

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Public Services Reform (Scotland) Act 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 9

(introduced by section 36(2))

### CREATIVE SCOTLAND: ESTABLISHMENT ETC.

#### *Status*

- 1 (1) Creative Scotland is a body corporate.
- (2) Creative Scotland is not to be regarded as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown, nor are its members or its employees to be regarded as civil servants.
- (3) Creative Scotland's property is not to be regarded as property of, or held on behalf of, the Crown.

#### **Commencement Information**

**11** Sch. 9 para. 1 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

#### *Membership of Creative Scotland*

- 2 (1) Creative Scotland is to consist of the following members—
  - (a) a person appointed by the Scottish Ministers to chair Creative Scotland, and
  - (b) no fewer than 8 nor more than 14 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may by order made by statutory instrument amend sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified there such other number as they think fit.
- (3) A statutory instrument containing an order under sub-paragraph (2) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### **Commencement Information**

**12** Sch. 9 para. 2 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

#### *Terms of appointment etc.*

- 3 (1) Each member of Creative Scotland is to be appointed for such period as the Scottish Ministers think fit.
- (2) A member—
  - (a) holds and vacates office in accordance with the terms and conditions of appointment, but
  - (b) may, by written notice to the Scottish Ministers, resign office as a member.
- (3) A person is, on ceasing to be a member, eligible for reappointment.

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**Commencement Information**

**I3** Sch. 9 para. 3 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*Removal of members*

- 4 The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—
- (a) the member—
    - (i) has been adjudged bankrupt,
    - (ii) has granted a trust deed for creditors or a composition contract,
    - (iii) has proposed a voluntary arrangement which has been approved,
  - (b) the member's estate has been sequestrated,
  - (c) the member has been absent from 3 consecutive meetings of Creative Scotland without the permission of Creative Scotland,
  - (d) the member is otherwise unfit or unable to discharge the functions of a member.

**Commencement Information**

**I4** Sch. 9 para. 4 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*Disqualification from membership*

- 5 A person is disqualified from appointment, and from holding office, as a member of Creative Scotland if that person is—
- (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a member of the European Parliament.

**Commencement Information**

**I5** Sch. 9 para. 5 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*Remuneration and allowances for members*

- 6 Creative Scotland must pay to each of its members such—
- (a) remuneration, and
  - (b) allowances and expenses,
- as the Scottish Ministers may determine.

**Commencement Information**

**I6** Sch. 9 para. 6 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

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### *Chief executive and other employees*

- 7
- (1) Creative Scotland is to employ a chief executive.
  - (2) The chief executive may not be a member of Creative Scotland.
  - (3) The first chief executive employed by Creative Scotland is to be the person who, immediately before the coming into force of this paragraph, is the chief executive designate employed by Creative Scotland 2009 Limited; and that person is employed as chief executive until the term of appointment as chief executive designate of Creative Scotland 2009 Limited would have ended.
  - (4) But if there is no person employed by Creative Scotland 2009 Limited as chief executive designate immediately before the coming into force of this paragraph, the Scottish Ministers are to make the first appointment of the chief executive of Creative Scotland on such terms and conditions as the Scottish Ministers may determine.
  - (5) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed by Creative Scotland on such terms and conditions as Creative Scotland may, with such approval, determine.
  - (6) Creative Scotland may (subject to any directions given under sub-paragraph (7)) appoint such other employees on such terms and conditions as Creative Scotland may determine.
  - (7) The Scottish Ministers may give directions to Creative Scotland as regards—
    - (a) the appointment of employees under sub-paragraph (6), and
    - (b) the terms and conditions of their employment.
  - (8) Creative Scotland may, with the approval of the Scottish Ministers—
    - (a) pay or make arrangements for the payment,
    - (b) make payments or contributions towards the provision,
    - (c) provide and maintain schemes (whether contributory or not) for the payment, of such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee of Creative Scotland, as it may determine.
  - (9) The reference in sub-paragraph (8) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of employment.

#### **Commencement Information**

**I7** Sch. 9 para. 7 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

### *Committees*

- 8
- (1) Creative Scotland may establish committees for any purpose relating to its functions.
  - (2) Creative Scotland is to determine the composition of its committees.
  - (3) Creative Scotland may appoint persons who are not members of Creative Scotland to be members of a committee; but such persons are not entitled to vote at meetings of the committee.

