

SCHEDULES

SCHEDULE 2

Section 19

CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION RELATING TO PART 1

PART 1

CONSEQUENTIAL AMENDMENTS TO ACTS OF PARLIAMENT

Parliamentary Commissioner Act 1967 (c. 13)

- 1 In Schedule 2, in the note about the Cabinet Office, omit “and Head of the Home Civil Service”.

Superannuation Act 1972 (c. 11)

- 2 In section 2(10) for “home civil service or the diplomatic service” substitute “civil service of the State”.

House of Commons Disqualification Act 1975 (c. 24)

- 3 In Schedule 1—
- (a) in Part 2, at the appropriate place, insert “The Civil Service Commission”;
 - (b) in Part 3 omit “Civil Service Commissioner”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 4 In Part 2 of Schedule 1, at the appropriate place, insert “The Civil Service Commission”.

House of Commons (Administration) Act 1978 (c. 36)

- 5 (1) Amend section 2 as follows.
- (2) In subsections (2) and (3) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.
- (3) After subsection (4) insert—
- “(5) The statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

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Civil Service (Management Functions) Act 1992 (c. 61)

- 6 (1) Amend section 1 as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies to the functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 (management of the civil service, excluding the diplomatic service).
- (2) The Minister for the Civil Service may, to such extent and subject to such conditions as the Minister thinks fit, delegate a function to which this section applies to any other servant of the Crown.”
- (3) Omit subsection (5).
- (4) For the italic cross-heading before section 1 substitute “*Civil service (excluding the diplomatic service)*”.
- 7 In section 2(1)(a) for “Her Majesty’s Home Civil Service” substitute “the civil service (excluding the diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010”.

Government of Wales Act 1998 (c. 38)

- 8 In paragraph 3(1) and (2) of Schedule 6 for “Her Majesty’s Home Civil Service” substitute “the civil service of the State”.

Scotland Act 1998 (c. 46)

- 9 (1) Amend section 51 as follows.
- (2) In subsection (2) for “Home Civil Service” substitute “civil service of the State”.
- (3) For subsection (3) substitute—
- “(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
- (a) subsection (1), and
- (b) any other enactment about the appointment of persons mentioned in subsection (2).”
- (4) For subsection (4) substitute—
- “(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Scottish Ministers etc.”
- (5) Omit subsection (9).

Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)

- 10 (1) Amend section 24 as follows.
- (2) In subsection (3)(c)(iii) for “Her Majesty’s Home Civil Service” substitute “the statutory home civil service”.

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(3) After subsection (7) insert—

“(8) In this section “the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

Regulation of Investigatory Powers Act 2000 (c. 23)

11 (1) Amend section 81 as follows.

(2) In subsection (7) for “home civil service or diplomatic service” substitute “statutory civil service (or any part of it)”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory civil service” means—

- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but
- (b) also includes the Government Communications Headquarters.”

Freedom of Information Act 2000 (c. 36)

12 In Part 6 of Schedule 1 for “The Civil Service Commissioners” substitute “The Civil Service Commission”.

Tax Credits Act 2002 (c. 21)

13 (1) Amend section 52 as follows.

(2) In subsection (7) for “Her Majesty’s Home Civil Service” substitute “the statutory home civil service”.

(3) After subsection (7) insert—

“(8) In subsection (7) “the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

Extradition Act 2003 (c. 41)

14 (1) Amend section 101 as follows.

(2) In subsection (5) for “home civil service or diplomatic service” substitute “statutory civil service (or any part of it)”.

(3) After subsection (5) insert—

“(6) In subsection (5) “the statutory civil service” means the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

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Government of Wales Act 2006 (c. 32)

- 15 (1) Amend section 52 as follows.
- (2) In subsections (2) and (9) for “Home Civil Service” substitute “civil service of the State”.
- (3) For subsection (3) substitute—
- “(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
- (a) subsection (1), and
- (b) any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government.”
- (4) For subsection (4) substitute—
- “(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.”
- (5) Omit subsection (10).

Police and Justice Act 2006 (c. 48)

- 16 In paragraph 7(4)(c) of Schedule 1 for “Her Majesty’s Home Civil Service” substitute “the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act)”.

