

**EXPLANATORY MEMORANDUM TO THE  
PARLIAMENTARY COMMISSIONER ORDER**

**2009 1754**

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Parliamentary Commissioner Order 2009 (“the Order”) amends Schedule 2 to the Parliamentary Commissioner Act 1967 (“the Act”). Schedule 2 to the Act lists the government departments and public bodies within the jurisdiction of the Parliamentary Commissioner for Administration, otherwise known as the Parliamentary Ombudsman (“the Parliamentary Commissioner”). The Order adds four entries to Schedule 2: the Board of the Pension Protection Fund (only in respect of its functions relating to the financial assistance scheme), Official Receiver, Probation trusts and the Department for Business, Innovation and Skills.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 Under the provisions of the Act the Parliamentary Commissioner investigates complaints of maladministration against the government departments and public bodies listed in Schedule 2 to the Act. Schedule 2 to the Act was substituted by article 2 of the Parliamentary Commissioner Order 2008 (S.I. 2008/3115).

4.2 To be eligible for inclusion in Schedule 2 by Order in Council, any body under consideration must meet the relevant criteria as set out in Section 4 of the Act. Section 4(3) of the Act provides that an Order in Council may only insert an entry in Schedule 2 if:

(a) it relates to:

- a government department; or
- a corporation or body whose functions are exercised on behalf of the Crown; or

(b) it relates to a corporation or body -

- which is established by virtue of Her Majesty’s prerogative or by an Act of Parliament or an Order in Council or order made under an Act of Parliament or which is established in any other way by a Minister of the Crown in his capacity as a Minister or by a government department;

- at least half of whose revenues derive directly from money provided by Parliament, a levy authorised by an enactment, a fee or charge of any other description so authorised or more than one of those sources; and
- which is wholly or partly constituted by appointment made by Her Majesty or a Minister of the Crown or government department.

4.3 The Department for Business, Innovation and Skills satisfies the criteria in section 4(3)(a) of the Act and the Board of the Pension Protection Fund, Official Receiver and Probation trusts satisfy the criteria in section 4(3)(b) of the Act, and are thus eligible for inclusion in Schedule 2 to the Act.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 The Minister of State, Cabinet Office has made the following statement regarding Human Rights:

In my view the provisions of the Parliamentary Commissioner Order 2009 are compatible with the Convention rights.

## **7. Policy background**

7.1 As a matter of policy, all government departments (including executive agencies) and non-departmental public bodies should be brought within the Parliamentary Commissioner's jurisdiction unless there are compelling reasons for not doing so. The Parliamentary Commissioner's jurisdiction is updated on a regular basis. This Order is part of that process.

7.2 The Order does not amend any other instrument and therefore no consolidation issues arise.

## **8. Consultation Outcome**

8.1 There has been no public consultation on this exercise. This is part of the regular process to update the jurisdiction of the Parliamentary Ombudsman. The relevant stakeholders affected by this Order have been consulted.

## **9. Guidance**

9.1 Relevant stakeholders are aware of the changes made in this instrument.

## **10. Impact**

10.1 This Order has no impact on business, charities or voluntary bodies.

10.2 This Order has no impact on the wider public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The jurisdiction of the Parliamentary Ombudsman is monitored/reviewed on an annual basis. This Order is part of that process.

## **13. Contact**

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