

SCOTTISH PARLIAMENTARY COMMISSIONS AND COMMISSIONERS ETC. ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 7 Transfer of Staff, Property, Liabilities and Transitional Provisions

Part 1

276. **Part 1** of Schedule 7 deals with transfer of staff, property and liabilities to the Commission for Ethical Standards in Public Life Commission (“CESPLS”). Paragraph 1 (Staff) provides for employees of the CIO and the staff of the SPSC and the OCPAS to transfer to and become staff of the CESPLS. Transfer will take place on 1 April 2011.
277. **Paragraph 1(2)** provides that the existing contract of employment of any person who transfers to the CESPLS is not terminated by the transfer and has effect as though originally made between the person and the CESPLS. Sub-paragraph (3) ensures that all the previous rights, powers, duties and liabilities of the CIO, the SPSC and the OCPAS as employers transfer to the CESPLS unchanged. On transfer the CESPLS will become liable for any actions of the previous employers in respect of any contract or person.
278. A transferred person’s right to terminate their contract of employment, where there is a substantially detrimental change to the person’s contract of employment, is not affected by the provisions of sub-paragraphs (1) to (4). However, the mere change of the identity of a person’s employer from the CIO, the SPSC or the OCPAS to the CESPLS is not to be treated as a substantially detrimental change to the person’s contract of employment (sub-paragraph (5)).
279. **Paragraph 2** (property) provides for property (including rights) to which the CIO, SPSC or OCPAS were entitled to transfer to the CESPLS on 1 April 2011. It also enables the transfer of any liabilities to which those officeholders were subject to the new CESPLS. The transfer of property includes the transfer of ownership of information held on file.