

SCHEDULE 1

(introduced by section 1)

THE COMMISSIONER

Disqualification

- 1 (1) A person is disqualified from appointment, and from holding office, as Commissioner if that person is—
- (a) a member of the House of Lords and entitled to vote in the House;
 - (b) a member of the House of Commons;
 - (c) a member of the Scottish Parliament;
 - (d) a member, officer or member of staff of a specified authority;
 - (e) a specified authority (where the authority is an individual); or
 - (f) disqualified from election as a member of the Scottish Parliament or as a member of a local authority.
- (2) A person holding office as Commissioner is disqualified from appointment—
- (a) as a member, officer or member of staff of a specified authority;
 - (b) to any paid office by a specified authority; and
 - (c) as a specified authority (where the authority is an individual).
- (3) A person who has ceased to hold office as Commissioner is, during the period of 3 years beginning with the date on which that person ceased to hold that office, disqualified from appointment—
- (a) as a member, officer or member of staff of a specified authority;
 - (b) to any paid office by a specified authority; and
 - (c) as a specified authority (where the authority is an individual),
- except in any case where, and to the extent that, the Parliament determines that this sub-paragraph is not to apply.
- (4) In this paragraph, references to a member of a specified authority include any member by co-option of any committee of a specified authority.
- (5) For the purposes of sub-paragraphs (2)(b) and (3)(b), an office is a paid office where the holder of it is entitled to remuneration or expenses (or to both).

Status

- 2 (1) The Commissioner, the Commissioner's staff and assessors appointed by the Commissioner—
- (a) are not to be regarded as servants or agents of the Crown;
 - (b) do not have any status, immunity or privilege of the Crown,
- and the Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.
- (2) The Commissioner, in the exercise of the functions of that office, is not subject to the direction or control of—
- (a) any member of the Parliament;
 - (b) any member of the Scottish Executive; or
 - (c) the Parliamentary corporation,

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except in so far as provided for in paragraph 13(1) and (4).

Validity of actings

- 3 The validity of any actings of the Commissioner is not affected by—
- (a) any defect in the nomination by the Parliament for the Commissioner’s appointment; or
 - (b) any disqualification from appointment as Commissioner.

Term of office and tenure

- 4 (1) The Commissioner—
- (a) is appointed to and holds office for such period not exceeding 5 years as the Parliamentary corporation may determine;
 - (b) may be relieved of office by Her Majesty at the Commissioner’s request;
 - (c) may be removed from office by Her Majesty in pursuance of a resolution of the Parliament which, if passed on a division, must be voted for by the number of members equivalent to not less than two thirds of the total number of seats for members of the Parliament; and
 - (d) in other respects, is appointed to and holds office on such terms and conditions as the Parliamentary corporation may determine.
- (2) A person whose period of office as Commissioner expires under sub-paragraph (1) (a) is eligible for appointment again, but—
- (a) a person may be appointed as Commissioner for no more than 3 periods of office; and
 - (b) appointment for a third period of office is competent only if, by reason of special circumstances, such appointment is desirable in the public interest.

Vacancy in office of Commissioner

- 5 (1) Where the office of Commissioner is vacant, the Parliamentary corporation may appoint a person (whether or not a member of the Commissioner’s staff or a person appointed as assessor by the Commissioner) to discharge the Commissioner’s functions until a new Commissioner is appointed; and a person so appointed is referred to in this schedule as the “acting Commissioner”.
- (2) A person who is disqualified from appointment as Commissioner by virtue of paragraph 1(1) is also disqualified from appointment as acting Commissioner.
- (3) A person appointed as acting Commissioner—
- (a) may be relieved of office at that person’s request;
 - (b) may be removed from office by the Parliamentary corporation by notice in writing given by it;
 - (c) in other respects, is appointed to and holds that office on such terms and conditions as the Parliamentary corporation may determine; and
 - (d) while holding that office, is to be treated for all purposes, except those of paragraphs 3(a), 4, 6 and 7, as the Commissioner.

Remuneration

- 6 The Commissioner is entitled to a salary of such amount, and such allowances, as the Parliamentary corporation may determine.

Pensions etc.

- 7 (1) The Parliamentary corporation may make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to hold office as Commissioner and, in particular, may—
- (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
 - (b) establish and administer one or more pension schemes.
- (2) The references in sub-paragraph (1) to pensions, allowances and gratuities include their provision by way of compensation for loss of office.

Staff

- 8 (1) The Commissioner may, with the approval of the Parliamentary corporation, appoint such staff, on such terms and conditions, as the Commissioner may determine.
- (2) The Commissioner may, with the approval of the Parliamentary corporation, make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff and, in particular, may—
- (a) make contributions or payments towards provision for such pensions, allowances or gratuities; and
 - (b) establish and administer one or more pensions schemes.
- (3) The references in sub-paragraph (2) to pensions, allowances and gratuities include their provision by way of compensation for loss of employment.

Assessors

- 9 (1) The Commissioner may appoint assessors to assist the Commissioner in the exercise of the Commissioner's functions.
- (2) The Commissioner may, with the approval of the Parliamentary corporation, pay to any assessor such fees and allowances as the Commissioner may determine.

Delegation

- 10 (1) Any function of the Commissioner may be exercised on the Commissioner's behalf—
- (a) by any person (whether or not a member of the Commissioner's staff or an assessor appointed by the Commissioner) authorised by the Commissioner to do so; and
 - (b) to the extent so authorised.
- (2) Sub-paragraph (1) does not affect the responsibility of the Commissioner for the exercise of the Commissioner's functions.

