



# Parliamentary Commissioner Act 1967

## 1967 CHAPTER 13

An Act to make provision for the appointment and functions of a Parliamentary Commissioner for the investigation of administrative action taken on behalf of the Crown, and for purposes connected therewith. [22nd March 1967]

### Extent Information

- E1** For application to Northern Ireland see [s. 13](#)

### Modifications etc. (not altering text)

- C1** Act: for any reference to the Education Assets Board there is substituted (1.10.1998) a reference to the Education Transfer Council by virtue of [1998 c. 31, s. 136](#); [S.I. 1998/2212, art. 2\(1\)](#), [Sch. 1 Pt. I](#)
- C2** Act modified (E.W.) (31.3.1991) by [S.I. 1991/517, art. 6\(2\)](#).  
Act modified (E.W.) (28.3.1991) by [S.I. 1991/710, art. 9\(2\)](#)
- C3** Act modified by [S.I. 1989/814, art. 15\(2\)](#), by [S.I. 1989/1359, art. 15\(2\)](#) and by [S.I. 1989/2470, art. 16\(2\)](#)
- C4** Act modified (E.W.) (11.3.1992 for specified purposes and 1.6.1992 otherwise) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\), s. 21\(8\)](#), [Sch. para. 7\(2\)](#); [S.I. 1992/725, arts. 2, 3](#).
- C5** Act modified (E.W.) by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\), ss. 79, 175, 195, 208, Sch. 6 para. 8\(2\)](#)
- C6** Act amended by [1990/419, art. 18\(2\)](#) and by [1990/1024, art. 14\(2\)](#)
- C7** Act applied (with modifications) (30.9.1992) by [S.I. 1992/2257, art. 16\(2\)](#).
- C8** Act modified (E.W.S.) (1.1.1993) by [Transport and Works Act 1992 \(c. 42\), s. 23\(10\)](#); [S.I. 1992/2784, art. 2\(a\)](#), [Sch. 1](#).  
Act extended (5.7.1994) by [1994 c. 19, ss. 39, 66\(2\)\(b\)](#), [Sch. 13 para. 17](#)  
Act extended (1.4.1995) by [S.I. 1995/401, art. 9](#)  
Act modified (S.) (27.5.1997) by [1997 c. 8, ss. 48, 131, 154, 169, 180](#), [Sch. 4 para. 8\(2\)](#) (with [ss. 64, 219](#))  
Act modified (S.) (27.5.1997) by [1997 c. 9, ss. 20\(4\), 35\(5\)](#), [Sch. 3 para. 7\(2\)](#) (with [s. 45\(5\)](#))  
Act modified (S.) (27.5.1997) by [1997 c. 10, ss. 19, 40\(2\)](#), [Sch. para. 7\(2\)](#) (with [ss. 9\(3\), 10\(5\), 38\(6\)](#))  
Act modified (3.3.1999) by [S.I. 1999/527, art. 6](#)  
Act modified (1.4.2002) by [S.I. 2001/3962, art. 7\(2\)](#)

**Status:** Point in time view as at 14/07/2005. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Parliamentary Commissioner Act 1967 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Commencement Information**

**II** Act wholly in force at 1.4.1967 see s. 14(2).

*The Parliamentary Commissioner for Administration*

**1 Appointment and tenure of office.**

- (1) For the purpose of conducting investigations in accordance with the following provisions of this Act there shall be appointed a Commissioner, to be known as the Parliamentary Commissioner for Administration.
- (2) Her Majesty may by Letters Patent from time to time appoint a person to be the Commissioner, and any person so appointed shall (subject to <sup>[F1]</sup>Subsections (3) and (3A)] of this section) hold office during good behaviour.
- (3) A person appointed to be the Commissioner may be relieved of office by Her Majesty at his own request, or may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.

<sup>[F2]</sup>(3A) Her Majesty may declare the office of Commissioner to have been vacated if satisfied that the person appointed to be the Commissioner is incapable for medical reasons—

- (a) of performing the duties of his office; and
- (b) of requesting to be relieved of it.]

(4) ..... F3

(5) ..... F4

**Textual Amendments**

- F1** Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. **2(1)(a)**
- F2** S. 1(3A) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. **2(1)(b)**
- F3** S. 1(4) repealed by [House of Commons Disqualification Act 1975 \(c. 24, SIF 89\)](#), **Sch. 3** and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25, SIF 29:3\)](#), **Sch. 3 Pt. I**
- F4** S. 1(5) repealed by [Tribunals and Inquiries Act 1971 \(c. 62, SIF 127\)](#), **Sch. 4 Pt. I**

**2 Salary and pension.**

- <sup>[F5]</sup>(1) There shall be paid to the holder of the office of Commissioner the same salary as if he were employed in the civil service of the State in such appointment as the House of Commons may by resolution from time to time determine; and a resolution under this subsection may take effect from the date on which it is passed or from such other date as may be specified in the resolution.
- (2) In relation to any time before the first resolution under subsection (1) above takes effect, the salary payable to the holder of the office of Commissioner shall be the same salary as if he were employed in the civil service of the State as a Permanent Secretary.]

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(3) The provisions of Schedule 1 to this Act shall have effect with respect to the pensions and other benefits to be paid to or in respect of persons who have held office as Commissioner.

(4) The salary payable to a holder of the office of Commissioner shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; . . . <sup>F6</sup>

[<sup>F7</sup>(4A) In computing the salary of a former holder of the office of Commissioner for the purposes of the said Schedule 1—

- (a) any abatement of that salary under subsection (4) above,
- (b) any temporary abatement of that salary in the national interest, and
- (c) any voluntary surrender of that salary in whole or in part,

shall be disregarded.]

(5) Any salary, pension or other benefit payable by virtue of this section shall be charged on and issued out of the Consolidated Fund.

#### Textual Amendments

- F5** S. 2(1)(2) substituted (1.1.1975) by Parliamentary and other [Pensions and Salaries Act 1976 \(c. 48, SIF 89\)](#), s [6\(2\)\(5\)](#)
- F6** Words repealed (1.1.1975) by Parliamentary and other [Pensions and Salaries Act 1976 \(c. 48, SIF 89\)](#), s [6\(4\)\(5\)](#), [Sch.](#)
- F7** S. 2(4A) inserted (1.1.1975) by Parliamentary and other [Pensions and Salaries Act 1976 \(c. 48, SIF 89\)](#), s. [6\(4\)\(5\)](#).

### 3 Administrative provisions.

(1) The Commissioner may appoint such officers as he may determine with the approval of the Treasury as to numbers and conditions of service.

