Her Majesty, or
 - (b) may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament;
- and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five.
- (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.

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Appointment of acting Commissioners

- 2 (1) Where any 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.

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 or for Wales 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.
- [^{F3}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 or for Wales 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).]

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Textual Amendments

F3 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)

Salaries

- 4 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.
- 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) one or more 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.
- (2) Where a person holds two or more 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.

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

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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.
- (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)

C2 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.
- (2) The Health Service Commissioner for Wales shall include among his officers such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.

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- 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 another Commissioner or the Parliamentary Commissioner.
- 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 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.
- 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.

VALID FROM 01/07/1999

[^{F4}SCHEDULE 1A

Section 1(3).

THE WELSH COMMISSIONER

Textual Amendments

- F4** Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 17 (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

SCHEDULE 2

Section 20.

CONSEQUENTIAL AMENDMENTS

The Parliamentary Commissioner Act 1967 (c.13)

- 1 In section 11A of the Parliamentary Commissioner Act 1967 (consultations between Parliamentary Commissioner and Health Service Commissioners) in subsection (1)(b) for the words “Part V of the National Health Service Act 1977” to the end there shall be substituted “ the Health Service Commissioners Act 1993. ”
- 2 In paragraph 8 of Schedule 3 to that Act (action taken by certain health service bodies not subject to investigation by the Parliamentary Commissioner) after the

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words “Scottish Health Service” there shall be inserted “ by the Dental Practice Board or the Scottish Dental Practice Board ”.

The Local Government Act 1974 (c.7)

- 3 In section 29(5)(b) of the Local Government Act 1974 (restriction on disclosure of information by Health Service Commissioners in relation to investigations by Local Commissioners) for the words “paragraph 16 of Schedule 13 to the National Health Service Act 1977” there shall be substituted “ section 15 of the Health Service Commissioners Act 1993 ”.
- 4 (1) Section 33 of that Act (consultation between Local Commissioners, Parliamentary Commissioner and Health Service Commissioners) shall be amended as follows.
- (2) In subsection (1) for the words “sections 109” to the end of paragraph (b) and for the words “Part V of the Act of 1977” there shall be substituted “ the Act of 1993, ”.
- (3) In subsection (3)—
- (a) for the words from the beginning to “Commissioner conducting the investigation” there shall be substituted—
- “(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner”; and
- (b) the words “under the Act of 1967 or Part V of the Act of 1977, as the case may be,” shall be omitted.
- (4) In subsection (4) the words “or Part V of the Act of 1977” shall be omitted.
- (5) In subsection (5) for the words “paragraph 16 of Schedule 13 to the National Health Service Act 1977” there shall be substituted “ section 15 of the Act of 1993 ”.
- (6) In subsection (6) for the words “the Act of 1977” onwards there shall be substituted “ the “Act of 1993” means the Health Service Commissioners Act 1993. ”

The Local Government (Scotland) Act 1975 (c.30)

- 5 In section 27(5)(b) of the Local Government (Scotland) Act 1975 (restriction on disclosure of information by Health Service Commissioner for Scotland in relation to investigations by Commissioner for Local Administration in Scotland) for the words “that section (as applied by section 95 of the National Health Service (Scotland) Act 1978)” there shall be substituted “ section 15 of the Health Service Commissioners Act 1993 ”.
- 6 (1) Section 31 of that Act (consultation between Commissioner for Local Administration in Scotland, Parliamentary Commissioner and Health Service Commissioner for Scotland) shall be amended as follows.
- (2) In subsection (1) for the words “section 93 of the Act of 1978” and “Part VI of the Act of 1978” there shall be substituted “ the Act of 1993 ”.
- (3) In subsection (3)—
- (a) for the words from the beginning to “Commissioner conducting the investigation” there shall be substituted—
- “(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner”; and

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- (b) the words “under the Act of 1967 or Part VI of the Act of 1978, as the case may be,” shall be omitted.
- (4) In subsection (4) the words “or Part VI of the Act of 1978” shall be omitted.
- (5) In subsection (5) for the words “in that section as applied by section 95 of the Act of 1978” there shall be substituted “ in section 15 of the Act of 1993 ”.
- (6) In subsection (6) for the words “the“ Act of 1978”” onwards there shall be substituted “ the “Act of 1993” means the Health Service Commissioners Act 1993. ”

The Hospital Complaints Procedure Act 1985 (c.42)

- 7 In section 1(2) of the Hospital Complaints Procedure Act 1985 for the words “under Part V” to “Commissioners)” there shall be substituted “ under the Health Service Commissioners Act 1993 ”.