Status: This is the original version (as it was originally enacted).

Financial provision

- 11 The Parliamentary corporation is to pay—
- (a) the salary and allowances of the Commissioner;
 - (b) any expenses incurred by the Commissioner in the exercise of the Commissioner's functions; and
 - (c) any sums payable by virtue of paragraph 5(3)(a) to (c) to, or in respect of, a person who—
 - (i) is appointed as acting Commissioner; or
 - (ii) has ceased to hold the office of acting Commissioner.

Accountable officer

- 12 (1) The Parliamentary corporation is to designate the Commissioner or a member of the Commissioner's staff as the accountable officer for the purposes of this paragraph.
- (2) The functions of the accountable officer are—
- (a) those specified in sub-paragraph (3); and
 - (b) where the accountable officer is not the Commissioner, the duty set out in sub-paragraph (4),
- and the accountable officer is answerable to the Parliament for the exercise of those functions.
- (3) The functions referred to in sub-paragraph (2)(a) are—
- (a) signing the accounts of the expenditure and receipts of the Commissioner;
 - (b) ensuring the propriety and regularity of the finances of the Commissioner; and
 - (c) ensuring that the resources of the Commissioner are used economically, efficiently and effectively.
- (4) The duty referred to in sub-paragraph (2)(b) is a duty, where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of the functions specified in sub-paragraph (3), to—
- (a) obtain written authority from the Commissioner before taking the action; and
 - (b) send a copy of that authority as soon as practicable to the Auditor General for Scotland.

Accounts and reports

- 13 (1) The Commissioner must—
- (a) keep proper accounts and accounting records; and
 - (b) prepare an annual account in respect of each financial year (the financial year being the period of 12 months ending with 31st March),
- in accordance with such directions as the Scottish Ministers may give.
- (2) The Commissioner must send the annual account to the Auditor General for Scotland for auditing.
- (3) If requested by any person, the Commissioner must make available at any reasonable time, and without charge, in printed or in electronic form, the audited accounts, for inspection by that person.

Status: This is the original version (as it was originally enacted).

- (4) The Commissioner must lay before the Parliament annually a report on the exercise of the functions of that office; and the Commissioner is to comply with any direction as to the form and content of such reports as the Parliamentary corporation may give.

Functions: supplementary provision

- 14 The Commissioner may do anything which appears necessary or expedient for the purpose of or in connection with the exercise of the functions of that office and, in particular, may—
- (a) acquire and dispose of land and other property; and
 - (b) enter into contracts.

SCHEDULE 2

(introduced by section 2)

THE SPECIFIED AUTHORITIES

Offices

Water Industry Commissioner for Scotland

Executive bodies

Accounts Commission for Scotland

Crofters Commission

Deer Commission for Scotland

Highlands & Islands Enterprise

Learning & Teaching Scotland

National Galleries of Scotland

National Library of Scotland

National Museums of Scotland

any National Park authority

Parole Board for Scotland

Royal Botanic Garden, Edinburgh

Royal Commission on the Ancient and Historical Monuments of Scotland

Scottish Agricultural Wages Board

Scottish Arts Council

Scottish Children's Reporter Administration

Scottish Commission for the Regulation of Care

Scottish Criminal Cases Review Commission

Scottish Enterprise

Scottish Environment Protection Agency

Scottish Further Education Funding Council

Scottish Higher Education Funding Council

Scottish Hospital Endowments Research Trust

Scottish Legal Aid Board

Scottish Natural Heritage

Scottish Qualifications Authority

Scottish Screen

Status: This is the original version (as it was originally enacted).

Scottish Social Services Council

Scottish Sports Council

Scottish Tourist Board

Advisory bodies

Advisory Committee on Sites of Special Scientific Interest

Building Standards Advisory Committee

Central Advisory Committee on Justices of the Peace (Scotland)

Fisheries (Electricity) Committee

General Teaching Council for Scotland

Hill Farming Advisory Committee for Scotland

Historic Environment Advisory Council for Scotland

any Justices of the Peace Advisory Committee

Local Government Boundary Commission for Scotland

Mobility and Access Committee for Scotland

Royal Fine Art Commission for Scotland

Scottish Advisory Committee on Distinction Awards

Scottish Advisory Committee on the Medical Workforce

Scottish Industrial Development Advisory Board

Scottish Law Commission

Scottish Records Advisory Council

Nationalised bodies

Caledonian MacBrayne Ltd

Highlands and Islands Airports Ltd

Public corporations

Scottish Water

National Health Service bodies

Common Services Agency for the Scottish Health Service

any Health Board

Mental Welfare Commission for Scotland

any National Health Service trust

any Special Health Board

SCHEDULE 3

(introduced by section 15)

THE ADVISORY COUNCIL

Status

- 1 The Advisory Council is a body corporate.
- 2 The Advisory Council—
 - (a) is not to be regarded as a servant or agent of the Crown;
 - (b) does not have any status, immunity or privilege of the Crown,
 and its property is not to be regarded as property of, or property held on behalf of, the Crown.

Membership

- 3 (1) The Advisory Council is to consist of such members as the Scottish Ministers may appoint.
- (2) The Scottish Ministers are to appoint one of the members to chair meetings of the Advisory Council.
- (3) Each member—
- (a) is to be appointed for such period as is specified in the terms of appointment; and
 - (b) holds and vacates office in accordance with those terms.

Allowances etc.