(2) Any function of the Commissioner under this Act may be performed by any officer of the Commissioner authorised for that purpose by the Commissioner [<sup>F8</sup>, by any member of the staff so authorised of the Welsh Administration Ombudsman or of the Health Service Commissioner for Wales or by any officer so authorised of the Health Service Commissioner for England <sup>F9</sup> . . . .]

(3) The expenses of the Commissioner under this Act, to such amount as may be sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

#### Textual Amendments

- F8** Words in s. 3(2) substituted (1.7.1999) by [1998 c. 38, s. 125, Sch. 12 para. 5](#) (with ss. 139(2), 143(2)); [S.I. 1999/1290, art. 4](#)
- F9** Words in s. 3(2) omitted (14.7.2004) by virtue of [The Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), [art. 5\(2\)](#)

#### Modifications etc. (not altering text)

- C9** S. 3(2) extended (1.7.1999) by [S.I. 1999/1351, arts. 1, 17\(1\)\(a\)](#) (with [art.3](#)); [S.I. 1998/3178, art. 3](#)

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### [<sup>F10</sup>3A Appointment of acting Commissioner.

- (1) Where the office of Commissioner becomes vacant, Her Majesty may, pending the appointment of a new Commissioner, appoint a person under this section to act as the Commissioner at any time during the period of twelve months beginning with the date on which the vacancy arose.
- (2) A person appointed under this section shall hold office during Her Majesty's pleasure and, subject to that, shall hold office—
  - (a) until the appointment of a new Commissioner or the expiry of the period of twelve months beginning with the date on which the vacancy arose, whichever occurs first; and
  - (b) in other respects, in accordance with the terms and conditions of his appointment which shall be such as the Treasury may determine.
- (3) A person appointed under this section shall, while he holds office, be treated for all purposes, except those of section 2 of this Act, as the Commissioner.
- (4) Any salary, pension or other benefit payable by virtue of this section shall be charged on and issued out of the Consolidated Fund].

#### Textual Amendments

**F10** S. 3(3A) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 6(1)

### *Investigation by the Commissioner*

### [<sup>F11</sup>4 Departments etc. subject to investigation.

- (1) Subject to the provisions of this section and to the notes contained in Schedule 2 to this Act, this Act applies to the government departments, corporations and unincorporated bodies listed in that Schedule; and references in this Act to an authority to which this Act applies are references to any such corporation or body.
- (2) Her Majesty may by Order in Council amend Schedule 2 to this Act by the alteration of any entry or note, the removal of any entry or note or the insertion of any additional entry or note.
- (3) An Order in Council may only insert an entry if—
  - (a) it relates—
    - (i) to a government department; or
    - (ii) to a corporation or body whose functions are exercised on behalf of the Crown; or
  - (b) it relates to a corporation or body—
    - (i) which is established by virtue of Her Majesty's prerogative or by an Act of Parliament or an Order in Council or order made under an Act of Parliament or which is established in any other way by a Minister of the Crown in his capacity as a Minister or by a government department;
    - (ii) at least half of whose revenues derive directly from money provided by Parliament, a levy authorised by an enactment, a fee or charge of

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any other description so authorised or more than one of those sources;  
and

(iii) which is wholly or partly constituted by appointment made by Her Majesty or a Minister of the Crown or government department.

[ No entry shall be made if the result of making it would be that the Parliamentary  
<sup>F12</sup>(3A) Commissioner could investigate action which can be investigated by the Welsh Administration Ombudsman under Schedule 9 to the Government of Wales Act 1998.]

[ No entry shall be made in respect of—  
<sup>F13</sup>(3B) (a) the Scottish Administration of any part of it;  
(b) any Scottish public authority with mixed functions or no reserved functions within the meaning of the Scotland Act 1998; or  
(c) the Scottish Parliamentary Corporate Body.]

(4) No entry shall be made in respect of a corporation or body whose sole activity is, or whose main activities are, included among the activities specified in subsection (5) below.

(5) The activities mentioned in subsection (4) above are—  
(a) the provision of education, or the provision of training otherwise than under the <sup>M1</sup>Industrial Training Act 1982;  
(b) the development of curricula, the conduct of examinations or the validation of educational courses;  
(c) the control of entry to any profession or the regulation of the conduct of members of any profession;  
(d) the investigation of complaints by members of the public regarding the actions of any person or body, or the supervision or review of such investigations or of steps taken following them.

(6) No entry shall be made in respect of a corporation or body operating in an exclusively or predominantly commercial manner or a corporation carrying on under national ownership an industry or undertaking or part of an industry or undertaking.

(7) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this Act—  
(a) any reference to a government department to which this Act applies includes a reference to any of the Ministers or officers of such a department; and  
(b) any reference to an authority to which this Act applies includes a reference to any members or officers of such an authority].

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#### Textual Amendments

**F11** S. 4 substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 1(1)

**F12** S. 4(3A) inserted (1.7.1999) by 1998 c. 38, s. 125, [Sch. 12 para. 6](#) (with ss. 139(2), 143(2)); S.I. 1999/1290, [art. 4](#)

**F13** S. 4(3B) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. I para. 39\(1\)\(2\)](#)

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#### Marginal Citations

**M1** 1982 c. 10(43:1).

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## 5 Matters subject to investigation.

- (1) Subject to the provisions of this section, the Commissioner may investigate any action taken by or on behalf of a government department or other authority to which this Act applies, being action taken in the exercise of administrative functions of that department or authority, in any case where—
  - (a) a written complaint is duly made to a member of the House of Commons by a member of the public who claims to have sustained injustice in consequence of maladministration in connection with the action so taken; and
  - (b) the complaint is referred to the Commissioner, with the consent of the person who made it, by a member of that House with a request to conduct an investigation thereon.
- (2) Except as hereinafter provided, the Commissioner shall not conduct an investigation under this Act in respect of any of the following matters, that is to say—
  - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative;
  - (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that the Commissioner may conduct an investigation notwithstanding that the person aggrieved has or had such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect him to resort or have resorted to it.

[<sup>F14</sup>(2A) Subsection (2)(a) of this section shall have effect in relation to the right of a person to make a complaint of unlawful discrimination under the Fair Employment and Treatment (Northern Ireland) Order 1998 as if it were such a right of appeal, reference or review as is mentioned in that subsection.]

- (3) Without prejudice to subsection (2) of this section, the Commissioner shall not conduct an investigation under this Act in respect of any such action or matter as is described in Schedule 3 to this Act.
- (4) Her Majesty may by Order in Council amend the said Schedule 3 so as to exclude from the provisions of that Schedule such actions or matters as may be described in the Order; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In determining whether to initiate, continue or discontinue an investigation under this Act, the Commissioner shall, subject to the foregoing provisions of this section, act in accordance with his own discretion; and any question whether a complaint is duly made under this Act shall be determined by the Commissioner.

