

# SCOTTISH PARLIAMENTARY COMMISSIONS AND COMMISSIONERS ETC. ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 6*

256. [Schedule 6](#) is introduced by section 29(11) of the Act and contains amendments to the SCHR Act.
257. [Paragraph 1](#) amends section 7 (strategic plans). The amendment to subsection (2) requires the SHRC to provide cost estimates for achieving the objectives and the priorities and undertaking those reviews set out in the strategic plan. New subsection (6A) clarifies that a revised plan must be laid before the Parliament not later than the beginning of the period to which the revised strategic plan relates.
258. [Paragraph 2](#) amends section 15 (Commission's annual report). Section 15 is amended to clarify the reporting year begins on 1 April (new subsection (4)) and to require the report to be laid before the Scottish Parliament within 7 months of the end of the reporting year (new subsection (2A)).
259. [Paragraph 3](#) explains that paragraph 4 onwards relates to Schedule 1 to the SCHR Act.
260. [Paragraph 4](#) extends the list in paragraph 3(2) (exceptional matters in which Commission subject to direction or control) to take account of the changes to the supervisory regime made by this Act to include 11A(3) (Advisers and other services), 12(3) and 13A (Budget).
261. [Paragraph 5](#) amends paragraph 5 (terms of office etc of Commission members) to provide for a member of the SHRC to hold office for a single term of up to a period of 8 years and clarifies that a member who has ceased to be a member of the SHRC is not eligible for reappointment.
262. [Paragraph 5](#) also amends paragraph 5 in relation to removal of members. Sub-paragraph (5) is amended to provide for a member to be removed from office if the Parliament resolves that it has lost confidence in the member's willingness, suitability or ability to perform their functions. Sub-paragraph (6) is amended so that a resolution under sub-paragraph (4)(b) and (5) must be voted for by at least 86 members of the Parliament, being a number not less than two thirds of the total number of seats of members of the Parliament.
263. [Paragraph 5](#) also inserts new sub-paragraphs (9) and (10) into paragraph 5. Under sub-paragraph (9) the Parliamentary corporation may determine whether the members should be permitted to hold any other office, employment or appointment or engagement during their term of office. This power may be used differently in relation to the member appointed as chair and the other members. For example, the holding of another position may compromise or be perceived to compromise the independence of the member.

264. [Paragraph 6](#) inserts paragraph 6A (Subsequent appointments etc) which makes some similar restrictions on subsequent appointments once a member has left office to those that applied to the original appointment under paragraph 4. As well as restriction on employment with the SHRC, a former member cannot hold office in or be: an employee or appointee of any Scottish public authority in relation to which the SHRC conducted an inquiry into policy and practices while that person was a member; in any other employment or appointment or engage in any other occupation which that person could not hold when a appointed as member of the SHRC.
265. Under sub-paragraph (2) the restrictions run from the date of leaving office until the end of the financial year following the one in which the person ceased to be a member. Thus if a member leaves on 1 November 2010 the restriction would subsist until 1 April 2012.
266. [Paragraph 7](#) amends paragraph 8 (Commission's powers to include acquisition and disposal of land) so that the SHRC may only acquire and dispose of land with the consent of the Parliamentary corporation.
267. [Paragraph 8](#) replaces paragraph 10 (location of office) to provide that the SHRC is required to comply with any directions given by the Parliamentary corporation as to the location of the SHRC's office.
268. [Paragraph 9](#) inserts new paragraph 11A (advisers and other services). Under paragraph 11A the SHRC can secure advice, assistance or any other service for use by the SHRC. There may be circumstances where the SHRC might want to secure advice for example, in relation to legal issues. This advice or services can be procured from anyone whom the SHRC considers is qualified to provide it. Payment of fees and allowances is determined by the SHRC. Any payment for providing services and payment in respect of that advice, assistance or service provided, is subject to approval by the Parliamentary corporation.
269. [Paragraph 10](#) inserts a new sub-paragraph 12(3) (Sharing of premises, staff, services and other resources) which provides for the Parliamentary corporation to direct the SHRC as to the sharing of premises, staff, services or other resources with any public body or any officeholder. The Parliamentary corporation could use this power to rationalise the number of premises occupied by the bodies or to direct that the provision of services such as human resources, payroll, finance or procurement should be carried out centrally.
270. [Paragraph 11](#) inserts new paragraph 13A (Budget). Paragraph 13A enacts the recommendations of the Finance Committee's report and implements existing administrative budgetary arrangements between the officeholder and the Parliamentary corporation designed to ensure accountability for the use of public funds.
271. Sub-paragraph (1) requires the SHRC to prepare budget proposals for each financial year, in advance of that year, for approval by the Parliamentary corporation. The Parliamentary corporation is given power to set a timetable for submission and approval of the budget which will allow it to be integrated within wider budgetary arrangements.
272. Under sub-paragraph (2) the SHRC may seek to revise the budget during the year by submitting revised proposals to the Parliamentary corporation for approval.
273. Under sub-paragraph (3), in preparing a budget or a revised budget, the SHRC is required to ensure that resources will be used economically, efficiently and effectively and must under sub-paragraph (4) so certify in any budget or revised budget.
274. [Paragraph 12](#) substitutes paragraph 14(1) (payment of Commissioner's remuneration and Commission's expenses). Under sub-paragraph (1) the Parliamentary corporation must pay the remuneration and allowances of each member of the SHRC and pay any expenses properly incurred by the SHRC in exercising its functions, less any sums the SHRC has received in payment for services provided under section 3(3), for example, in providing training or holding seminars. Sub-paragraph (1)(c) provides that

*These notes relate to the Scottish Parliamentary Commissions and Commissioners  
etc. Act 2010 (asp 11) which received Royal Assent on 19 July 2010*

the Parliamentary corporation must indemnify the SHRC in respect of any liabilities incurred by it while performing its functions.