- 4 (1) Members of the Advisory Council are entitled to such allowances as the Scottish Ministers may approve.
- (2) The member appointed to chair meetings of the Advisory Council is entitled to such remuneration as the Scottish Ministers may approve.

Proceedings

- 5 (1) The Advisory Council may, subject to sub-paragraphs (2) and (3), regulate its own procedure.
- (2) The Scottish Ministers may give directions to the Advisory Council as to its procedure; and the Advisory Council must comply with any such directions.
- (3) A member who is in any way directly or indirectly interested in any matter which is brought up for consideration at a meeting of the Advisory Council must disclose the nature of the interest to the meeting and, where such a disclosure is made—
- (a) the disclosure must be recorded in the minutes of the meeting; and
 - (b) the member must not take any part in any deliberation or decision of the Advisory Council with respect to the matter.
- (4) The validity of any proceedings of the Advisory Council is not affected by any vacancy in membership nor any defect in the appointment of a member.

Reports

- 6 The Advisory Council must annually prepare a report on the exercise of its functions and send a copy of the report to the Scottish Ministers; and the Scottish Ministers must lay a copy of the report before the Parliament.

Functions: supplementary provision

- 7 (1) The Advisory Council may, subject to sub-paragraph (2), do anything which appears necessary or expedient for the purpose of or in connection with the exercise of its functions and, in particular, it may—
- (a) acquire and dispose of property; and
 - (b) enter into contracts.
- (2) The Advisory Council may not—

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- (a) acquire heritable property; or
- (b) appoint staff.

SCHEDULE 4

(introduced by section 17)

MISCELLANEOUS PROVISION

Confirmation of Executors (Scotland) Act 1858 (c. 56)

- 1 In section 2 (petition to Commissary to be substituted) of the Confirmation of Executors (Scotland) Act 1858, the words “or a recognised financial institution providing executry services” are repealed.

Historic Buildings and Ancient Monuments Act 1953 (c. 49)

- 2 In the Historic Buildings and Ancient Monuments Act 1953—
- (a) section 2 (Historic Buildings Council for Scotland) is repealed except in so far as it applies, by virtue of section 3(3) of that Act, to the Historic Buildings Council for Wales;
 - (b) in section 3(3) (Historic Buildings Council for Wales), for the words from “apply” in the second place where it appears to the end there is substituted “applied to the Historic Buildings Council for Scotland immediately before the coming into force of paragraph 2(a) of schedule 4 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)”; and
 - (c) in section 9 (interpretation), in subsection (1)—
 - (i) paragraph (b) is repealed; and
 - (ii) for the words “paragraphs (b) and” there is substituted “paragraph”.

House of Commons Disqualification Act 1975 (c. 24)

- 3 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (offices disqualifying for membership)—
- (a) in the entry relating to Medical Practices Committees, the words from “or” to the end are repealed; and
 - (b) the entry relating to the Scottish Conveyancing and Executry Services Board is repealed.

Race Relations Act 1976 (c. 74)

- 4 In the Race Relations Act 1976, in Part II of Schedule 1A (bodies and other persons subject to general statutory duty), the paragraphs relating to—
- (a) the Ancient Monuments Board for Scotland;
 - (b) the Historic Buildings Council for Scotland;
 - (c) the Scottish Hospital Trust;
 - (d) the Scottish Medical Practices Committee; and
 - (e) the Scottish Conveyancing and Executry Services Board,
- are repealed.

Status: This is the original version (as it was originally enacted).

National Health Service (Scotland) Act 1978 (c. 29)

- 5 (1) The 1978 Act is amended in accordance with this paragraph.
- (2) Section 3 is repealed.
- (3) Section 11 is repealed.
- (4) In section 19A (medical lists), in subsection (2)(b), the words “nominated or” are repealed;
- (5) In section 19B (vacancies for medical practitioners), in subsection (2)—
 - (a) in paragraph (a), for the words from the beginning to “to” in the second place where it appears there is substituted “the determination by a Health Board of”;
 - (b) for paragraph (b) there is substituted—
 - “(b) any consultation which a Health Board is to undertake before making such a determination.”;
 - (c) in paragraph (c), for the words “Medical Practices Committee” there is substituted “Health Board”; and
 - (d) in paragraph (e), for the word “nomination” there is substituted “approval”.
- (6) In section 20 (applications to provide general medical services)—
 - (a) in subsection (1), for the words from “referred” to “Committee” in the second place where it appears there is substituted “considered by the Board and any medical practitioner whose application is granted by the Board”; and
 - (b) in subsection (1A)—
 - (i) the words “be entitled to” are repealed;
 - (ii) for the words “referred to the Medical Practices Committee” there is substituted “granted by the Board”; and
 - (iii) the words from “; and” to the end are repealed.
- (7) In section 21 (requirement of suitable experience), in subsection (1), the words “nominated or” are repealed.
- (8) In section 22 (regulations as to section 21), in the definition of “applicant”, the words “nominated or” are repealed.
- (9) In section 23 (distribution of general medical services), in subsection (1B), for the words from “as” in the second place where it appears to “secure” there is substituted “for the purpose of securing”.
- (10) Section 24 is repealed.
- (11) In section 77 (default powers), paragraph (b) of subsection (1) is repealed.
- (12) In section 85 (expenses of certain bodies), paragraph (c) of subsection (1) is repealed.
- (13) In section 88 (payments to members of certain bodies)—
 - (a) in subsection (1), paragraph (a) is repealed; and
 - (b) in subsection (2), paragraph (a) is repealed.
- (14) In section 108(1) (interpretation), the entries relating to the Hospital Trust and the Medical Practices Committee are repealed.
- (15) In Schedule 1 (health boards), paragraphs 16 and 17 are repealed.