[<sup>F15</sup>(5A) For the purposes of this section, administrative functions of a government department to which this Act applies include functions exercised by the department on behalf of the Scottish Ministers by virtue of section 93 of the Scotland Act 1998.

(5B) The Commissioner shall not conduct an investigation under this Act in respect of any action concerning Scotland and not relating to reserved matters which is taken by or on behalf of a cross-border public authority within the meaning of the Scotland Act 1998.]

[<sup>F16</sup>(6) For the purposes of this section, administrative functions exercisable by any person appointed by the Lord Chancellor as a member of the administrative staff of any

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court or tribunal shall be taken to be administrative functions of the Lord Chancellor's Department or, in Northern Ireland, of the Northern Ireland Court Service.]

[<sup>F17</sup>(7) For the purposes of this section, administrative functions exercisable by any person appointed as a member of the administrative staff of a relevant tribunal—

- (a) by a government department or authority to which this Act applies; or
- (b) with the consent (whether as to remuneration and other terms and conditions of service or otherwise) of such a department or authority,

shall be taken to be administrative functions of that department or authority.

(8) In subsection (7) of this section, “relevant tribunal” means a tribunal listed in Schedule 4 to this Act.

(9) Her Majesty may by Order in Council amend the said Schedule 4 by the alteration or removal of any entry or the insertion of any additional entry; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F18</sup>(9A) No entry shall be made in the said Schedule 4 in respect of the holder of any office in the Scottish Administration which is not a ministerial office or in respect of any Scottish public authority with mixed functions or no reserved functions within the meaning of the Scotland Act 1998.]

#### Textual Amendments

- F14** S. 5(2A) inserted (N.I.) (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 1(2), **Sch. 3**; S.R. 1999/81, **art. 3**
- F15** S. 5(5A)(5B) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 39(3)(a)**
- F16** S. 5(6) added by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 110(1)**
- F17** S. 5(7)-(9) inserted (5.9.1994) by 1994 c. 14, **ss. 1(1), 3(2)**
- F18** S. 5(9A) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 39(3)(b)**

#### Modifications etc. (not altering text)

- C10** S. 5 modified (1.10.1998) by 1998 c. 31, ss. 25, 145(3), **Sch. 5 para. 9** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**
- C11** S. 5(2)(a) extended by Fair Employment (Northern Ireland) Act 1976 (c. 25, SIF 43:1), **s. 58(2)(a)**
- C12** S. 5(2)(b) excluded by Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **s. 22**  
S. 5(2)(b) excluded (2.12.1999) by 1998 c. 47, **s. 78(2)(a)**; S.I. 1999/3209, art. 2, **Sch.**

## 6 Provisions relating to complaints.

(1) A complaint under this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—

- (a) a local authority or other authority or body constituted for purposes of the public service or of local government or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;

[<sup>F19</sup>(b) any other authority or body within subsection (1A) below.

(1A) An authority or body is within this subsection if—

- (a) its members are appointed by—
  - (i) Her Majesty;
  - (ii) any Minister of the Crown;

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- (iii) any government department;
  - (iv) the Scottish Ministers;
  - (v) the First Minister; or
  - (vi) the Lord Advocate, or
  - (b) its revenues consist wholly or mainly of—
    - (i) money provided by Parliament; or
    - (ii) sums payable out of the Scottish Consolidated Fund (directly or indirectly).]
- (2) Where the person by whom a complaint might have been made under the foregoing provisions of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Act unless made by the person aggrieved himself.
- (3) A complaint shall not be entertained under this Act unless it is made to a member of the House of Commons not later than twelve months from the day on which the person aggrieved first had notice of the matters alleged in the complaint; but the Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers that there are special circumstances which make it proper to do so.
- (4) [<sup>F20</sup>Except as provided in subsection (5) below] A complaint shall not be entertained under this Act unless the person aggrieved is resident in the United Kingdom (or, if he is dead, was so resident at the time of his death) or the complaint relates to action taken in relation to him while he was present in the United Kingdom or on an installation in a designated area within the meaning of the <sup>M2</sup>Continental Shelf Act 1964 or on a ship registered in the United Kingdom or an aircraft so registered, or in relation to rights or obligations which accrued or arose in the United Kingdom or on such an installation, ship or aircraft.
- [<sup>F21</sup>(5) A complaint may be entertained under this Act in circumstances not falling within subsection (4) above where—
- (a) the complaint relates to action taken in any country or territory outside the United Kingdom by an officer (not being an honorary consular officer) in the exercise of a consular function on behalf of the Government of the United Kingdom; and
  - (b) the person aggrieved is a citizen of the United Kingdom and Colonies who, under section 2 of the <sup>M3</sup>Immigration Act 1971, has the right of abode in the United Kingdom.]

#### Textual Amendments

**F19** S. 6(1)(b)(1A) substituted for s. 6(1)(b) (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 39(4)**

**F20** Words inserted by [Parliamentary Commissioner \(Consular Complaints\) Act 1981 \(c. 11, SIF 89\)](#), **s. 1.**

**F21** S. 6(5) inserted by [Parliamentary Commissioner \(Consular Complaints\) Act 1981 \(c. 11, SIF 89\)](#) s. 1.

#### Modifications etc. (not altering text)

**C13** S. 6(3) modified by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), **s. 10(4)**



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#### Marginal Citations

- M2** 1964 c. 29(86).  
**M3** 1971 c. 77(101A:1)

## 7 Procedure in respect of investigations.

- (1) Where the Commissioner proposes to conduct an investigation pursuant to a complaint under this Act, he shall afford to the principal officer of the department or authority concerned, and to any other person who is alleged in the complaint to have taken or authorised the action complained of, an opportunity to comment on any allegations contained in the complaint.
- (2) Every such investigation shall be conducted in private, but except as aforesaid the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case; and without prejudice to the generality of the foregoing provision the Commissioner may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and may determine whether any person may be represented, by counsel or solicitor or otherwise, in the investigation.
- (3) The Commissioner may, if he thinks fit, pay to the person by whom the complaint was made and to any other person who attends or furnishes information for the purposes of an investigation under this Act—
  - (a) sums in respect of expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time,in accordance with such scales and subject to such conditions as may be determined by the Treasury.
- (4) The conduct of an investigation under this Act shall not affect any action taken by the department or authority concerned, or any power or duty of that department or authority to take further action with respect to any matters subject to the investigation; but where the person aggrieved has been removed from the United Kingdom under any Order in force under the <sup>M4</sup>Aliens Restriction Acts 1914 <sup>M5</sup>and 1919 or under [<sup>F22</sup>the <sup>M6</sup>Immigration Act 1971], he shall, if the Commissioner so directs, be permitted to re-enter and remain in the United Kingdom, subject to such conditions as the Secretary of State may direct, for the purposes of the investigation.

