

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2 – Appointment of the acting Commissioner

23. [Section 2](#) makes provision for the appointment of an acting Commissioner. The acting Commissioner may be appointed to deal with a number of different circumstances. For example, the acting Commissioner may be appointed to deal with an individual case. This could happen if a complaint results in a conflict of interest for the Commissioner. Alternatively, the acting Commissioner could be appointed to deal with a number of cases, e.g. if there is an exceptionally large number of cases at one particular time which the Commissioner is unable to deal with. Finally, the acting Commissioner could be appointed to deal with all cases for a specified period, e.g. if the Commissioner is ill.
24. Like the appointment of the Commissioner, the acting Commissioner is appointed by the SPCB. However because appointment is expected to be for a limited duration and might require to be made as a matter of urgency, to avoid delay in an investigation or investigations the agreement of the Parliament to the appointment is not required. In practice it is anticipated that in most circumstances the SPCB will, at the very least, consult the Standards Committee before making an appointment.
25. Identical conditions regarding eligibility for appointment to the post of acting Commissioner to that of the post of Commissioner are applied by subsection (3). In other words, like the Commissioner the acting Commissioner cannot be a member of the Parliament or of the staff of the Parliament, nor can the acting Commissioner have been a member of the Parliament or the staff in the two years prior to the appointment.
26. Subsection (4) sets out requirements for resignation and removal as well as stipulating that the conditions applying to the office are to be set by the SPCB. In addition the subsection makes clear that the acting Commissioner while holding office is to be treated for all purposes as the Commissioner.