Parliament (Joint Departments) Act 2007 (c. 16)

- 17 (1) Amend section 3 as follows.
- (2) In subsection (2) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.
- (3) After subsection (3) insert—
- “(4) The statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

Crossrail Act 2008 (c. 18)

- 18 (1) Amend Schedule 12 as follows.
- (2) In paragraphs 13(3) and 16(2)(a) and (b) for “Her Majesty’s Home Civil Service” substitute “any part of the statutory home civil service”.
- (3) In paragraph 20(2), after the definition of “enactment”, insert—
- ““the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of

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the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act);”.

PART 2

CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

Civil Service Orders in Council

- 19 The following are revoked—
- (a) the Civil Service Order in Council 1995;
 - (b) the Civil Service (Amendment) Order in Council 1995;
 - (c) the Civil Service (Amendment) Order in Council 1996;
 - (d) the Civil Service (Amendment) Order in Council 1997;
 - (e) the Civil Service (Amendment) Order in Council 1998;
 - (f) the Civil Service (Amendment) Order in Council 1999;
 - (g) the Civil Service (Amendment) Order in Council 2000;
 - (h) the Civil Service (Amendment) Order in Council 2001;
 - (i) the Civil Service (Amendment) Order in Council 2002;
 - (j) the Civil Service (Amendment) Order in Council 2004;
 - (k) the Civil Service (Amendment) Order in Council 2005;
 - (l) the Civil Service (Amendment) Order in Council 2007;
 - (m) the Civil Service (Amendment) (No. 2) Order in Council 2007;
 - (n) the Civil Service (Amendment) (No. 3) Order in Council 2007;
 - (o) the Civil Service (Amendment) Order in Council 2008;
 - (p) the Civil Service (Amendment) (No. 2) Order in Council 2008.

Diplomatic Service Orders in Council

- 20 The following are revoked—
- (a) the Diplomatic Service Order in Council 1991;
 - (b) the Diplomatic Service (Amendment) Order in Council 1994;
 - (c) the Diplomatic Service (Amendment) (No. 2) Order in Council 1994;
 - (d) the Diplomatic Service (Amendment) Order in Council 1995;
 - (e) the Diplomatic Service (Amendment) Order in Council 2004;
 - (f) the Diplomatic Service (Amendment) Order in Council 2009.

Servants of the Crown (Parliamentary, European Assembly and Northern Ireland Assembly Candidature) Order 1987

- 21 This is revoked.

Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311)

- 22 (1) Amend Schedule 1 as follows.
- (2) For “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”.

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- (3) After paragraph 12(2)(d) insert—
 “(da) after the definition of “the Deputy Chairman” insert—
 ““the designated permanent secretary” means the permanent secretary in the civil service of the State designated by the Minister for the Civil Service for the purposes of this Part;”,”.
- 23 In Schedules 3 and 4 for “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”.

Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242)

- 24 In article 2(2) for “Home Civil Service” substitute “civil service of the State”.

PART 3

TRANSITIONAL PROVISION RELATING TO THE CIVIL SERVICE COMMISSION

Definitions

- 25 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) A person is a “member of the old commission” if the person is one of Her Majesty’s Civil Service Commissioners for the purposes of the 1995 Order or the 1991 Order.
- (3) References to “the old commission” are to be read accordingly.
- (4) A person is “head of the old commission” if the person is the First Civil Service Commissioner in relation to the old commission.
- (5) “Commission” has the same meaning as in Chapter 1 of this Part of this Act.
- (6) “First Commissioner” and “Commissioner” have the same meanings as in Schedule 1 to this Act.
- (7) “The 1995 Order” and “the 1991 Order” mean, respectively, the Civil Service Order in Council 1995 and the Diplomatic Service Order in Council 1991.

Head of the old commission to become First Commissioner

- 26 (1) The person who is head of the old commission immediately before section 2 of this Act comes into force becomes the First Commissioner on that section coming into force.
- (2) Sub-paragraphs (3) and (4) below apply instead of paragraph 2(5) and (6) of Schedule 1 to this Act.
- (3) The person holds office as the First Commissioner for a period equal to the remaining part of the period for which the person was appointed as head of the old commission.
- (4) The other terms on which the person holds office as the First Commissioner are—
 (a) the same terms as those on which the person held office as head of the old commission, or

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- (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (5) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.
- (6) The person's becoming First Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 2(7) of Schedule 1 to this Act.

Restriction on period of office if First Commissioner is former head of the old commission

- 27
- (1) This paragraph applies if the person who is the First Commissioner is a former head of the old commission.
 - (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.
 - (3) The five year rule is that the total of the following must not exceed five years—
 - (a) the period or periods for which the person holds office as the First Commissioner, and
 - (b) the period or periods for which the person is head of the old commission.