#### Textual Amendments

- F22** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), [s. 17\(2\)\(a\)](#)

#### Modifications etc. (not altering text)

- C14** [S. 7](#) applied with modifications (S.) by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), [s. 95](#)

#### Marginal Citations

- M4** 1914 c. 12.  
**M5** 1919 c. 92(62).  
**M6** 1971 c. 77(62).

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## 8 Evidence.

- (1) For the purposes of an investigation under this Act the Commissioner may require any Minister, officer or member of the department or authority concerned or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.
- (2) For the purposes of any such investigation the Commissioner shall have the same powers as the Court in respect of the attendance and examination of witnesses (including the administration of oaths or affirmations and the examination of witnesses abroad) and in respect of the production of documents.
- (3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of an investigation under this Act; and the Crown shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (4) No person shall be required or authorised by virtue of this Act to furnish any information or answer any question relating to proceedings of the Cabinet or of any committee of the Cabinet or to produce so much of any document as relates to such proceedings; and for the purposes of this subsection a certificate issued by the Secretary of the Cabinet with the approval of the Prime Minister and certifying that any information, question, document or part of a document so relates shall be conclusive.
- (5) Subject to subsection (3) of this section, no person shall be compelled for the purposes of an investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in [<sup>F23</sup>civil] proceedings before the Court.

### Textual Amendments

**F23** Word inserted (E.W.) by [Civil Evidence Act 1968 \(c. 64, SIF 47\)](#), [s. 17\(1\)\(b\)](#)

### Modifications etc. (not altering text)

**C15** [S. 8](#) applied with modifications (S.) by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), [s. 95](#)

## 9 Obstruction and contempt.

- (1) If any person without lawful excuse obstructs the Commissioner or any officer of the Commissioner in the performance of his functions under this Act, or is guilty of any act or omission in relation to an investigation under this Act which, if that investigation were a proceeding in the Court, would constitute contempt of court, the Commissioner may certify the offence to the Court.
- (2) Where an offence is certified under this section, the Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the Court could deal with him if he had committed the like offence in relation to the Court.

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- (3) Nothing in this section shall be construed as applying to the taking of any such action as is mentioned in subsection (4) of section 7 of this Act.

**Modifications etc. (not altering text)**

**C16** S. 9 applied with modifications (S.) by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), s. 95

**10 Reports by Commissioner.**

- (1) In any case where the Commissioner conducts an investigation under this Act or decides not to conduct such an investigation, he shall send to the member of the House of Commons by whom the request for investigation was made (or if he is no longer a member of that House, to such member of that House as the Commissioner thinks appropriate) a report of the results of the investigation or, as the case may be, a statement of his reasons for not conducting an investigation.
- (2) In any case where the Commissioner conducts an investigation under this Act, he shall also send a report of the results of the investigation to the principal officer of the department or authority concerned and to any other person who is alleged in the relevant complaint to have taken or authorised the action complained of.
- (3) If, after conducting an investigation under this Act, it appears to the Commissioner that injustice has been caused to the person aggrieved in consequence of maladministration and that the injustice has not been, or will not be, remedied, he may, if he thinks fit, lay before each House of Parliament a special report upon the case.
- (4) The Commissioner shall annually lay before each House of Parliament a general report on the performance of his functions under this Act and may from time to time lay before each House of Parliament such other reports with respect to those functions as he thinks fit.
- (5) For the purposes of the law of defamation, any such publication as is hereinafter mentioned shall be absolutely privileged, that is to say—
- (a) the publication of any matter by the Commissioner in making a report to either House of Parliament for the purposes of this Act;
  - (b) the publication of any matter by a member of the House of Commons in communicating with the Commissioner or his officers for those purposes or by the Commissioner or his officers in communicating with such a member for those purposes;
  - (c) the publication by such a member to the person by whom a complaint was made under this Act of a report or statement sent to the member in respect of the complaint in pursuance of subsection (1) of this section;
  - (d) the publication by the Commissioner to such a person as is mentioned in subsection (2) of this section of a report sent to that person in pursuance of that subsection.

**11 Provision for secrecy of information.**

- (1) . . . . . F24

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- (2) Information obtained by the Commissioner or his officers in the course of or for the purposes of an investigation under this Act shall not be disclosed except—
- (a) for the purposes of the investigation and of any report to be made thereon under this Act;
  - (b) for the purposes of any proceedings for an offence under [<sup>F25</sup>the Official Secrets Acts 1911 to 1989] alleged to have been committed in respect of information obtained by the Commissioner or any of his officers by virtue of this Act or for an offence of perjury alleged to have been committed in the course of an investigation under this Act or for the purposes of an inquiry with a view to the taking of such proceedings; or
  - (c) for the purposes of any proceedings under section 9 of this Act;
- and the Commissioner and his officers shall not be called upon to give evidence in any proceedings (other than such proceedings as aforesaid) of matters coming to his or their knowledge in the course of an investigation under this Act.
- [<sup>F26</sup>(2A) Where the Commissioner also holds office as [<sup>F27</sup>Welsh Administration Ombudsman or] a Health Service Commissioner and a person initiates a complaint to him in his capacity as [<sup>F28</sup>Welsh Administration Ombudsman or a Health Service Commissioner] which relates partly to a matter with respect to which that person has previously initiated a complaint under this Act, or subsequently initiates such a complaint, information obtained by the Commissioner or his officers in the course of or for the purposes of investigating the complaint under this Act may be disclosed for the purposes of his carrying out his functions in relation to the other complaint.]
- (3) A Minister of the Crown may give notice in writing to the Commissioner, with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the Minister the disclosure of that document or information, or of documents or information of that class, would be prejudicial to the safety of the State or otherwise contrary to the public interest; and where such a notice is given nothing in this Act shall be construed as authorising or requiring the Commissioner or any officer of the Commissioner to communicate to any person or for any purpose any document or information specified in the notice, or any document or information of a class so specified.
- (4) The references in this section to a Minister of the Crown include references to the Commissioners of Customs and Excise and the Commissioners of Inland Revenue.
- [<sup>F29</sup>(5) Information obtained from the Information Commissioner by virtue of section 76(1) of the Freedom of Information Act 2000 shall be treated for the purposes of subsection (2) of this section as obtained for the purposes of an investigation under this Act and, in relation to such information, the reference in paragraph (a) of that subsection to the investigation shall have effect as a reference to any investigation.]