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- (4) A committee of Creative Scotland is to comply with any directions given to it by Creative Scotland.

**Commencement Information**

**18** Sch. 9 para. 8 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*Procedure and meetings*

- 9 (1) Creative Scotland may determine its own procedure and that of its committees, including a quorum for meetings.
- (2) The validity of any proceedings of Creative Scotland, or any of its committees, is not affected by a vacancy in membership nor by any defect in the appointment of a member.
- (3) Members of the Scottish Executive and persons authorised by the Scottish Ministers may attend and take part in meetings of Creative Scotland or any of its committees, but are not entitled to vote at such meetings.

**Commencement Information**

**19** Sch. 9 para. 9 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*General powers*

- 10 (1) Creative Scotland may do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions.
- (2) In particular, Creative Scotland may—
- (a) engage in any business or undertaking,
  - (b) form, promote or acquire (whether alone or with others) companies (within the meaning of the Companies Act 2006 (c. 46)),
  - (c) form partnerships with others,
  - (d) enter into contracts,
  - (e) accept gifts of money and other property,
  - (f) invest sums not immediately required in relation to the exercise of its functions,
  - (g) undertake or execute any charitable trust,
  - (h) obtain advice or assistance from any person who, in Creative Scotland's opinion, is qualified to give it,
  - (i) commission research,
  - (j) with the consent of the Scottish Ministers—
    - (i) borrow money,
    - (ii) acquire and dispose of land,
    - (iii) establish or take part in the setting up of organisations having functions similar to those of Creative Scotland,

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(iv) make charges for the provision of goods or advice or other services in such circumstances and of such amounts as Creative Scotland may determine.

(3) For the purposes of paragraph (g) of sub-paragraph (2), a trust is a charitable trust if all its purposes are within section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

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**Commencement Information**

**I10** Sch. 9 para. 10 in force at 1.7.2010 by [S.S.I. 2010/221](#), **art. 3(1)**

*Delegation of functions*

- 11 (1) Creative Scotland may, subject to sub-paragraphs (2) and (3), authorise—
- (a) the chief executive,
  - (b) any other employee,
  - (c) any of its committees,
- to exercise such of its functions, and to such extent, as it may determine.
- (2) Creative Scotland may not authorise any of the following functions to be exercised by any other person—
- (a) the approval of annual reports and accounts,
  - (b) the approval of any budget or other financial plan.
- (3) Sub-paragraph (1) does not affect the responsibility of Creative Scotland for the exercise of its functions.

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**Commencement Information**

**I11** Sch. 9 para. 11 in force at 1.7.2010 by [S.S.I. 2010/221](#), **art. 3(1)**

*Location of office*

- 12 Creative Scotland's determination of the location of its office premises is subject to the approval of the Scottish Ministers.

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**Commencement Information**

**I12** Sch. 9 para. 12 in force at 1.7.2010 by [S.S.I. 2010/221](#), **art. 3(1)**

*Accounts*

- 13 (1) Creative Scotland must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Scottish Ministers,
- and must do so in accordance with any directions the Scottish Ministers may give.

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- (2) Creative Scotland must send the statement of accounts to the Auditor General for Scotland for auditing.

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**Commencement Information**

**I13** Sch. 9 para. 13 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

*Reports*

- 14 (1) As soon as practicable after the end of each financial year, Creative Scotland must prepare a report which is—
- (a) to provide information on the discharge of Creative Scotland's functions during that year, and
  - (b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.
- (2) Creative Scotland must—
- (a) publish the report,
  - (b) lay a copy of the report before the Scottish Parliament,
  - (c) send a copy of the report to the Scottish Ministers.
- (3) Creative Scotland may publish such other reports and information on matters relevant to the functions of Creative Scotland as it considers appropriate.

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**Commencement Information**

**I14** Sch. 9 para. 14 in force at 1.7.2010 by [S.S.I. 2010/221](#), [art. 3\(1\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5 Ch. 3A amendment to earlier affecting provision 2019 asp 6, s. 12(2) by [S.S.I. 2023/127 reg. 3\(4\)](#)
- Pt. 5 Ch. 3A inserted by [2019 asp 6 s. 12\(2\)](#)