
STATUTORY INSTRUMENTS

1994 No. 2958 (S.148)

LOCAL GOVERNMENT, SCOTLAND

The Local Government Staff
Commission (Scotland) Order 1994

<i>Made</i>	- - - -	<i>22nd November</i> <i>1994</i>
<i>Laid before Parliament</i>		<i>23rd November 1994</i>
<i>Coming into force</i>	- -	<i>25th November 1994</i>

The Secretary of State, in exercise of the powers conferred on him by section 12(1), (2) and (3) (and section 12 as applied by section 137(1)) of the Local Government etc. (Scotland) Act 1994⁽¹⁾, and of all other powers enabling him in that behalf, and after carrying out such consultation as he thinks fit, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government Staff Commission (Scotland) Order 1994 and shall come into force on 25th November 1994.

(2) In this Order, “the Act” means the Local Government etc. (Scotland) Act 1994.

Establishment of Staff Commission

2.—(1) A Staff Commission, to be known as the “Local Government Staff Commission (Scotland)” (in this Order referred to as the “Staff Commission”) is hereby established for the purpose of carrying out—

- (a) the functions specified in paragraph (2) below;
- (b) the functions consequently conferred upon it by section 97(6) of the Act; and
- (c) the functions specified in paragraph (2) below, with the modifications to that paragraph specified in paragraph (3) below, being functions of the Staff Commission relating to the transfer to the Scottish Children’s Reporter Administration of officers appointed under subsection (1) of section 36 of the Social Work (Scotland) Act 1968⁽²⁾ and staff provided in pursuance of subsection (6) of that section.

(2) The functions specified in this paragraph are—

(1) 1994 c. 39.

(2) 1968 c. 49; section 36(1) was repealed in part by the Local Government (Scotland) Act 1973 (c. 65), Schedule 27, paragraph 185(a) and Schedule 29.

- (a) considering and keeping under review the arrangements for the recruitment of staff by new authorities (within the meaning of section 12(8) of the Act) and for the transfer in consequence of the Act or of any instrument made under it of staff employed by existing local authorities (within the meaning of section 12(8) of the Act) which cease to exist by virtue of Chapter I of Part I of the Act;
 - (b) considering such staffing problems arising out of, in consequence of or in connection with any provision of or instrument made under the Act as may be referred to them by the Secretary of State or by any authority (within the meaning of section 12(8) of the Act);
 - (c) advising the Secretary of State as to the steps necessary to safeguard the interests of such staff; and
 - (d) advising such authorities, either by the Staff Commission or by persons nominated by them.
- (3) The modifications to paragraph (2) above for the purposes of paragraph (1)(c) above are—
- (a) references to an existing local authority shall include references to an islands council and references to a new authority shall be construed as references to the Scottish Children's Reporter Administration; and
 - (b) the reference in paragraph (2)(a) above to authorities which cease to exist by virtue of Chapter I of Part I of the Act shall include a reference to authorities which cease to have functions under section 36(1) and (6) of the said 1968 Act.
- (4) The Schedule to this Order shall have effect with respect to the constitution and membership, the appointment and removal from office of the chairman and members, the employment of staff and the remuneration and superannuation of members and staff of the Staff Commission established by paragraph (1) above.

St Andrew's House,
Edinburgh
22nd November 1994

Allan Stewart
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE

Article 2(4)

THE LOCAL GOVERNMENT STAFF COMMISSION (SCOTLAND)

Status

1. The Staff Commission shall be a body corporate and shall have a common seal.
2. The Staff Commission shall not—
 - (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
 - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever whether general or local,

and its property shall not be regarded as property of, or held on behalf of, the Crown.

Membership

3. The Staff Commission shall consist of not less than four and not more than eight members appointed by the Secretary of State; and the Secretary of State shall appoint one of those members to be chairman and may appoint another to be deputy chairman.