#### Textual Amendments

- F24** S. 11(1) repealed by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(4), [Sch. 2](#)
- F25** Words substituted by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(3), [Sch. 1 para. 1](#)
- F26** S. 11(2A) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 4(1)
- F27** Words in s. 11(2A) substituted (1.4.1999) by 1998 c. 38, ss. 125, 158, [Sch. 12 para. 7\(a\)](#) (with ss. 139(2), 143(2)); S.I. 1999/782, [art. 2](#)

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- F28** Words in s. 11(2A) substituted (1.4.1999) by 1998 c. 38, ss. 125, 158, **Sch. 12 para. 7(b)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F29** S. 11(5) inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), **Sch. 7 para. 1** (with ss. 56, 78)

**Modifications etc. (not altering text)**

- C17** S. 11 applied with modifications (S.) by **National Health Service (Scotland) Act 1978** (c. 29, SIF 113:2), **s. 95**
- C18** S. 11(2) excluded (S.) by **Local Government (Scotland) Act 1975** (c. 30, SIF 81:2), **s. 31(5)**
- C19** S. 11(2A) extended (1.7.1999) by S.I. 1999/1351, **arts. 1, 17(1)(b)**; S.I. 1998/3178, **art. 3**

**[<sup>F30</sup>11A Consultations between Parliamentary Commissioner and [<sup>F31</sup>other Commissioners or Ombudsmen].**

- (1) Where, at any stage in the course of conducting an investigation under this Act, the Commissioner forms the opinion that the complaint relates partly to a matter within the jurisdiction of [<sup>F32</sup>the Welsh Administration Ombudsman [<sup>F33</sup>, of the Social Housing Ombudsman for Wales][<sup>F34</sup>, the Scottish Public Services Ombudsman] or of the Health Service Commissioner for England [<sup>F35</sup>or Wales] , he shall—
- (a) unless he also holds [<sup>F36</sup>the office concerned], consult about the complaint with him; and
  - (b) if he considers it necessary, inform the person initiating the complaint under [<sup>F37</sup>the Government of Wales Act 1998 [<sup>F38</sup>, under regulations under section 51B of the Housing Act 1996 or under]] this Act of the steps necessary to initiate a complaint under [<sup>F39</sup>the Health Service Commissioners Act 1993 [<sup>F40</sup>, or the Scottish Public Services Ombudsman Act 2002] .]
- (2) Where by virtue of subsection (1) above the Commissioner consults with the [<sup>F41</sup>Welsh Administration Ombudsman [<sup>F42</sup>, the Social Housing Ombudsman for Wales][<sup>F43</sup>, the Scottish Public Services Ombudsman] or a] Health Service Commissioner in relation to a complaint under this Act, he may consult him about any matter relating to the complaint, including—
- (a) the conduct of any investigation into the complaint; and
  - (b) the form, content and publication of any report of the results of such an investigation.

[ Where an authority to which this Act applies is also a listed authority to which the <sup>F44</sup>(2A) Scottish Public Services Ombudsman Act 2002 applies, the Commissioner must co-operate with the Scottish Public Services Ombudsman to such an extent as appears appropriate when exercising any function in relation to that authority.]

- (3) Nothing in section 11(2) of this Act shall apply in relation to the disclosure of information by the Commissioner or any of his officers in the course of consultations held in accordance with this section].

**Textual Amendments**

- F30** S. 11A inserted by **Parliamentary and Health Service Commissioners Act 1987** (c. 39, SIF 89), **s. 4(2)**
- F31** Words in s. 11A sidenote substituted (14.7.2005 for W.) by **Housing Act 2004** (c. 34), ss. 265(1), 270, **Sch. 15 para. 1(2)**; S.I. 2005/1814, **art. 2(f)**
- F32** Words in s. 11A(1) substituted (1.7.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 8(2)(a)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

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- F33** Words in s. 11A(1) inserted (14.7.2005 for W. and otherwise prosp.) after "Ombudsman" by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 1(3)(a)**; S.I. 2005/1814, **art. 2(f)**
- F34** Words in s. 11A(1) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 5(3)(a)(i)**
- F35** Words in s. 11A(1) substituted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 5(3)(a)(ii)**
- F36** Words in s. 11A(1)(a) substituted (1.7.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 8(2)(b)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F37** Words in s. 11A(1)(b) substituted (1.7.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 8(2)(c)** (with ss. 139(2), 158(2)); S.I. 1999/1290, **art. 4**
- F38** Word in s. 11A(1)(b) substituted (14.7.2005 for W. and otherwise prosp.) by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 1(3)(b)**; S.I. 2005/1814, **art. 2(f)**
- F39** Words in s. 11A(1)(b) substituted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 1**
- F40** Words in s. 11A(1)(b) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 5(3)(a)(iii)**
- F41** Words in s. 11A(2) inserted (1.7.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 8(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F42** Words in s. 11A(2) inserted (14.7.2005 for W. and otherwise prosp.) after "Ombudsman" by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 1(4)**; S.I. 2005/1814, **art. 2(f)**
- F43** Words in s. 11A(2) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 5(3)(b)**
- F44** S. 11A(2A) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 5(3)(c)**

**Modifications etc. (not altering text)**

- C20** S. 11A extended (1.7.1999) by S.I. 1999/1351, **arts. 1, 17(1)(c)**; S.I. 1998/3178, **art. 3**

VALID FROM 01/08/2007

**<sup>F45</sup>11ZA Collaborative working between the Parliamentary Commissioner and other Commissioners**

- (1) If at any stage in the course of conducting an investigation under this Act the Commissioner forms the opinion that the complaint relates partly to a matter within the jurisdiction of—
- (a) the Health Service Commissioner for England,
  - (b) a Local Commissioner, or
  - (c) both,
- he may, subject to subsection (2) of this section, conduct an investigation under this Act jointly with that Commissioner or those Commissioners.
- (2) The Commissioner must obtain the consent of the person aggrieved or any person acting on his behalf in accordance with subsection (2) of section 6 of this Act before agreeing to a joint investigation referred to in subsection (1) of this section.
- (3) If the Commissioner forms the opinion that a complaint which is being investigated by—
- (a) the Health Service Commissioner for England,
  - (b) a Local Commissioner, or
  - (c) both,

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relates partly to a matter within his jurisdiction, he may, subject to subsection (4) of this section, conduct an investigation under this Act jointly with that Commissioner or those Commissioners.

