

PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Schedule 11 - Social Care and Social Work Improvement Scotland: Establishment Etc.

424. **Schedule 11** is introduced by section 44(4) and makes further provision about the status, constitution, proceedings etc. of SCSWIS.

Paragraph 1 – Status

425. SCSWIS is a corporate body but not a Crown body.

Paragraph 2 – Membership of SCSWIS

426. The membership of SCSWIS is to consist of a chairing member, the chair of Health Improvement Scotland, the convener of the Scottish Social Services Council and no fewer than 9 nor more than 12 other members. All members of SCSWIS are to be appointed by Scottish Ministers.
427. Sub-paragraph (2) gives the Scottish Ministers power to substitute, by order made by statutory instrument, different numbers of minimum and maximum members in sub-paragraph (1)(d).
428. **Paragraph 3** at sub-paragraph (1) provides that it is desirable to include as members of SCSWIS persons with experience of the provision of any social service, persons who use or have used any social service, persons who care for or have cared for such persons or persons with other relevant skills, knowledge or experience. Sub-paragraph (2) provides that the Scottish Ministers must appoint at least:
- (a) 2 people who are past or present users of care services,
 - (b) 2 people who are past or present carers for past or present users, or
 - (c) one person from (a) and (b).

Paragraph 4 – Terms of appointment etc.

429. Each member of SCSWIS is to be appointed for such a period as the Scottish Ministers think fit. A member of SCSWIS holds and vacates office in accordance with the terms and conditions of appointment but may resign office as a member by giving written notice to Scottish Ministers.
430. Sub-paragraph (3) provides that once a person ceases to be a member of SCSWIS they are eligible to be reappointed as a member for another term.

Paragraph 5 – Removal of members

431. The Scottish Ministers have the power to remove a member of SCSWIS from office if they are satisfied that the member is insolvent (see sub-paragraphs (a) and (b)), has been absent from three consecutive meetings without permission, or is otherwise unfit or unable to discharge the functions of a member of SCSWIS.

Paragraph 6 – Disqualification from membership

432. This paragraph provides that members of the Scottish Parliament, members of the House of Commons and members of the European Parliament are disqualified from appointment and from holding office as members of SCSWIS.

Paragraph 7 – Remuneration and allowances for members

433. SCSWIS is to pay its members remuneration, allowances and expenses as determined by the Scottish Ministers.

Paragraph 8 – Chief Executive and other employees

434. SCSWIS is to employ a chief executive and sub-paragraph (2) provides that the chief executive may not be a member of SCSWIS. The chief executive is to be appointed and their terms and conditions determined, with the approval of the Scottish Ministers, by SCSWIS.
435. SCSWIS may appoint employees other than the chief executive and can determine their terms and conditions. The Scottish Ministers may give directions to SCSWIS in relation to the appointment of employees and their terms and conditions of employment (see sub-paragraph (5)).
436. Sub-paragraph (6) gives SCSWIS power to arrange, with approval from the Scottish Ministers, for pensions, allowances or gratuities in relation to employees of SCSWIS. The reference in sub-paragraph (6) to pensions, allowance and gratuities includes a reference to pensions, allowance and gratuities by way of compensation for loss of employment (see sub-paragraph (7)).

Paragraph 9 – Committees

437. SCSWIS may establish committees for any purpose relating to its functions. SCSWIS may appoint persons other than board members to be members of a committee, however such persons are not entitled to vote at meetings of the committee.
438. A committee of SCSWIS is to comply with any directions given to it by SCSWIS (see sub-paragraph (4)).

Paragraph 10 – Procedure and meetings

439. SCSWIS determines its own procedure and the procedure of its committees, including quorum. The validity of any proceedings of SCSWIS or any of its committees is not affected by any irregularity in the membership of SCSWIS or vacancy in the membership.
440. Sub-paragraph (3) provides that members of the Scottish Executive, persons authorised by the Scottish Ministers, members of Healthcare Improvement Scotland and persons authorised by it, and members of the Scottish Social Services Council and persons authorised by it may attend and take part in meetings of SCSWIS or any of its committees, but are not entitled to vote at such meetings.

Paragraph 11 – General powers

441. [Paragraph 10](#) provides for the general legal powers of SCSWIS.

*These notes relate to the Public Services Reform (Scotland) Act
2010 (asp 8) which received Royal Assent on 28 April 2010*

442. Sub-paragraph (1) gives SCSWIS wide power to do anything related to the exercise of its functions. Without prejudice to the generality of this power, sub-paragraph (2) sets out particular powers of SCSWIS.

Paragraph 12 – Delegation of functions

443. SCSWIS has power to delegate functions to the chief executive, any other employee or any of its committees, with the exception of approval of annual reports and accounts and approval of any budget or financial plan (see sub paragraph (2)) Any delegation under sub-paragraph (1) does not affect the responsibility of SCSWIS for the exercise of its functions (see sub-paragraph (3)).

Paragraph 13 – Location of office

444. This paragraph requires SCSWIS to obtain the approval of the Scottish Ministers before determining the location of its office premises.

Paragraph 14 – Accounts

445. Sub-paragraph (1) requires SCSWIS to keep accounts, to prepare a statement of accounts each financial year and to send a copy of it to Scottish Ministers, and to do so in accordance with any directions the Scottish Ministers may give.
446. Sub-paragraph (2) requires SCSWIS to send its annual statement of accounts to the Auditor General for Scotland for auditing.

Paragraph 15 – Reports

447. SCSWIS is required to prepare an annual report. Sub-paragraph (2) requires SCSWIS to publish its annual report, lay a copy before the Scottish Parliament and send a copy to the Scottish Ministers.
448. SCSWIS may publish other reports and information on matters relevant to its functions.