- 4.—(1) The Secretary of State shall satisfy himself—
 - (a) before he appoints a person to be a member of the Staff Commission under paragraph 3 above, that the person has no financial or other interest likely to affect prejudicially the proper performance of his functions as a member; and
 - (b) from time to time, that each person so appointed continues, and has continued, to have no such interest.

(2) A member of the Staff Commission who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Staff Commission shall disclose the nature of his interest to the meeting, which interest shall be recorded in the minutes of that meeting.

(3) Where such a disclosure is made, that member shall not take part in any deliberation or decision of the Staff Commission with respect to that matter.

5. The Secretary of State may remove from office a member of the Staff Commission appointed under paragraph 3 above if he is satisfied that the member—

- (a) has had his estate sequestrated, has made an arrangement with his creditors, has been adjudged bankrupt or has granted a trust deed or a composition contract for his creditors;
- (b) is incapacitated by physical or mental illness;
- (c) has been absent from meetings of the Staff Commission for a period longer than three months without the permission of the Staff Commission; or
- (d) is otherwise unable or unfit to discharge his functions as a member or is unsuitable to continue as a member.

Remuneration and allowances of members

6.—(1) There shall be paid to each member of the Staff Commission such remuneration and allowances as may from time to time be determined by the Secretary of State.

(2) There may be paid to or in respect of any member such pension, allowance or gratuity on his retirement or death or such payments towards the provision of such pension, allowance or gratuity, as the Secretary of State may, with the consent of the Treasury, determine.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) If a person, appointed under paragraph 3 above, ceases to be a member of the Staff Commission, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may, with the consent of the Treasury, require the Staff Commission to pay to that person a sum of such amount as the Secretary of State may, with the consent of the Treasury, determine.

Appointment and Remuneration of Officers

7.—(1) The Staff Commission may appoint, on such terms and conditions as it may, with the approval of the Secretary of State given with the consent of the Treasury determine, such officers as it thinks fit.

(2) Without prejudice to sub-paragraph (1) above, in the case of such of its officers or former officers as the Secretary of State may, with the consent of the Treasury, determine—

- (a) there may be paid such pensions, allowances or gratuities to or in respect of those officers; or
- (b) there may be made such payments towards provision of such pensions, allowances or gratuities; or
- (c) there may be provided and maintained such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as the Secretary of State may, with such consent, determine.

(3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities in respect of officers of the Staff Commission includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such officer who suffers loss of office or employment or loss or diminution of emoluments.

Proceedings

8.—(1) Subject to any directions given under section 12(4) of the Act, the Staff Commission may regulate its own procedure.

(2) The proceedings of the Staff Commission shall not be invalidated by any vacancy among its members or by any defect in the appointment of any of its members or by any failure to comply with paragraph 4(2) above.

Documents

9.—(1) For any purpose other than those mentioned in sub-paragraph (2) below, a document is validly executed by the Staff Commission if it is signed on its behalf by a member or by an officer authorised to sign the document on its behalf.

(2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the Staff Commission if it is subscribed on its behalf by being executed in accordance with the provisions of sub-paragraph (1) above.

(3) A document which bears to have been executed by the Staff Commission in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if—

- (a) the subscription of the document bears to have been attested by at least one witness; or
- (b) the document bears to be sealed with the seal of the Staff Commission.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes a Local Government Staff Commission (Scotland) under section 12 of the Local Government etc. (Scotland) Act 1994 for the purpose, in connection with the reorganisation of Scottish local government due to take effect as from 1st April 1996, of considering arrangements for recruitment and transfer of staff, considering staffing problems arising therefrom and advising the Secretary of State and relevant authorities accordingly.

In terms of sections 97(6) and 137(1) of that Act, the Staff Commission have additional functions in connection with staff transferring to the new water and sewerage authorities and the Scottish Children's Reporter Administration.

The Schedule to the Order provides for the constitution and membership of the Staff Commission, the appointment and removal from office of its chairman and members, employment of staff and remuneration and superannuation of members and staff.