
Changes to legislation: There are currently no known outstanding effects for the Scottish Parliamentary Commissions and Commissioners etc. Act 2010, Cross Heading: The Commissioner: terms and period of office, removal and independence. (See end of Document for details)

SCHEDULE 4 AMENDMENTS OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (ASP 13)

The Commissioner: terms and period of office, removal and independence

- 1 In section 42 (the Scottish Information Commissioner)—
- (a) after subsection (1) there is inserted—
- “(1A) A person is disqualified from appointment as the Commissioner if the person is, or holds office in, or is an employee or appointee of, another Scottish public authority.
- (1B) The Commissioner may not, without the approval of the Parliamentary corporation, also be, or hold office in, or be an employee or appointee of, another Scottish public authority.”
- (b) in subsection (3) (period of office of Commissioner) for “five” there is substituted “ eight ”,
- (c) after subsection (3) there is inserted—
- “(3A) The Commissioner is to hold office otherwise on such terms and conditions as the Parliamentary corporation may determine.
- (3B) Those terms and conditions may, without prejudice to subsection (1A)—
- (a) prohibit the Commissioner from holding any other specified office, employment or appointment or engaging in any other specified occupation,
- (b) provide that the Commissioner's holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation.
- (3C) In subsection (3B), “specified” means specified in the terms and conditions of office or within a description so specified.”
- (d) in subsection (4)(c) for the passage from “in” onward there is substituted “ if subsection (4A) applies ”,
- (e) subsection (4)(d) and the word “and” immediately before it are repealed,
- (f) after subsection (4) there is inserted—
- “(4A) This subsection applies if—
- (a) the Parliamentary corporation is satisfied that the Commissioner has breached the terms and conditions of office and the Parliament resolves that the Commissioner should be removed from office for that breach, or
- (b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform the functions of the Commissioner,
- and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.”
- (g) for subsection (5) there is substituted—

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- “(5) A person who has held office as Commissioner is ineligible for reappointment at any time.”,
- (h) in subsection (7) (independence of Commissioner: exceptions) for “paragraph 3(4)” there is substituted “ sections 42(9C) and 46(2A) and paragraphs 3(4), 4A, 6(2), 7 and 8 ”.

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