

Status: Point in time view as at 01/05/2003.

Changes to legislation: Commissioner for Children and Young People (Scotland) Act 2003, SCHEDULE 1 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 1

(introduced by section 1)

THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE IN SCOTLAND

Status

- 1 (1) Neither the Commissioner nor any member of the Commissioner's staff is to be regarded as a servant or agent of the Crown or as having any status, immunity or privilege of the Crown.
- (2) The Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

Independence

- 2 (1) The Commissioner is not, except as provided in the provisions of this Act listed in sub-paragraph (2), subject to the direction or control of—
 - (a) any member of the Parliament;
 - (b) any member of the Scottish Executive; or
 - (c) the Parliamentary corporation.
- (2) The listed provisions are sections 2(3) and 3(1)(b), paragraphs 4, 6(3), 7 and 10 of this schedule and paragraph 8 of schedule 2.

Validity of actings

- 3 The validity of any actings of the Commissioner is not affected by—
 - (a) any defect in the nomination by the Parliament for the Commissioner's appointment; or
 - (b) any disqualification from appointment as Commissioner.

Remuneration and terms of appointment

- 4 (1) The Commissioner is entitled to—
 - (a) a salary of such amount; and
 - (b) such allowances,as the Parliamentary corporation may determine.
- (2) The appointment of the Commissioner is otherwise on such terms as the Parliamentary corporation may determine.
- (3) The terms may include provision as to the circumstances in which the Commissioner may hold any other office or appointment.

Pensions etc

- 5 (1) The Parliamentary corporation may make arrangements for the payment of pensions, allowances and gratuities to, or in respect of, any person who has ceased to hold the office of Commissioner.
- (2) The Parliamentary corporation may, in particular—

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- (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
- (b) establish and administer one or more pension schemes.

General powers

- 6 (1) The Commissioner has a general power to do anything necessary or expedient for the purposes of, or in connection with, the exercise of the Commissioner's functions.
- (2) In particular, the Commissioner may enter into contracts and acquire and dispose of property.
- (3) The Commissioner may charge for such services as may be specified by the Scottish Ministers, by order made by statutory instrument, as chargeable services for the purposes of this Act.
- (4) A statutory instrument containing an order under sub-paragraph (3) is subject to annulment in pursuance of a resolution of the Parliament.

Staff

- 7 (1) The Commissioner may, with the consent of the Parliamentary corporation as to numbers, appoint staff to assist in carrying out the Commissioner's functions.
- (2) The Commissioner may, with the consent of the Parliamentary corporation, determine the terms of appointment of such staff, including arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff of the Commissioner.

Delegation of authority

- 8 The Commissioner may authorise any person to exercise functions on behalf of the Commissioner to the extent specified in the authorisation, but any such delegation of authority does not affect the responsibility of the Commissioner for the exercise of the functions.

Financial provision

- 9 The Parliamentary corporation is to pay—
- (a) the salary and allowances of the Commissioner; and
 - (b) any expenses properly incurred by the Commissioner in the exercise of the Commissioner's functions.

Accountable officer

- 10 (1) The Parliamentary corporation is to designate the Commissioner or a member of the Commissioner's staff as the accountable officer for the purposes of this paragraph.
- (2) The functions of the accountable officer are—
- (a) signing the accounts of the expenditure and receipts of the Commissioner;
 - (b) ensuring the propriety and regularity of the finances of the Commissioner;
 - (c) ensuring that the resources of the Commissioner are used economically, efficiently and effectively; and

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- (d) where the accountable officer is not the Commissioner, the duty set out in sub-paragraph (4).
- (3) The accountable officer is answerable to the Parliament for the exercise of those functions.
- (4) The duty referred to in sub-paragraph (2)(d) is a duty, where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of the functions specified in sub-paragraph (2)(a) to (c), to—
 - (a) obtain written authority from the Commissioner before taking the action; and
 - (b) send a copy of that authority as soon as possible to the Auditor General for Scotland.

Accounts and audit

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- (1) The Commissioner must keep proper accounts at all times and prepare annual accounts in respect of each financial year.
 - (2) The Commissioner must send a copy of the annual accounts to the Auditor General for Scotland for auditing.
 - (3) The financial year of the Commissioner is—
 - (a) the period beginning with the date on which the first Commissioner is appointed and ending with the 31st of March next following that date; and
 - (b) each successive period of twelve months ending with the 31st of March.
 - (4) If requested by any person, the Commissioner must make available at any reasonable time, and without charge, in printed or electronic form, the audited accounts, so that they may be inspected by that person.

Appointment of acting Commissioner

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- (1) Where there is no Commissioner for the time being, or the Commissioner is unable to act, the Parliamentary corporation may appoint a person (whether or not a member of the Commissioner's staff) to discharge the Commissioner's functions until a new Commissioner is appointed or the Commissioner is again able to act; and a person so appointed is referred to in this Act as the "acting Commissioner".
 - (2) A person who is disqualified from appointment as the Commissioner is also disqualified from appointment as acting Commissioner.
 - (3) While holding office as such, the acting Commissioner is governed by the provisions of this Act, other than paragraphs 3(a) and 5 of this schedule, applying to the Commissioner.

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