

# CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 31: Allowances claims*

179. *Subsections (1) to (4)* of this section amend section 6 of the 2009 Act (which sets out the framework for dealing with claims under the allowances scheme). New section 6(6)(b) and (c) and (6A), as inserted by *subsections (3) and (4)*, enable the allowances scheme to include provision for deducting from allowances due to an MP, or from an MP's salary, overpaid expenses which the MP has voluntarily agreed to repay (including under an agreement made with the Compliance Officer under substituted section 9(8)) or is required to repay pursuant to a repayment direction (issued under paragraph 1 of new Schedule 4 to the 2009 Act). The scheme may also include provision for the recovery of amounts payable by virtue of a penalty notice imposed under paragraph 6 of new Schedule 4 to the 2009 Act.
180. *Subsection (5)* inserts a new section 6A which makes further provision in respect of determinations by the IPSA to refuse an MP's expenses claim or to pay such a claim in part only. New sections 6A(1) and (2) provide for a review mechanism if the IPSA determines that a claim should be refused or paid only in part. The mechanism supersedes that contained in subsections (4) and (5) of current section 6 of the 2009 Act (which provide for a review by the IPSA) which are repealed by *subsection (2)*. Under new section 6A(1) an MP, after having given the IPSA a reasonable opportunity to reconsider its decision to refuse (in whole or in part) an expenses claim, may ask the Compliance Officer to review the IPSA's decision (including any modification of that decision following the IPSA's own review). On completion of the review by the Compliance Officer, he or she may either confirm that the IPSA's determination of the expenses claim was correct or alter that determination. Where the Compliance Officer decides to alter the IPSA's determination, the Compliance Officer may also make findings about the way in which the IPSA dealt with the expenses claim (new section 6A(3)).
181. An MP may appeal to the First-tier Tribunal against the outcome of the Compliance Officer's review (new section 6A(6)). Such an appeal is by way of a rehearing (new section 6A(8)). An appeal must be lodged within 28 days of the day the Compliance Office sends notice of his or her decision to the MP; although the First-tier Tribunal may give permission for an out of time appeal to be lodged (new section 6A(7)). Under the provisions of the Tribunals, Courts and Enforcement Act 2007 there is a right of appeal on a point of law to the Upper Tribunal against the decision of the First-tier Tribunal.
182. The IPSA is required to give effect, as necessary, to the outcome of the Compliance Officer's review but not before the period for making an appeal has lapsed and, if an appeal is lodged, before the appeal (and any further in time appeal) has been withdrawn or determined (new section 6A(4) and (5)).

*These notes refer to the Constitutional Reform and Governance  
Act 2010 (c.25) which received Royal Assent on 8th April 2010*

183. *Subsection (6)* amends section 7 of the 2009 Act (which requires the IPSA to provide MPs with guidance about taxation issued by Her Majesty's Revenue and Customs) so as to place a duty on the IPSA to prepare and publish guidance for MPs about making claims under the allowances scheme. The IPSA must additionally provide to any member on request such further advice about making claims as the IPSA considers appropriate.