



Scottish Parliamentary Commissions and Commissioners etc. Act 2010

2010 asp 11

PART 1

THE COMMISSION FOR ETHICAL STANDARDS IN PUBLIC LIFE IN
SCOTLAND: THE PUBLIC STANDARDS COMMISSIONER FOR SCOTLAND
AND THE PUBLIC APPOINTMENTS COMMISSIONER FOR SCOTLAND

The Commission and the Commissioners

1 Establishment, members and functions of the Commission for Ethical Standards in Public Life in Scotland

- (1) There is established a corporate body to be known as the Commission for Ethical Standards in Public Life in Scotland (in this Part, the “Commission”).
- (2) It has two members; they are to be appointed by the Parliamentary corporation with the agreement of the Parliament.
- (3) One of them is to be so appointed as the Public Standards Commissioner for Scotland; and is to be known as such.
- (4) The other is to be so appointed as the Public Appointments Commissioner for Scotland; and is to be known as such.
- (5) They have, respectively, the functions transferred to them by section 2(1) and (2).
- (6) Each of them is referred to in this Part as a “Commissioner”.
- (7) The functions of the Commission are—
 - (a) to provide the Commissioners with the property, staff and services they need in order to perform their respective functions, and
 - (b) to make such arrangements as are appropriate and practicable for the co-ordination of the performance of those respective functions.

2 Functions of the Commissioners

- (1) There are transferred to the Public Standards Commissioner for Scotland—
 - (a) the Chief Investigating Officer’s functions under the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), and
 - (b) the Scottish Parliamentary Standards Commissioner’s functions under the [Scottish Parliamentary Standards Commissioner Act 2002 \(asp 16\)](#).
- (2) There are transferred to the Public Appointments Commissioner for Scotland the functions of the Commissioner for Public Appointments in Scotland under the [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#).
- (3) Accordingly, the offices of—
 - (a) the Chief Investigating Officer,
 - (b) the Scottish Parliamentary Standards Commissioner, and
 - (c) the Commissioner for Public Appointments in Scotland,are abolished.
- (4) The enactments mentioned in subsections (1) and (2) are referred to in this Act as, respectively—
 - (a) the “Ethical Standards Act”,
 - (b) the “Parliamentary Standards Act”, and
 - (c) the “Public Appointments Act”.
- (5) Those enactments, the [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#) and the [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#) are consequentially amended in schedule 1.

3 Status of Commission and Commissioners

- (1) The Commission—
 - (a) is not a servant or agent of the Crown,
 - (b) has no status, immunity or privilege of the Crown.
- (2) The Commissioners—
 - (a) are not servants or agents of the Crown,
 - (b) have no status, immunity or privilege of the Crown.

4 Independence of Commissioners

In the performance of their respective functions, the Commissioners are 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.

5 Protection of Commission from actions for defamation

- (1) For the purposes of the law of defamation, any statement made by the Commission in pursuance of its functions has qualified privilege.

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

- (2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

6 Designation of Chief Commissioner

- (1) The Parliamentary corporation must keep the effectiveness of the working arrangements of the Commission under review and may, at any time—
- (a) designate a Commissioner as the Chief Commissioner,
 - (b) revoke the designation,
- and give directions to the Commission accordingly.
- (2) A designation or revocation under this section does not affect—
- (a) the period of office of the Commissioner,
 - (b) the validity of anything done by the Commission or either Commissioner, or
 - (c) the performance of the functions that a Commissioner has by virtue of sections 1(5) and 2(1) or (2).

7 Appointment of acting Commissioner

- (1) If the office of a Commissioner is vacant or a Commissioner is, for any reason and to any extent, unable to act, the Parliamentary corporation may appoint a person (an “acting Commissioner”) to perform the functions of the Commissioner, either generally or in relation to such matters or class of matter as is specified in the terms and conditions of the appointment.
- (2) An appointment of an acting Commissioner is for, or until, such time as is specified in the terms and conditions of appointment.
- (3) A Commissioner and an acting Commissioner may each perform the same functions at the same time but in relation to different matters.
- (4) Subject to subsection (5), a person who is not eligible for appointment as a Commissioner is not eligible for appointment as an acting Commissioner.
- (5) Members of the Commission’s staff are eligible for appointment as an acting Commissioner.
- (6) The other Commissioner is eligible for appointment as an acting Commissioner.
- (7) An acting Commissioner—
- (a) may at any time resign by notice given to the Parliamentary corporation,
 - (b) may at any time be removed from office by the Parliamentary corporation,
 - (c) subject to this section, holds office on such terms and conditions as the Parliamentary corporation determines, and
 - (d) is to be regarded for all purposes, except those of sections 9(1) to (4) and 10, as having the same status, functions and rights and being subject to the same restrictions as the Commissioner in respect of whom the acting Commissioner was appointed.
- (8) The Parliamentary corporation may, in the terms and conditions of appointment of an acting Commissioner, specify the minimum period of notice for the purposes of subsection (7)(a).