The Parliamentary and Health Service Commissioners Act 1987 (c.39)

- 8 In section 2(1) of the Parliamentary and Health Service Commissioners Act 1987 (removal of a Commissioner on medical grounds) for the words from the beginning to “for Scotland)” there shall be substituted “ Section 1 of the 1967 Act (which deals with the appointment and tenure of office by the Parliamentary Commissioner) ”.

SCHEDULE 3

Section 20.

REPEALS

Chapter	Short title	Extent of repeal
1974 c. 7.	The Local Government Act 1974.	In section 33(3), the words “under the Act of 1967 or Part V of the Act of 1977 as the case may be”.
		In section 33(4), the words “or Part V of the Act of 1977”.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In section 31(3), the words “under the Act of 1967 or Part VI of the Act of 1978 as the case may be”.
		In section 31(4), the words “or Part VI of the Act of 1978”.
1977 c. 49.	The National Health Service Act 1977.	Sections 106 to 120. Section 130(3)(c). Schedule 13.

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		In Schedule 14, paragraph 17.
		In Schedule 15, paragraphs 60 and 61.
1978 c. 29.	The National Health Service (Scotland) Act 1978.	Sections 90 to 97.
		Schedule 14.
		In Schedule 15, paragraph 12.
1980 c. 53.	The Health Services Act 1980.	In Schedule 1, paragraphs 72 to 74.
		In Schedule 2, paragraphs 7, 8 and 9 and sub-paragraphs (a) to (f) of paragraph 11.
1984 c. 36.	The Mental Health (Scotland) Act 1984.	In Schedule 3, paragraph 42.
1987 c. 39.	The Parliamentary and Health Service Commissioners Act 1987.	Section 2(2).
		Section 4(3) to (5).
		Section 5.
		Section 6(2) and (3).
		Section 7.
		Section 8.
1988 c. 49.	The Health and Medicines Act 1988.	Section 12(4) and (5).
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 1(h).
1990 c. 19.	The National Health Service and Community Care Act 1990.	In Schedule 9, paragraphs 18(10) and (11) and 19(18).
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	Part III of Schedule 4.

TABLE OF DERIVATIONS

Notes:

- 1 This Table shows the derivation of the provisions of the Bill.
- 2 The following abbreviations are used in this Table:

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1967	= The Parliamentary Commissioner Act 1967 (c.13)
1977	= The National Health Service Act 1977 (c.49)
1978	= The National Health Service (Scotland) Act 1978 (c.29)
1980	= The Health Services Act 1980 (c.53)
1987	= The Parliamentary and Health Service Commissioners Act 1987 (c.39)
1990	= The National Health Service and Community Care Act 1990 (c.19)
3	The abbreviation “Law Comm R” followed by a number refers to the recommendation set out in the paragraph of that number in the Appendix to the Report of the Law Commission and the Scottish Law Commission (Cm. 2255).
4	Certain functions of the Minister for the Civil Service were transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670 Articles 2(1),(2) and 3(5)). References to the Minister for the Civil Service in the National Health Service Act 1977 and the National Health Service (Scotland) Act 1978 are therefore reproduced in the Bill as references to the Treasury.

Provision	Derivation
1(1)	1977 s.106(1); 1978 s.90(1)
(2),(3)	drafting
2(1),(2)	1977 s.109, s.110; 1980 Sch.1 paras.72,73, Sch.2 para.7; Health and Medicines Act 1988 (c.49) s.12(4); 1990 s.2(1), Sch.9 para.18(10),(11); Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39) art.7(20)
(3)	1978 s.93(1); Health and Medicines Act 1988 (c.49) s.12(5); 1990 Sch.9 para.19(18)
(4)	drafting
(5)	1977 s.109(c),(d)
(6)	1977 s.126(1)
3(1)	1977 s.115; 1978 s.93(2)
(2)	1977 s.113(1); 1978 s.93(6)
(3)	1977 s.113(2); 1978 s.93(6)
(4)	1977 s.120(2); 1978 s.97(2)