- (4) The Commissioner may not investigate a complaint jointly with another person under subsection (3) of this section unless the complaint has been made in accordance with section 5 of this Act.
- (5) If the Commissioner conducts an investigation of a complaint jointly with another person, the requirements of section 10 (so far as relating to a case where the Commissioner conducts an investigation under this Act) may be satisfied by a report made jointly with that person.
- (6) Apart from identifying the government department or other authority concerned, a report prepared by virtue of subsection (5) of this section by the Commissioner and a Local Commissioner shall not—
  - (a) mention the name of any person, or
  - (b) contain any particulars which, in the opinion of the Commissioner and the Local Commissioner, are likely to identify any person,unless, after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, the Commissioner and the Local Commissioner consider it necessary to mention the name of that person or to include in the report any such particulars.
- (7) Nothing in subsection (6) of this section prevents a report—
  - (a) mentioning the name of, or
  - (b) containing particulars likely to identify,the Mayor of London or any member of the London Assembly.]

#### Textual Amendments

**F45** S. 11ZAA inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), [art. 2](#)

#### [<sup>F46</sup>11A] **Disclosure of information by Parliamentary Commissioner to Information Commissioner.**

- (1) The Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Commissioner under or for the purposes of this Act if the information appears to the Commissioner to relate to—
  - (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
    - (i) Part V of the Data Protection Act 1998 (enforcement),
    - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
    - (iii) Part IV of that Act (enforcement), or
  - (b) the commission of an offence under—
    - (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or

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(ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).

(2) Nothing in section 11(2) of this Act shall apply in relation to the disclosure of information in accordance with this section.]

#### Textual Amendments

**F46** S. 11AA inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), Sch. 7 para. 2 (with ss. 56, 78)

### [<sup>F47</sup>11B The Criminal Injuries Compensation Scheme.

(1) For the purposes of this Act, administrative functions exercisable by an administrator of the Criminal Injuries Compensation Scheme (“Scheme functions”) shall be taken to be administrative functions of a government department to which this Act applies.

(2) For the purposes of this section, the following are administrators of the Scheme—

- (a) a claims officer appointed under section 3(4)(b) of the Criminal Injuries Compensation Act 1995;
- (b) a person appointed under section 5(3)(c) of that Act;
- (c) the Scheme manager, as defined by section 1(4) of that Act, and any person assigned by him to exercise functions in relation to the Scheme.

(3) The principal officer in relation to any complaint made in respect of any action taken in respect of Scheme functions is—

- (a) in the case of action taken by a claims officer, such person as may from time to time be designated by the Secretary of State for the purposes of this paragraph;
- (b) in the case of action taken by a person appointed under section 5(3)(c) of the Act of 1995, the chairman appointed by the Secretary of State under section 5(3)(b) of that Act; or
- (c) in the case of action taken by the Scheme manager or by any other person mentioned in subsection (2)(c) of this section, the Scheme manager.

(4) The conduct of an investigation under this Act in respect of any action taken in respect of Scheme functions shall not affect—

- (a) any action so taken; or
- (b) any power or duty of any person to take further action with respect to any matters subject to investigation.]

#### Textual Amendments

**F47** S. 11B inserted (8.11.1995) by 1995 c. 53, s. 10(1)

#### Modifications etc. (not altering text)

**C21** S. 11B(3)(a) extended (1.7.1999) by S.I. 1999/1351, arts. 1, 17(1)(d); S.I. 1998/3178, art. 3



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## Supplemental

### 12 Interpretation.

- (1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—
  - “action” includes failure to act, and other expressions connoting action shall be construed accordingly;
  - “the Commissioner” means the Parliamentary Commissioner for Administration;
  - “the Court” means, in relation to England and Wales the High Court, in relation to Scotland the Court of Session, and in relation to Northern Ireland the High Court of Northern Ireland;
  - “enactment” includes an enactment of the Parliament of Northern Ireland, and any instrument made by virtue of an enactment;
  - “officer” includes employee;
  - “person aggrieved” means the person who claims or is alleged to have sustained such injustice as is mentioned in section 5(1)(a) of this Act;
  - “tribunal” includes the person constituting a tribunal consisting of one person.
- (2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.
- (3) It is hereby declared that nothing in this Act authorises or requires the Commissioner to question the merits of a decision taken without maladministration by a government department or other authority in the exercise of a discretion vested in that department or authority.

### 13 Application to Northern Ireland.

- (1) Subject to the provisions of this section, this Act extends to Northern Ireland.
- (2) Nothing in this section shall be construed as authorising the inclusion among the departments and authorities to which this Act applies of any department of the Government of Northern Ireland, or any authority [<sup>F48</sup>or body] established by or with the authority of the Parliament of Northern Ireland; but this Act shall apply to any such department [<sup>F49</sup>authority or body], in relation to any action taken by them as agent for a department or authority to which this Act applies, as it applies to the last-mentioned department or authority.
- (3) In section 6 of this Act the references to a Minister of the Crown or government department and to Parliament shall include references to a Minister or department of the Government of Northern Ireland and to the Parliament of Northern Ireland.
- (4) In section 8 of this Act the references to the Cabinet shall [<sup>F50</sup>include references to the Executive Committee of the Assembly, and in relation to that Committee for the reference to the Prime Minister there shall be substituted a reference to the First Minister and deputy First Minister acting jointly]

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#### Textual Amendments

- F48** Words inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), **s. 1(3)(a)(i)**
- F49** Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), **s. 1(3)(a)(ii)**
- F50** Words in s. 13(4) substituted (2.12.1999) by [S.I. 1999/663](#), arts. 1(2), 2(1), **Sch. 1 para. 14**; [1998 c. 47](#), **s. 3(1)**; [S.I. 1999/3208](#), **art. 2**

#### Modifications etc. (not altering text)

- C22** References to N.I. Prime Minister and Minister to be construed as references to Chief Executive member and heads of N.I. departments respectively: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), **Sch. 5 paras. 5, 7(2)**

## 14 Short title and commencement.

- (1) This Act may be cited as the Parliamentary Commissioner Act 1967.
- (2) This Act shall come into force on such date as Her Majesty may by Order in Council appoint.
- (3) A complaint under this Act may be made in respect of matters [<sup>F51</sup>whenever arising]; and for the purposes of subsection (3) of section 6 of this Act any time elapsing between the date of the passing and the date of the commencement of this Act (but not any time before the first of those dates) shall be disregarded.

