



Constitutional Reform and Governance Act 2010

2010 CHAPTER 25

PART 1

THE CIVIL SERVICE

CHAPTER 1

STATUTORY BASIS FOR MANAGEMENT OF THE CIVIL SERVICE

Appointment

10 Selections for appointments to the civil service

- (1) This section applies to the selection of persons who are not civil servants for appointment to the civil service.
- (2) A person's selection must be on merit on the basis of fair and open competition.
- (3) The following selections are excepted from this requirement—
 - (a) a person's selection for an appointment to the diplomatic service either as head of mission or in connection with the person's appointment (or selection for appointment) as Governor of an overseas territory;
 - (b) selection for an appointment as special adviser (see section 15);
 - (c) a selection excepted by the recruitment principles (see sections 11 and 12(1)(b)).
- (4) In determining for the purposes of subsection (1) whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on subsection (3).

- (5) But, in relation to persons selected in reliance on subsection (3)(c), the recruitment principles may disapply subsection (4) in specified cases.

11 Recruitment principles

- (1) The Commission must publish a set of principles to be applied for the purposes of the requirement in section 10(2).
- (2) Before publishing the set of principles (or any revision of it), the Commission must consult the Minister for the Civil Service.
- (3) In this Chapter “recruitment principles” means the set of principles published under this section as it is in force for the time being.
- (4) Civil service management authorities must comply with the recruitment principles.

12 Approvals for selections and exceptions

- (1) The recruitment principles may include provision—
- (a) requiring the Commission’s approval to be obtained for a selection which is subject to the requirement in section 10(2);
 - (b) excepting a selection from that requirement for the purposes of section 10(3)(c).
- (2) The Commission may participate in the process for a selection for which its approval is required by provision within subsection (1)(a).
- (3) It is up to the Commission to decide how it will participate.
- (4) Provision within subsection (1)(b) may be included only if the Commission is satisfied—
- (a) that the provision is justified by the needs of the civil service, or
 - (b) that the provision is needed to enable the civil service to participate in a government employment initiative that major employers in the United Kingdom (or a part of the United Kingdom) have been asked to participate in.
- (5) Provision within subsection (1)(a) or (b) may be made in any way, including (for example) by reference to—
- (a) particular appointments or descriptions of appointments;
 - (b) the circumstances in which a selection is made;
 - (c) the circumstances of the person to be selected;
 - (d) the purpose of the requirement to obtain approval or the purpose of the exception.
- (6) Provision within subsection (1)(b) may also (for example)—
- (a) deal with the way in which selections made in reliance on section 10(3)(c) are to be made;
 - (b) specify terms and conditions that must be included in the terms and conditions of an appointment resulting from a selection made in reliance on section 10(3)(c).
- (7) Provision within subsection (1)(a) or (b) may confer discretions on the Commission or civil service management authorities.

13 Complaints about competitions

- (1) Subsection (2) applies if a person has reason to believe that a selection for an appointment has been made in contravention of the requirement in section 10(2).
- (2) The person may complain to the Commission about the matter.
- (3) The Commission—
 - (a) may determine steps that must be taken by a person before making a complaint (and those steps must be taken accordingly);
 - (b) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
 - (c) after considering a complaint, may make recommendations about how the matter should be resolved.
- (4) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
 - (a) civil service management authorities;
 - (b) the complainant.

14 Monitoring by the Commission

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish—
 - (a) that the principle of selection on merit on the basis of fair and open competition is being upheld in accordance with the requirement in section 10(2) and the recruitment principles, and
 - (b) that the requirement in section 10(2) and the recruitment principles are not being undermined in any way (apart from non-compliance).
- (2) For this purpose, civil service management authorities must provide the Commission with any information it reasonably requires.