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4(1)	1977 s.116(1); 1978 s.93(3)
(2)	1977 Sch.13 para.19(5); 1978 s.93(4), Sch.14 para.6
(3)	1978 s.93(4), Sch.14 para.7; Mental Health (Scotland) Act 1984 (c.36) Sch.3 para.42; Law Comm R2
5(1)	1977 Sch.13 para.19(1); 1978 s.93(4), Sch.14 para.2
(2)	1977 s.128(1); 1978 s.108(1); Mental Health Act 1983 (c.20) Sch.4 para.47(d); Mental Health (Scotland) Act 1984 (c.36) Sch.3 para.41
6(1)	1977 s.116(2)(b)
(2)	1978 s.93(4), Sch.14 para.1
(3)	1977 Sch.13 para.19(2); 1990 s.2(1)
(4)	1978 s.93(4), Sch.14 para.3
7(1)—(3)	1977 Sch.13 para.19(3),(4); 1978 s.93(4), Sch.14 paras.4,5
(4)	1977 s.116(3); 1978 s.93(5)
(5)	1977 s.126(1); 1978 s.105(2)
8	1977 s.111(1); 1978 s.94(1)
9	1977 s.111(2), s.112, s.114(1); 1978 s.94(2)—(4)
10	1977 s.113(2), s.117; 1978 s.93(6), s.94(5); 1987 s.7, s.8
11	1967 s.7; 1977 Sch.13 paras.1-6; 1978 s.95
12	1967 s.8; Civil Evidence Act 1968 (c.64) s.17(1)(b); 1977 Sch.13 paras.7-11; 1978 s.95
13	1967 s.9; 1977 Sch.13 paras.12-14; 1978 s.95
14(1)	1977 s.119(1); 1978 s.96(1); 1987 s.5(1)
(2)	1977 s.119(2); 1978 s.96(3); 1987 s.5(2),(3)
(3)	1977 s.119(3); 1978 s.96(4); 1980 Sch.2 paras.9,11
(4)	1977 s.119(4)(b); 1978 s.96(5); 1980 Sch.2 paras.9,11
(5)	1977 s.119(5); 1978 s.96(7)

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15	1967 s.11(2); 1977 Sch.13 para.16; 1978 s.95; Official Secrets Act 1989 (c.6) Sch.1 para.1
16	1967 s.11(3); 1977 Sch.13 para.17,18; 1978 s.95
17	1977 Sch.13 para.16A; 1978 s. 95A(3); 1987 s.4(4),(5)
18	Local Government (Scotland) Act 1975 (c.30) s.31(3)–(4); 1977 s.118(1)–(3); 1978 s.95A(1),(2); 1987 s.4(3),(5); Law Comm R4
19	1977 s.120(1), s.128(1); 1978 s.97(1), s.108(1)
20	
21	
22	1977 s.130(3),(4)
Sch. 1 para.1	1977 s.106(2)–(3A); 1978 s.90(2)– (3A); 1987 s.2(1),(2)
para.2	1977 s.108A(1)–(3); 1978 s.92A(1)– (3); 1987 s.6(2),(3)
para.3	1977 s.106(4), s.108A(5); 1978 s.90(5), s.92A(5); 1987 s.6(2),(3)
para.4	1977 s.107(1); 1978 s.91(1)
para.5	1977 s.107(3); 1978 s.91(3)
para.6	1977 s.107(5); 1978 s.91(5)
para.7	1977 s.107(2); 1978 s.91(2)
para.8	1977 s.107(4); 1978 s.91(4)
para.9(1)	drafting
(2)	1977 s.107(7); 1978 s.91(7)
(3)–(5)	1977 s.107(6); 1978 s.91(6); Judicial Pensions and Retirement Act 1993 (c.8) Sch.4 Part III
(6)	1977 s.126(4); 1978 s.105(7)
(7)	1977 s.126(1); 1978 s.105(1),(2)
para.10	Judicial Pensions and Retirement Act 1993 (c.8) Sch.4 Part III
para.11	1977 s.108(1); 1978 s.92(1)
para.12	1977 s.108(2); 1978 s.92(2)
para.13	1977 s.108(3); 1978 s.92(3)
para.14	1977 s.108(4); 1978 s.92(4)

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para. 15	1977 s.107(8), s.108A(4); 1978 s.91(8), s.92A(4); 1987 s.6(2),(3)
Sch. 2	Para 2, Law Comm R1
Sch. 3	

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