Members of the old commission to become Commissioners

- 28
- (1) The persons who are members of the old commission immediately before section 2 comes into force become Commissioners on that section coming into force.
 - (2) Sub-paragraph (1) does not apply to the person who is the head of the old commission.
 - (3) Sub-paragraphs (4) and (5) below apply instead of paragraph 3(5) and (6) of Schedule 1 to this Act.
 - (4) A person holds office as Commissioner for a period equal to the remaining part of the period for which the person was appointed as a member of the old commission.
 - (5) The other terms on which the person holds office as Commissioner are—
 - (a) the same terms as those on which the person held office as a member of the old commission, or
 - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
 - (6) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly.
 - (7) The person's becoming Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 3(8) of Schedule 1 to this Act.

Restriction on period of office for former member of old commission

- 29
- (1) This paragraph applies if a person who is a Commissioner is a former member of the old commission.

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- (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule.
- (3) The five year rule is that the total of the following must not exceed five years—
 - (a) the period or periods for which the person holds office as Commissioner, and
 - (b) the period or periods for which the person is a member of the old commission.
- (4) Sub-paragraph (3)(a) and (b) does not include any period for which the person is also Her Majesty’s Commissioner for Public Appointments.
- (5) Sub-paragraph (3)(b) does not include any period for which the person is also head of the old commission.

Audits of recruitment policies and practices

- 30 (1) This paragraph applies in relation to an audit under article 4(3) of the 1995 Order or the 1991 Order that is started, but not completed, before the coming into force of section 2 of this Act.
- (2) So far as the audit is within the Commission’s function under section 14 of this Act, the Commission may continue and complete the audit.

Requirements to publish recruitment information

- 31 Any requirement under article 4(4) of the 1995 Order or the 1991 Order imposed before the coming into force of section 2 of this Act must be complied with notwithstanding the revocation of the Order by Part 2 of this Schedule.

Appeals by civil servants

- 32 (1) This paragraph applies in relation to an appeal under article 4(5) of the 1995 Order or the 1991 Order that is made, but not determined, before the coming into force of section 2 of this Act.
- (2) The Commission may continue with and determine the appeal and paragraphs (a) to (c) of article 4(5) of the 1995 Order or the 1991 Order (as the case may be) continue to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).
- 33 (1) This paragraph applies in relation to a matter occurring before the coming into force of section 2 of this Act which could have been made the subject of an appeal under article 4(5) of the 1995 Order or the 1991 Order immediately before the coming into force of that section.
- (2) The Commission may hear and determine an appeal in relation to the matter and article 4(5) of the 1995 Order or the 1991 Order (as the case may be) is to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be).

First annual report

- 34 (1) This paragraph applies to the first report that the Commission is required to prepare under paragraph 17(1)(a) of Schedule 1 to this Act.
- (2) The report must, for the relevant period, include the information required by—
- (a) article 8(1)(a) to (c) of the 1995 Order;
 - (b) article 4A(1)(a) to (c) of the 1991 Order.
- (3) For this purpose it does not matter if any of that information relates to a part of the civil service of the State to which Chapter 1 of this Part of this Act does not apply.
- (4) “The relevant period” means the period—
- (a) beginning with—
 - (i) for the purposes of sub-paragraph (2)(a), the end of the period covered by the last report published under article 8(1) of the 1995 Order;
 - (ii) for the purposes of sub-paragraph (2)(b), the end of the period covered by the last report published under article 4A(1) of the 1991 Order;
 - (b) ending when section 2 of this Act comes into force.

Transfer of property, rights and liabilities

- 35 (1) The Minister for the Civil Service may make a scheme—
- (a) specifying property, rights and liabilities of the Crown (or held on behalf of the Crown) that are relevant to the old commission’s functions, and
 - (b) transferring the specified property, rights and liabilities to the Commission; and the transfer has effect in accordance with the terms of the scheme.
- (2) The scheme may operate in relation to property, rights and liabilities—
- (a) whether or not they would otherwise be capable of being transferred,
 - (b) without any instrument or other formality being required, and
 - (c) irrespective of any kind of requirement for consent that would otherwise apply.
- (3) The scheme may include supplementary, incidental, transitional, transitory or saving provision, including (in particular) provision—
- (a) for the continuing effect of things done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
 - (b) for the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
 - (c) for references to the Crown or a person who acts on behalf of the Crown in any agreement (whether written or not) or instrument or other document to be treated as or as including references to the Commission;
 - (d) for shared ownership, use or access.