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- (16) Schedule 2 is repealed.
- (17) Schedule 6 is repealed.
- (18) In Schedule 9 (additional provisions as to prohibition of sale of medical practices), in paragraph 1—
- (a) in sub-paragraph (2), for the words “Medical Practices Committee” there is substituted “Health Board which has arrangements with the practitioners of the medical practice for the provision by them of general medical services”;
 - (b) in sub-paragraph (3)—
 - (i) for the words “The Committee” in the first place where they appear there is substituted “That Health Board”;
 - (ii) for the words “the Committee” in the second place where they appear there is substituted “the Board”;
 - (c) in sub-paragraph (4), for the words “Medical Practices Committee” there is substituted “Health Board”;
 - (d) in sub-paragraph (6), for the word “Committee” there is substituted “Board”;
 - and
 - (e) in sub-paragraph (7), for the words “The Medical Practices Committee” there is substituted “A Health Board”.

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

- 6 In the Ancient Monuments and Archaeological Areas Act 1979—
- (a) in section 22 (Ancient Monuments Boards)—
 - (i) in subsection (1), paragraph (b) and the word “and” immediately following it are repealed;
 - (ii) subsection (3) is repealed; and
 - (iii) in subsection (5), paragraph (b) and the word “and” immediately following it are repealed; and
 - (b) in section 23 (annual reports of Ancient Monuments Boards)—
 - (i) the words from the beginning to the word “and” in the first place where it appears are repealed;
 - (ii) the word “each” in the first place where it appears is repealed; and
 - (iii) for the words “them” and “their” there is substituted “it” and “its” respectively.

Solicitors (Scotland) Act 1980 (c. 46)

- 7 In section 32 (offence for unqualified persons to prepare certain documents) of the 1980 Act, in subsection (2A), for the words “qualified conveyancer” there is substituted “conveyancing practitioner”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)

- 8 In section 54 (clarification of certain investment powers) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985—
- (a) subsection (1) in so far as it relates to Schedule 6 to the 1978 Act; and
 - (b) subsection (2),
- are repealed.

Legal Aid (Scotland) Act 1986 (c. 47)

- 9 In section 43A (application of Act to services provided under the 1990 Act) of the Legal Aid (Scotland) Act 1986, in subsection (1)—
- (a) the words “and recognised financial institutions” are repealed; and
 - (b) for the words “qualified conveyancers” there is substituted “conveyancing practitioners”.

Electricity Act 1989 (c. 29)

- 10 In the Electricity Act 1989, in paragraph 4(2) of Schedule 9 (preservation of amenity and fisheries), the words from “, the” to “Scotland” in the second place where it appears are repealed.

National Health Service and Community Care Act 1990 (c. 19)

- 11 In the National Health Service and Community Care Act 1990—
- (a) in section 39 (distribution of general medical services), subsection (7) is repealed; and
 - (b) in Schedule 9 (minor and consequential amendments), sub-paragraphs (2) and (24) of paragraph 19 are repealed.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

- 12 (1) The 1990 Act is amended in accordance with this paragraph.
- (2) For section 16 (the Scottish Conveyancing and Executry Services Board) there is substituted—

“16 Regulation by the Law Society of conveyancing and executry services

- (1) The Council of the Law Society of Scotland have the function of regulating the provision of conveyancing and executry services under sections 17 to 23 of this Act.
 - (2) The Scottish Ministers may make grants to the Council towards expenses incurred, or to be incurred, by them in connection with the exercise of that function.
 - (3) Any grant made under subsection (2) above may be made subject to such terms and conditions (including conditions as to repayment) as the Scottish Ministers consider appropriate and they may vary such terms and conditions after the grant is made.”.
- (3) In section 17 (qualified conveyancers)—
- (a) for the word “Board” in each place where it appears there is substituted “Council”;
 - (b) for the words “qualified conveyancer” and “qualified conveyancers” in each place where they appear there is substituted “conveyancing practitioner” and “conveyancing practitioners” respectively;
 - (c) for the words “conveyancer” and “conveyancers” in each of the other places where they appear there is substituted “practitioner” and “practitioners” respectively;

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- (d) for subsection (1) there is substituted—
- “**(1)** The Council shall establish and maintain a register of conveyancing practitioners, which shall be available for inspection by any person without charge.
- (1A)** The register shall include an entry in respect of any person who was registered in the register of qualified conveyancers maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection.
- (1B)** The entry in the register in respect of any such person who, immediately before the coming into force of this subsection, provided conveyancing services to the public for a fee, gain or reward shall be annotated to the effect that he is an independent conveyancing practitioner; but that annotation shall be removed if he ceases to provide such services for a fee, gain or reward.”;
- (e) in subsection (2)(b), for the words “(3) below” there is substituted “(11)(a) below and rules referred to in subsection (11B) below in so far as they relate to educational qualifications and practical training”;
- (f) after subsection (2) there is inserted—
- “**(2A)** The Council may charge such fee for registration under subsection (2) above as they may determine.”;
- (g) subsection (3) is repealed;
- (h) for subsection (4) there is substituted—
- “**(4)** Where the Council—
- (a) grant an application under subsection (2) above, they may attach such conditions as they may determine, and shall—
- (i) record any such conditions against the applicant’s name in the register; and
- (ii) give the applicant written reasons for any decision to attach such conditions;
- (b) refuse such an application, they shall give the applicant written reasons for their decision.”;
- (i) for subsection (5) there is substituted—
- “**(5)** Where the Council—
- (a) grant an application under subsection (2) above subject to conditions; or
- (b) refuse such an application,
- the applicant may, within 21 days of the date on which the Council’s decision is intimated to him, apply to the Council to review their decision.”;
- (j) subsection (7) is repealed;
- (k) for subsection (11) there is substituted—
- “**(11)** The Council may make rules for regulating the conduct and practice of conveyancing practitioners, and such rules may, in particular, make provision with respect to—

