

**EXPLANATORY MEMORANDUM TO
THE PARLIAMENTARY COMMISSIONER ORDER**

2011 No. 751

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 2011 ('the Order') amends the Parliamentary Commissioner Act 1967 ('the Act') by substituting a new Schedule 2 to the Act listing the Government Departments and other bodies within the jurisdiction of the Parliamentary Commissioner for Administration, known as and referred to in this Explanatory Memorandum as, the Parliamentary Ombudsman. It also makes two amendments to Schedule 4 (which lists certain tribunals) to the 1967 Act. Actual changes to Schedule 2 are set out in the explanatory note to the Order.

3. Matters of Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This Order is made in pursuance of sections 4(2) and 5(9) of the Parliamentary Commissioner Act 1967.

4.2 Under the provisions of the Parliamentary Commissioner Act 1967, as amended by the Parliamentary and Health Service Commissioners Act 1987 and the Parliamentary Commissioner Act 1994, the Parliamentary Ombudsman investigates complaints of maladministration leading to injustice against government departments and public bodies listed in Schedule 2.

4.3 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 1967 Act. Section 4(3) of the 1967 Act provides that an Order in Council may only insert an entry in Schedule 2 if:

It relates to:

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

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.

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 for the Cabinet Office has made the following statement regarding Human Rights:

"In my view the provisions of the Parliamentary Commissioner Order 2011 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 Ombudsman's jurisdiction providing they meet the criteria and unless there are compelling reasons for not doing so.

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 a 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, or the wider public sector.

10.2 An impact assessment has not been prepared for this instrument.

11.Regulating small business

11.1 This 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

Paul Ballinger at the Cabinet Office Tel: 020 7276 2462 or e-mail: paul.ballinger@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.