#### Textual Amendments

- F51** Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), **s. 1(3)(b)**

#### Modifications etc. (not altering text)

- C23** 1.4.1967 appointed under s. 14(2) by [S.I. 1967/485](#)

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## SCHEDULES

### [<sup>F52</sup>SCHEDULE 1

Section 2.

#### PENSIONS AND OTHER BENEFITS

##### Textual Amendments

**F52** Sch. 1 (paras. 1-10) substituted (31.3.1995) for Sch. 1 (paras. 1-5) by 1993 c. 8, ss. 25, 31(2), **Sch. 4 Pt. II para.2**; S.I. 1995/631, **art. 2**

##### Modifications etc. (not altering text)

**C24** Sch. 1 (as substituted by 1993 c. 8) extended (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), **Sch. 1 para.7**  
Sch. 1 (as substituted by 1993 c. 8) modified (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), Sch. 1 paras.8, **9(5)**  
Sch. 1 (as substituted by 1993 c. 8): power to modify conferred (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), **Sch. 1 para. 9(2)**  
Sch. 1 (as substituted by 1993 C. 8): functions transferred (1.4.1995) by 1995/269, art. 3, Sch. para. 3

##### *Persons taking office after the appointed day*

1 A person who first holds office as the Commissioner on or after the appointed day shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—

- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
- (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
- (c) the scheme of pensions and other benefits applicable under section 1 of the Superannuation Act 1972 to the civil service of the State (“the civil service scheme”);

and, if he is not entitled to make an election under this paragraph, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

##### Modifications etc. (not altering text)

**C25** Sch. 1 paras. 1, 2 (as substituted by 1993 c. 8) restricted (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), **Sch. 1 para. 9(3)**

##### *Transitional provision for persons appointed before the appointed day*

2 (1) If a person who held the office of Commissioner before the appointed day has made an election under the former enactments for the old judicial scheme, he shall be entitled to make an election under this sub-paragraph between—

- (a) the old judicial scheme; and

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(b) the 1993 scheme;

and, if he fails to make an election under this sub-paragraph, he shall be taken to have elected for the old judicial scheme.

(2) If a person who held the office of Commissioner before the appointed day—

(a) has made an election under the former enactments for the civil service scheme, or

(b) has failed to make an election under those enactments (so that he is taken to have elected for the civil service scheme),

he shall be treated as if he had been entitled to make an election under this Schedule and had elected for the civil service scheme.

**Modifications etc. (not altering text)**

**C26** Sch. 1 paras. 1, 2 (as substituted by 1993 c. 8) restricted (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), Sch. 1 para. 9(3)

*Effect of election to continue in former scheme*

3 Where a person elects under this Schedule for his former scheme, that scheme shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service which was subject, in his case, to that scheme.

*Effect of election for the 1993 scheme*

4 (1) A person who elects under paragraph 1(b) or 2(1)(b) above for the 1993 scheme, shall be entitled, when he ceases to hold office as Commissioner, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

(a) he has attained the age of 65; or

(b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this Schedule, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Commissioner as they apply in relation to a person to whom Part I of that Act applies.

(2) Subject to regulations under this Schedule, in the application of provisions of the 1993 Act by virtue of sub-paragraph (1) above, a person who elects for the 1993 scheme shall be treated—

(a) as if the office of Commissioner were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;

(b) as if his election under this Schedule were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);

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- (c) as if his pension by virtue of this Schedule were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Commissioner, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of sub-paragraph (1) above, to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of sub-paragraph (1)(b) above, had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Commissioner (whether by virtue of paragraph 1(a) or (b) or 2(1)(b) above) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

**Modifications etc. (not altering text)**

C27 Sch. 1 para. 4 (as substituted by 1993 c. 8) modified (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), Sch. 1 para. 9(2)

*Effect of election for, or to continue in, the civil service scheme*

- 5 Where a person elects under this Schedule for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service in employment in the civil service of the State.

*Effect of election to continue in the old judicial scheme*

- 6 Where a person elects under this Schedule for the old judicial scheme, that scheme and the former enactments shall, subject to regulations under this Schedule, continue to have effect in relation to him and his service in the office of Commissioner.

*Time for, and manner of, election*

- 7 Any power to make an election under this Schedule shall be exercisable within such time and in such manner as may be prescribed in regulations under this Schedule.

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### *Regulations*

- 8 (1) The Treasury may make regulations for purposes supplementary to the other provisions of this Schedule.
- (2) Any such regulations may, without prejudice to section 38 or 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
- (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,
- applies, or has applied, in respect of any service other than service as Commissioner.
- (3) The provision that may be made by virtue of sub-paragraph (2) above includes provision—
- (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Commissioner, or
    - (ii) service as Commissioner with such other service,
 for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i) above, in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Commissioner, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.
- (4) Any statutory instrument made by virtue of this Schedule shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### **Modifications etc. (not altering text)**

**C28** Sch. 1 para. 8 (as substituted by 1993 c. 8) modified (5.2.1994) by 1993 c. 46, ss. 1(3), 22(4), Sch. 1 paras. 9(2), **10(b)**

### *Pensions and benefits to be charged on the Consolidated Fund*

- 9 Any pension or other benefit granted by virtue of this Schedule shall be charged on, and issued out of, the Consolidated Fund.

### *Interpretation*

- 10 In this Schedule—
- “the 1981 Act” means the Judicial Pensions Act 1981;
  - “the 1993 Act” means the Judicial Pensions and Retirement Act 1993;
  - “the appointed day” means the day on which Part II of Schedule 4 to the 1993 Act comes into force;

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“the former enactments” means Schedule 1 to this Act, as it had effect from time to time before the appointed day;

“judicial pension scheme” means any public service pension scheme, as defined in—

- (a) [<sup>F53</sup>section 1 of the Pension Schemes Act 1993], or
- (b) [<sup>F54</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993],

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the statutory scheme of pensions and other benefits applicable under or by virtue of the 1981 Act to the judicial offices listed in section 1 of that Act.]

#### Textual Amendments

- F53** Sch. 1 para. 10: Words in definition substituted (7.2.1994) by 1993 c. 48, ss. 190, 193(2), Sch. 8 para.1; S. I. 1994/86, art. 2
- F54** Sch. 1 para. 10: Words in definition substituted (7.2.1994) by 1993 c. 49, ss. 184, 186(2), Sch. 7 para.7; S.R. 1994/17, art. 2

## <sup>F55</sup>SCHEDULE 2

Section 4

### DEPARTMENTS ETC. SUBJECT TO INVESTIGATION

#### Textual Amendments

- F55** Sch. 2 substituted (20.1.2006) by The Parliamentary Commissioner (No. 2) Order 2005 (S.I. 2005/3430), art. 2, Sch.