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- (a) educational qualifications and practical training (including continuing professional development);
- (b) the manner in which such practitioners conduct the provision of conveyancing services;
- (c) complaints against such practitioners; and
- (d) in the case of independent conveyancing practitioners—
 - (i) conflicts of interest;
 - (ii) the contractual obligations of such practitioners;
 - (iii) the holding of and accounting for clients' money;
 - (iv) the disclosure of and accounting for commission; and
 - (v) professional indemnity insurance and other arrangements for meeting claims by clients,and, in respect of the matters referred to in paragraphs (a) to (c) above, different provision may be made for different cases or classes of case.

(11A) Rules made under subsection (11) above shall not have effect unless they have been approved by—

- (a) the Lord President of the Court of Session; and
- (b) subject to section 40 of this Act, the Scottish Ministers.

(11B) Any—

- (a) rules as to the requirements to be satisfied by any person applying for registration as a qualified conveyancer; and
- (b) regulations as to the conduct and practice of independent qualified conveyancers,

having effect immediately before the coming into force of this subsection shall have effect with respect to conveyancing practitioners and independent conveyancing practitioners respectively as if they were rules made under subsection (11) above which have been approved in accordance with subsection (11A) above; and the Council may amend or repeal any such rules or regulations.”;

- (l) subsection (12) is repealed;
- (m) in subsection (13)—
 - (i) the words “, and subject to subsection (14) below” are repealed; and
 - (ii) paragraph (a) and the word “and” immediately following it are repealed;
- (n) subsections (14) and (15) are repealed;
- (o) in subsection (16)—
 - (i) for the words “an independent” there is substituted “a”; and
 - (ii) for the words “regulations made under subsection (11)” there is substituted “any rules made under subsection (11) above, any rules and regulations referred to in subsection (11B)”;
- (p) in subsection (20), the words “under subsection (7) above” are repealed.

(4) In section 18 (executory practitioners)—

Status: This is the original version (as it was originally enacted).

- (a) for the word “Board” in each place where it appears there is substituted “Council”;
- (b) for subsection (1) there is substituted—
 - “(1) The Council shall establish and maintain a register of executry practitioners, which shall be available for inspection by any person without charge.
 - (1A) The register shall include an entry in respect of any person who was registered in the register of executry practitioners maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection.”;
- (c) in subsection (2), after the word “them” there is inserted “by a natural person”;
- (d) after that subsection there is inserted—
 - “(2A) The Council may charge such fee for registration under subsection (2) above as they may determine.”;
- (e) in subsection (3)—
 - (i) at the end of paragraph (a) there is inserted the word “and”;
 - (ii) in paragraph (b), for the words “prescribed by regulations made under subsection (10) below” there is substituted “of rules made under subsection (10)(a) below and regulations referred to in subsection (10B) below in so far as such regulations relate to educational qualifications and practical training”;
 - (iii) paragraph (c) and the word “and” immediately preceding it are repealed;
- (f) in subsection (5), in paragraph (a)—
 - (i) after the word “shall” there is inserted “(i)”; and
 - (ii) at the end there is added “and
 - (ii) give the applicant written reasons for any decision to attach such conditions;”;
- (g) in subsection (6), and in subsection (7) in the first place where it appears, for the word “it” there is substituted “him”;
- (h) in subsection (8), for the words “its” and “it” there is substituted “his” and “he” respectively;
- (i) for subsection (10) there is substituted—
 - “(10) The Council may make rules for regulating the conduct and practice of executry practitioners, and such rules may, in particular, make provision with respect to—
 - (a) educational qualifications and practical training (including continuing professional development);
 - (b) the manner in which such practitioners conduct the provision of executry services;
 - (c) complaints against such practitioners; and
 - (d) in the case of such practitioners who provide executry services to the public for a fee, gain or reward—
 - (i) conflicts of interest;
 - (ii) the contractual obligations of such practitioners;

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- (iii) the holding of and accounting for clients' money;
 - (iv) the disclosure of and accounting for commission;
and
 - (v) professional indemnity insurance and other arrangements for meeting claims by clients,
- and, in respect of the matters referred to in paragraphs (a) to (c) above, different provision may be made for different cases or classes of case.

(10A) Rules made under subsection (10) above shall not have effect unless they have been approved by—

- (a) the Lord President of the Court of Session; and
- (b) subject to section 40 of this Act, the Scottish Ministers.

(10B) Any regulations as to the conduct and practice of executry practitioners having effect immediately before the coming into force of this subsection shall have effect as if they were rules made under subsection (10) above which have been approved in accordance with subsection (10A) above; and the Council may amend or repeal any such regulations.”;

- (j) subsection (11) is repealed;
- (k) in subsection (12), for the words “regulations made under subsection (10)” there is substituted “any rules made under subsection (10) above, any regulations referred to in subsection (10B)”;
- (l) after subsection (13) there is inserted—

“(13A) Subject to subsection (13B) below, an executry practitioner who provides executry services to the public for a fee, gain or reward shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(13B) Subsection (13A) above shall not apply to an executry practitioner who, with the approval of the Scottish Conveyancing and Executry Services Board, provided executry services to the public for a fee, gain or reward at any time before the coming into force of that subsection.”.