Information previously held by old commission

- 36 (1) The Minister for the Civil Service must make arrangements for the Commission to be provided with any information—

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- (a) which was held by (or on behalf of) the old commission for the purposes of the old commission's functions, and
 - (b) which the Commission reasonably requires for the purposes of its functions.
- (2) For the purposes of the [Data Protection Act 1998](#) and the [Freedom of Information Act 2000](#), any requests made to the old commission relating to information provided to the Commission under sub-paragraph (1) are to be dealt with by the Commission (so far as they were not dealt with by the old commission).

Preparatory work

- 37 (1) During the preparatory period the old commission may carry out, in the name and on behalf of the Commission, any functions given to the Commission by Schedule 1 to this Act.
- (2) "The preparatory period" is the period that—
- (a) starts when this Act is passed, and
 - (b) ends when section 2 of this Act comes into force.

PART 4

OTHER TRANSITIONAL PROVISION

Application of section 16(1) of the [Interpretation Act 1978](#)

- 38 (1) In this Part of this Schedule "old management functions" means functions that cease to be exercisable on the coming into force of section 3 of this Act.
- (2) Section 16(1) of the [Interpretation Act 1978](#) applies in relation to an old management function ceasing to be exercisable as if—
- (a) the function had been conferred by an Act, and
 - (b) that Act were repealed by section 3 of this Act.
- (3) So far as not covered by sub-paragraph (2), section 16(1) of the 1978 Act applies in relation to the revocation of an Order in Council by Part 2 of this Schedule as if it were the repeal of an Act.

Power to manage the civil service

- 39 (1) Anything done under old management functions by—
- (a) a Minister of the Crown, or
 - (b) any other servant of the Crown under a delegation under section 1 of the [Civil Service \(Management Functions\) Act 1992](#),
- is treated as done under subsection (1) or (2) of section 3 of this Act (as the case may be) so far as necessary or appropriate for continuing its effect after the coming into force of section 3.
- (2) Civil servants who, immediately before section 3 comes into force, held their positions in the civil service under or subject to old management functions, continue to hold their positions but under or subject to subsection (1) or (2) of that section (as the case may be).

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- (3) The powers in subsections (1) and (2) of section 3 may (in particular) be used to deal with transitional matters.
- (4) Section 1 of this Act applies for the purposes of this paragraph as it applies for the purposes of Chapter 1 of this Part of this Act.
- 40 (1) So far as—
- (a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or
 - (b) a relevant transferred function is not an old management function,
- the subject matter of the Order or function reverts to Her Majesty and may be dealt with (including delegated) by Her accordingly.
- (2) Civil servants who, immediately before this paragraph comes into force, held their positions in the civil service of the State under or subject to—
- (a) an Order in Council revoked by Part 2 of this Schedule so far as it was not made under old management functions, or
 - (b) a relevant transferred function so far as it is not an old management function,
- continue to hold their positions but on the basis mentioned in sub-paragraph (1).
- (3) “Relevant transferred function” means a function which—
- (a) has been delegated by Her Majesty in relation to the management of the civil service of the State (excluding the Northern Ireland Civil Service), and
 - (b) has been the subject of a transfer of functions Order (as that term was defined in section 1(5) of the [Civil Service \(Management Functions\) Act 1992](#) before its repeal by Part 1 of this Schedule).

Selection on merit etc

- 41 (1) In determining for the purposes of section 10(1) of this Act whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on an exception made by the old commission (within the meaning of Part 3 of this Schedule) from a requirement for selection for the appointment to be on merit on the basis of fair and open competition.
- (2) But the recruitment principles (within the meaning of Chapter 1 of this Part of this Act) may disapply sub-paragraph (1) in specified cases.
- 42 For the purpose of determining whether a selection for an appointment complies with the requirement in section 10(2) of this Act in a case in which the selection process began before section 10(2) comes into force, account must be taken of anything done under or in relation to the selection process before section 10(2) comes into force.

Special advisers

- 43 (1) This paragraph applies to a person who, immediately before the coming into force of this paragraph, holds a position in the civil service of the State for which the person was selected for appointment in reliance on article 3(2), (4) or (5) of the Civil Service Order in Council 1995.
- (2) For the purposes of Chapter 1 of this Part of this Act the person is treated as a special adviser so long as the person remains in that position on the same terms and conditions.