

Status: Point in time view as at 27/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Constitutional Reform and Governance Act 2010, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 34

PARLIAMENTARY STANDARDS ACT 2009: NEW SCHEDULE 4

Commencement Information

II Sch. 4 in force at 27.7.2010 by S.I. 2010/1931, art. 3(g) (with arts. 4, 5)

“SCHEDULE 4

Section 9B

ENFORCEMENT

PART 1

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—
 - (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.

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- (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;
 - (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—

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- (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.
- (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—

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- (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

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.
- (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.

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- (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.
- (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,

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- (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—
- (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.”

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