(5) Section 19 is repealed.

(6) In section 20 (professional misconduct, inadequate professional services, etc.)—

- (a) for the words “Board” and “Board's” in each place where they appear (except where they appear in subsections (3) and (17)) there is substituted “Council” and “Council's” respectively;
- (b) for the words “qualified conveyancer” and “qualified conveyancers” in each place where they appear there is substituted “conveyancing practitioner” and “conveyancing practitioners” respectively;
- (c) in subsection (1), in paragraph (c), for the words “regulations made under section 17(11) or 18(10)” there is substituted “rules made under section 17(11) or 18(10), or rules or regulations referred to in section 17(11B) or 18(10B)”;
- (d) in subsection (2)—
 - (i) in paragraph (b), the words “or its” are repealed; and

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- (ii) paragraphs (d), (e) and (g) are repealed;
- (e) after that subsection there is inserted—
- “(2A) Where—
- (a) after holding an inquiry into a complaint against a practitioner, the Scottish Solicitors' Discipline Tribunal are satisfied that—
- (i) he has been guilty of professional misconduct; or
- (ii) he has provided inadequate professional services;
- or
- (b) a practitioner has been convicted by any court of an act involving dishonesty or has been sentenced to a term of imprisonment of not less than 2 years,
- the Tribunal may take such of the steps set out in subsection (2B) below as they think fit.
- (2B) The steps referred to in subsection (2A) above are—
- (a) to suspend or revoke the registration of the practitioner;
- (b) subject to subsection (3) below, to impose on the practitioner a fine not exceeding £10,000;
- (c) to censure the practitioner; and
- (d) any of the steps which the Council may take in respect of a practitioner under subsection (2)(a) to (f) above.”;
- (f) in subsection (3), for the words “Board” and “Board's” there is substituted “Tribunal” and “Tribunal's” respectively;
- (g) in that subsection and in subsection (4), for the words “(2)(e)” there is substituted “(2B)(b)”;
- (h) in subsection (6)—
- (i) for the word “they” there is substituted “, or the Scottish Solicitors' Discipline Tribunal, by virtue of subsection (2B)(d) above, make a similar direction, the Council or (as the case may be) the Tribunal”;
- (ii) after the word “give” there is inserted “to the Council”; and
- (iii) the words “or it” are repealed;
- (i) in subsection (8)—
- (i) for the words “or (d)” there is substituted “above or the Scottish Solicitors' Discipline Tribunal, by virtue of subsection (2B)(d) above, take a similar step or the Tribunal take a step set out in subsection (2B)(a)”;
- (ii) for paragraph (a) there is substituted—
- “(a) any period specified in this section for applying for review or for the making of an appeal in respect of the matter has expired without such a review having been applied for or such an appeal having been made.”;
- (iii) in paragraph (b), after the word “application” in each place where it appears there is inserted “or appeal”;
- (iv) in that paragraph, after the word “Board's” there is inserted “or, as the case may be, Tribunal's”; and
- (v) for the word “they” there is substituted “the Council”;

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- (j) subsections (9) and (10) are repealed;
- (k) in subsection (11)—
 - (i) for the word “(g)” there is substituted “(f)”;
 - (ii) in paragraph (a), the words “it or” are repealed; and
 - (iii) in paragraph (b), for the words from “it” in the first place where it appears to the end there is substituted “him, appeal to the Scottish Solicitors' Discipline Tribunal against the decision made in any such review; and the Tribunal may quash, confirm or vary that decision”;
- (l) after subsection (11) there is inserted—

“(11A) Within 21 days of the date on which—

 - (a) the outcome of any appeal under subsection (11)(b) above; or
 - (b) the taking of any step referred to in subsection (2B) above, is intimated to the practitioner concerned, he may appeal to the Court of Session against the decision made by the Tribunal in the appeal or, as the case may be, to take such a step; and the Court may make such order in the matter as it thinks fit.”;
- (m) subsection (12) is repealed;
- (n) in subsection (14), after the word “(2)” there is inserted “or (2B)”;
- (o) in subsection (16), for the words “(2)(e)” there is substituted “(2B)(b)”;
- (p) in subsection (17)—
 - (i) the words “it or” in each place where they appear are repealed; and
 - (ii) for the word “Board's” there is substituted “Council’s or, as the case may be, Tribunal's”.

(7) After section 20 there is inserted—

“20A Review of decisions

- (1) The Council shall establish a procedure under which they shall, on the application of any aggrieved person, review any relevant decision made by them.
- (2) In subsection (1) above—
 - (a) “relevant decision” means—
 - (i) a refusal to grant an application for registration as a practitioner;
 - (ii) a decision to grant an application for registration as a practitioner subject to conditions; or
 - (iii) a decision to take any step set out in subsection (2)(a) to (f) of section 20 of this Act; and
 - (b) “aggrieved person” means the applicant or, as the case may be, the practitioner concerned.”.
- (8) In section 21 (Board’s intervention powers)—
 - (a) for the word “Board” in each place where it appears there is substituted “Council”;
 - (b) for the words “qualified conveyancer” in each place where they appear there is substituted “conveyancing practitioner”; and

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- (c) in subsection (2)(c), for the words from “regulations” to “18(10)” there is substituted “any rules or regulations referred to in section 20(1)(c)”.

