

# SCOTTISH PARLIAMENTARY COMMISSIONS AND COMMISSIONERS ETC. ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1

#### **The Commission for Ethical Standards in Public Life in Scotland: the Public Standards Commissioner for Scotland and the Public Appointments Commissioner for Scotland**

#### *Section 8: Disqualification*

52. This section brings together the existing disqualification provisions in the Ethical Standards Act, the Parliamentary Standards Act and the Public Appointments Act. This provision prevents conflict of interests occurring and addresses any perception that the Commissioners actions can be influenced by other positions held.
53. **Section 8** sets out the circumstances which disqualify a person from holding appointment as a Commissioner. The same restrictions continue to apply during the Commissioner's term of office. No person may become a Commissioner if that person is a member of the Scottish Parliament (or its staff), the House of Commons or the House of Lords and is entitled to vote there. Persons who have been a member of the Scottish Parliament in the previous two years from when the appointment is to take effect are also disqualified. Similarly, no person who is employed or appointed in any other capacity by the Commission can be appointed as a Commissioner. Should a Commissioner be elected to the Parliament, for example, the person would immediately be disqualified from holding office as a Commissioner and would be required to relinquish office.
54. Other employment, appointments or memberships are listed. These include being: a member, employee or appointee of, the Standards Commission for Scotland; a specified authority (including where the specified authority is an individual); a devolved public body; an employee or appointee of the SPSO; a member of a council (or a council committee); disqualified from being a member of a council; or a member of a joint board or joint committee. For example, membership of a council could pose a conflict of interest for the Public Standards Commissioner for Scotland as the Commissioner may have to carry out an investigation into the council under the Ethical Standards Act. Similarly, the Public Appointments Commissioner for Scotland for instance could be perceived as having a conflict of interest in relation to a particular specified authority, as the authority, by virtue of being specified in schedule 2 to the Public Appointments Act would come within the Commissioner's remit.
55. Subsection (2) also defines various terms (specified authority, council joint board and joint committee and devolved public body) by reference to other statutes. It also defines paid office as being any one where the holder is entitled to any remuneration, allowances or expenses.