

Status: Point in time view as at 01/04/2011.

Changes to legislation: There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010, Cross Heading: Investigations and reports. (See end of Document for details)

SCHEDULE 3 AMENDMENTS OF THE SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002 (ASP 11)

Investigations and reports

- 1 In section 5(1)(a) (matters which may be investigated) after “or”, where it second occurs, there is inserted “ on ”.
- 2 In section 11 (decisions not to investigate)—
 - (a) in subsection (1) the passage from “after” to “complaint”, where it second occurs, becomes paragraph (a) of the subsection and after it there is inserted “, or
 - (b) decides to discontinue an investigation following a complaint,”,
 - (b) after subsection (3) there is inserted—

“(3A) Where the Ombudsman decides to discontinue an investigation following a complaint, any reference in paragraphs (b), (f) and (g) of subsection (2) to the listed authority in question or to the listed authority is to be construed as including a reference to a listed authority—

 - (a) which was not mentioned in the complaint, but
 - (b) whose action was investigated by the Ombudsman in connection with the investigation.”,
 - (c) after subsection (4) there is inserted—

“(5) Subsection (4) applies where the Ombudsman decides to discontinue an investigation following a request as it applies where the Ombudsman decides not to conduct such an investigation.”,
 - (d) accordingly, the title to the section becomes “**Decisions not to investigate or to discontinue investigations**”.
- 3 After subsection (6) of section 12 (investigation procedure) there is inserted—

“(7) Any reference in subsections (2)(a) and (6)(a) and (b) to the listed authority in question or to the listed authority includes, in relation to an investigation following a complaint, references to a listed authority—

 - (a) which is not mentioned in the complaint, but
 - (b) whose action is investigated by the Ombudsman in connection with the investigation.”
- 4 In section 13 (evidence) after subsection (9) there is inserted—

“(10) Any reference in subsections (1) to (3) to the listed authority in question or to the listed authority includes, in relation to an investigation following a complaint, a reference to a listed authority—

 - (a) which is not mentioned in the complaint, but
 - (b) whose action is investigated by the Ombudsman in connection with the investigation.”
- 5 In section 15 (reports on investigations)—
 - (a) at the beginning of subsection (1) there is inserted “ Subject to subsection (1A), ”,
 - (b) after that subsection there is inserted—

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- “(1A) Where the Ombudsman decides to discontinue an investigation, the Ombudsman may—
- (a) send a report of the investigation to the Scottish Ministers, and
 - (b) lay a copy of the report before the Parliament.”,
- (c) in subsection (4)(a)(i) after “report” there is inserted “ sent to it by virtue of subsection (1) ”,
- (d) after subsection (7) there is inserted—
- “(8) Any reference in subsections (3) to (5) to the listed authority in question or to the listed authority includes, in relation to a complaint following which the investigation was conducted, a reference to a listed authority—
- (a) which was not mentioned in the complaint, but
 - (b) whose action was investigated by the Ombudsman in connection with the investigation.”

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