(9) After section 21 there is inserted—

“21A Powers of investigation

- (1) The Council may exercise the power conferred by subsection (3) below for any of the following purposes—
- (a) an inquiry under subsection (1) of section 20 of this Act;
 - (b) a review under subsection (11)(a) of that section; and
 - (c) consideration by the Council whether to exercise the powers conferred on them by section 21 of this Act.
- (2) The Scottish Solicitors' Discipline Tribunal may exercise the power conferred by subsection (3) below for any of the following purposes—
- (a) an inquiry under subsection (2A) of section 20 of this Act; and
 - (b) an appeal under subsection (11)(b) of that section.
- (3) The Council or, as the case may be, the Tribunal may give notice in writing to a practitioner specifying the subject matter of their investigation and requiring either or both of the following—
- (a) the production or delivery to any person appointed by the Council or, as the case may be, the Tribunal, at a time and place specified in the notice, of such documents so specified as are in the possession or control of the practitioner and relate to the subject matter of the investigation;
 - (b) an explanation, within such period being not less than 21 days as the notice may specify, from the practitioner regarding the subject matter of the investigation.
- (4) If a practitioner fails to comply with a notice under subsection (3)(a) above, the Council or, as the case may be, the Tribunal may apply to the Court of Session for an order requiring him to produce or deliver the documents to the person appointed at the place specified in the notice within such time as the court may order.

21B Procedures of the Scottish Solicitors' Discipline Tribunal etc.

- (1) Paragraphs 7 to 9, 11, 13 to 15 and 18A to 22 of Schedule 4 to the Solicitors (Scotland) Act 1980 (c. 46) (which make provision as to certain powers and procedures of the Scottish Solicitors' Discipline Tribunal) apply in relation to complaints made against conveyancing and executry practitioners as they apply in relation to complaints against solicitors, but as if—
- (a) in paragraph 8A, sub-paragraph (b) and the word “; or” immediately preceding it were omitted; and
 - (b) in paragraphs 9 and 19, the references to Part IV of that Act were references to sections 20 and 21A of this Act.
- (2) Paragraphs 7, 8, 11, 13 to 15 and 18A to 22 of that Schedule to that Act apply in relation to any appeal under subsection (11)(b) of section 20 of this Act as they apply, by virtue of subsection (1) above, in relation to any complaint against conveyancing and executry practitioners, and—

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- (a) the modifications made to those paragraphs by paragraph 23(a), (b) and (d) of that Schedule apply for the purposes of that application of those paragraphs; and
 - (b) paragraphs 24 and 25 of that Schedule apply in relation to any such appeal as they apply in relation to an appeal to which those paragraphs apply, but as if the reference in paragraph 24 to Part IV of that Act were a reference to sections 20 and 21A of this Act.
- (3) In the case of a decision by the Scottish Solicitors' Discipline Tribunal—
- (a) to take any of the steps set out in subsection (2B) of section 20 of this Act; or
 - (b) in an appeal under subsection (11)(b) of that section, subsection (4) below applies.
- (4) Where this subsection applies and—
- (a) no appeal has been made to the Court under subsection (11A) of section 20 of this Act against the decision; or
 - (b) such an appeal has been made but has—
 - (i) been withdrawn; or
 - (ii) resulted in the Tribunal's decision being upheld,the clerk of the Tribunal shall send to the Council a copy of the decision of the Tribunal certified by him and the decision of the Court in any such appeal.
- (5) If the decision of the Tribunal so certified is to suspend or revoke the registration of the practitioner under paragraph (a) of subsection (2B) of section 20 of this Act, the Council shall—
- (a) give effect to the decision; and
 - (b) cause a note of the effect of the decision to be entered against the name of the practitioner in the register of conveyancing practitioners or, as the case may be, of executry practitioners.

21C Compensation fund

- (1) The Council shall establish and maintain a fund for the purpose of making grants to compensate persons who in the opinion of the Council have suffered pecuniary loss by reason of dishonesty in connection with the provision of—
- (a) conveyancing services by or on behalf of an independent conveyancing practitioner; and
 - (b) executry services to the public for a fee, gain or reward by or on behalf of an executry practitioner.
- (2) The Council may, for the purpose of guaranteeing the sufficiency of the fund mentioned in subsection (1) above, enter into a contract of insurance with any person authorised by law to carry out insurance business.
- (3) The Scottish Ministers may—
- (a) make contributions to the fund mentioned in subsection (1) above; and

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- (b) defray any premium, fee or other expense payable by the Council under or in relation to a contract entered into under subsection (2) above.
- (4) The Council may, with the approval of the Scottish Ministers, make rules with regard to the operation of the fund mentioned in subsection (1) above and, without prejudice to the foregoing generality, such rules may make provision as to—
- (a) contributions to be paid to the fund by independent conveyancing practitioners and by executry practitioners who provide executry services to the public for a fee, gain or reward;
 - (b) the procedure for making claims against the fund; and
 - (c) the administration, management and protection of the fund.
- (5) The fund for the purpose of making grants to compensate persons by reason of dishonesty in connection with the provision of conveyancing and executry services maintained by the Scottish Conveyancing and Executry Services Board immediately before the coming into force of this subsection shall be transferred to and vested in the Council; and that fund shall be applied by the Council to the fund established under subsection (1) above.
- (6) Any rules as to the fund transferred under subsection (5) above having effect immediately before the coming into force of this subsection shall have effect with respect to the fund established under subsection (1) above as if they were rules made under subsection (4) above; and the Council may amend or repeal any such rules.”.
- (10) In section 22 (disclosure of documents etc)—
- (a) for the words “qualified conveyancer” there is substituted “conveyancing practitioner”;
 - (b) in subsection (1)—
 - (i) in paragraph (a), the words “or its” are repealed;
 - (ii) paragraph (b) and the word “or” immediately preceding it are repealed; and
 - (iii) for the words “conveyancer, practitioner or institution” there is substituted “practitioner”; and
 - (c) in subsection (2)—
 - (i) after paragraph (a) there is inserted the word “and”; and
 - (ii) paragraph (c) and the word “and” immediately preceding it are repealed.
- (11) In section 23 (interpretation of sections 16 to 22)—
- (a) the definition of “the Board” is repealed;
 - (b) after that definition there is inserted—
 - ““conveyancing practitioner” means a person registered under section 17 in the register of conveyancing practitioners;”;
 - (c) in the definition of “conveyancing services”, after the word “thereto” there is inserted “, including (in the case of independent conveyancing practitioners) relevant notarial services”;
 - (d) after that definition there is inserted—
 - ““the Council” means the Council of the Law Society of Scotland;”;

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- (e) for the definition of “independent qualified conveyancer” there is substituted—
 - ““independent conveyancing practitioner” means a conveyancing practitioner whose entry in the register of conveyancing practitioners has been annotated to that effect under section 17(1B);”;
 - (f) in the definition of “practitioner”, for the words “qualified conveyancer” there is substituted “conveyancing practitioner”;
 - (g) the definition of “qualified conveyancer” is repealed;
 - (h) the definition of “recognised financial institution” and the word “and” immediately preceding it are repealed; and
 - (i) at the end there is added “; and
““relevant notarial services” means the functions exercisable by independent conveyancing practitioners by virtue of section 14(1) and (2) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4).”.
- (12) In section 33 (complaints in relation to legal services), in subsection (5)—
- (a) in the definition of “professional organisation”, paragraph (c) is repealed; and
 - (b) in the definition of “practitioner”—
 - (i) in paragraph (b), after the word “solicitor” there is inserted “or a practitioner within the meaning of section 23 of this Act”; and
 - (ii) paragraph (c) is repealed.
- (13) In section 34 (Scottish legal services ombudsman)—
- (a) subsections (6), (7) and (8) are repealed; and
 - (b) in subsection (9)—
 - (i) paragraphs (c), (e) and (f) are repealed;
 - (ii) in paragraph (d), the words “subject to paragraph (e) below” are repealed; and
 - (iii) in paragraph (g), for the words “qualified conveyancers” there is substituted “conveyancing practitioners”.
- (14) In section 40 (advisory and supervisory functions of Director)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for the words “making any regulations” there is substituted “approving any rules made”; and
 - (ii) in paragraph (b), sub-paragraph (i) and the word “or” immediately following it are repealed; and
 - (b) in subsection (2), the word “regulations,” is repealed.
- (15) In section 42 (review of rules), in subsection (1)(a), the words “17(15) or” are repealed.
- (16) Schedule 1 (Scottish Conveyancing and Executry Services Board) is repealed.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9)

- 13 In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997—
- (a) in section 69 (grants and loans for preservation and enhancement of conservation areas), subsections (4) to (6) are repealed;

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- (b) in section 71 (town scheme agreements), subsection (2) is repealed; and
- (c) in section 72 (grants for repairing of buildings in town schemes), subsection (3) is repealed.

National Health Service (Primary Care) Act 1997 (c. 46)

- 14 In the National Health Service (Primary Care) Act 1997—
- (a) in section 5 (approval of pilot schemes), subsection (5) is repealed.
 - (b) in section 33 (medical lists and vacancies: Scotland), subsection (2) is repealed;
 - (c) in Schedule 2 (minor and consequential amendments)—
 - (i) paragraph 33; and
 - (ii) paragraph 42,
 are repealed.
 - (d) in Schedule 3 (repeals and revocations), the entries relating to the repeal of—
 - (i) certain words in section 3 of the 1978 Act;
 - (ii) section 20 of that Act; and
 - (iii) certain words in section 24 of that Act,
 are repealed.

Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

- 15 In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies) the entries relating to—
- (a) the Scottish Medical Practices Committee; and
 - (b) the Scottish Conveyancing and Executry Services Board,
- are repealed.

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 16 In the Scottish Public Services Ombudsman Act 2002, in Part 2 of schedule 2 (listed authorities)—
- (a) the paragraph relating to the Scottish Medical Practices Committee is repealed; and
 - (b) after paragraph 21 there is inserted—

“21A The Commissioner for Public Appointments in Scotland.”.

Freedom of Information (Scotland) Act 2002 (asp 13)

- 17 In the Freedom of Information (Scotland) Act 2002, in schedule 1 (Scottish public authorities)—
- (a) in Part 4, the paragraphs relating to—
 - (i) the Scottish Hospital Trust; and
 - (ii) the Scottish Medical Practices Committee,
 are repealed;
 - (b) in Part 7, the paragraphs relating to—
 - (i) the Ancient Monuments Board for Scotland;
 - (ii) the Historic Buildings Council for Scotland; and

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- (iii) the Scottish Conveyancing and Executry Services Board,
are repealed; and
- (c) in that Part—
 - (i) after paragraph 62 there is inserted—
 - “62A The Commissioner for Public Appointments in
Scotland.”; and
 - (ii) after paragraph 67 there is inserted—
 - “67A The Historic Environment Advisory Council for
Scotland.”.