<sup>X1</sup>Adult Learning Inspectorate.  
Administration of Radioactive Substances Advisory Committee.  
Advisory Board on the Registration of Homeopathic Products.  
Advisory Committee on Borderline Substances.  
Advisory Committee on Clinical Excellence Awards.  
Advisory Committee on Dangerous Pathogens.  
Advisory Committee on Novel Foods and Processes.  
Advisory, Conciliation and Arbitration Service.  
Advisory Council on Historical Manuscripts.  
Advisory Council on National Records and Archives.  
Advisory Council on Public Records.  
Advisory Group on Hepatitis.  
Advisory Panel on Beacon Councils.  
Advisory Panel on Standards for the Planning Inspectorate.  
Agricultural Dwelling House Advisory Committees.  
Agricultural Wages Board for England and Wales.

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Agricultural wages committees.  
Alcohol Education and Research Council.  
[<sup>F56</sup>Appeal Officer for Community Interest Companies.]  
Arts and Humanities Research Council.  
Arts Council of England.  
The Director of the Assets Recovery Agency.  
Authorised Conveyancing Practitioners Board.  
Biotechnology and Biological Sciences Research Council.  
Board of Trade.  
Boundary Commission for England.  
Boundary Commission for Northern Ireland.  
Boundary Commission for Scotland.  
Boundary Commission for Wales.  
British Association for Central and Eastern Europe.  
British Council.  
British Educational Communications and Technology Agency.  
British Film Institute.  
British Hallmarking Council.  
British Library Board.  
British Museum.  
British Pharmacopoeia Commission.  
British Potato Council.  
British Tourist Authority.  
Building Regulations Advisory Committee.  
Cabinet Office.  
Council for the Central Laboratory of the Research Councils.  
Central Bureau for Educational Visits and Exchanges.  
Central Office of Information.  
Central Police Training and Development Authority.  
The Certification Officer.  
Charity Commission.  
The Chief Inspector of Criminal Justice for Northern Ireland.  
Children and Family Court Advisory and Support Service.  
Civil Aviation Authority.  
Civil Justice Council.  
Coal Authority.  
Commission for Architecture and the Built Environment.  
Commission for Healthcare Audit and Inspection.  
Commission for the New Towns.  
Commission for Patient and Public Involvement in Health.  
Commission for Racial Equality.  
Commission for Social Care Inspection.  
Committee on the Biological Safety of Blood and Tissues for Transplantation.  
Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment.



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Committee on the Medical Aspects of Air Pollutants.  
Committee on Medical Aspects of Radiation in the Environment.  
Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment.  
Committee on the Safety of Devices.  
Committee on the Safety of Medicines.  
Committee on Standards in Public Life.  
Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment.  
Commonwealth Scholarship Commission in the United Kingdom.  
Community Development Foundation.  
Competition Commission.  
Construction Industry Training Board.  
Consumer Council for Postal Services.  
[<sup>F57</sup>Consumer Council for Water.]  
Countryside Agency.  
Crown Estate Office.  
Culture East Midlands.  
Culture North East.  
Culture North West.  
Culture South East.  
Culture South West.  
Dental Vocational Training Authority.  
Department for Constitutional Affairs.  
Department for Culture, Media and Sport.  
Department for Education and Skills.  
Department for Environment, Food and Rural Affairs.  
Department of Health.  
Department for International Development.  
Department of Trade and Industry.  
Department for Transport.  
Department for Work and Pensions.  
Design Council.  
Disability Rights Commission.  
Disabled Persons Transport Advisory Committee.  
Economic and Social Research Council.  
Electoral Commission.  
Engineering Construction Industry Training Board  
Engineering and Physical Sciences Research Council.  
English Nature.  
English Sports Council.  
English Tourist Board.  
Environment Agency.  
Equal Opportunities Commission.  
Expert Advisory Group on AIDS.  
Export Credits Guarantee Department.

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The Director of Fair Access to Higher Education.  
Fleet Air Arm Museum.  
Food from Britain.  
Food Standards Agency.  
Football Licensing Authority.  
Foreign and Commonwealth Office.  
Forestry Commission.  
[<sup>F59</sup>Gambling Commission.]  
Gangmasters Licensing Authority.  
Gas and Electricity Consumer Council.  
Gas and Electricity Markets Authority.  
Geffrye Museum.  
Gene Therapy Advisory Committee.  
General Social Care Council.  
Genetics and Insurance Committee.  
Government Actuary's Department.  
The Great Britain-China Centre.  
Health and Safety Commission.  
Health and Safety Executive.  
Health Protection Agency.  
[<sup>F60</sup>Her Majesty's Revenue and Customs]  
Her Majesty's Stationery Office.  
Her Majesty's Treasury.  
Higher Education Funding Council for England.  
Historic Buildings and Monuments Commission for England.  
Historic Royal Palaces.  
Home-Grown Cereals Authority.  
Home Office.  
Horniman Museum and Gardens.  
Horseshoe Betting Levy Board.  
Horticultural Development Council.  
Housing Corporation.  
Human Fertilisation and Embryology Authority.  
Human Genetics Commission.  
[<sup>F61</sup>Human Tissue Authority.]  
The Immigration Services Commissioner.  
Imperial War Museum.  
Independent Advisory Group on Sexual Health and HIV.  
Independent Reconfiguration Panel.  
The Independent Regulator of NHS Foundation Trusts.  
Independent Review Body for the Advertising of Medicines.  
Independent Review Panel on the Classification of Borderline Medicines.  
Independent Scientific Group on Cattle TB.  
The Information Commissioner.  
Investors in People UK.

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Joint Committee on Vaccination and Immunisation.  
Joint Nature Conservation Committee.  
Land Registry.  
Learning and Skills Council for England.  
Legal Services Commission.  
The Legal Services Complaints Commissioner.  
The following general lighthouse authorities—  
    (a) the Corporation of the Trinity House of Deptford Strond;  
    (b) the Commissioners of Northern Lighthouses.  
Living East.  
The Lord President of the Council's Office.  
Marshall Aid Commemoration Commission.  
Meat and Livestock Commission.  
Medical Research Council.  
Medical Workforce Standing Advisory Committee.  
Medicines Commission.  
Milk Development Council.  
Millennium Commission.  
Ministry of Defence.  
Museum of London.  
Museum of Science and Industry in Manchester.  
Museums, Archives and Libraries Council.  
National Army Museum.  
National Biological Standards Board (UK).  
National Community Forum.  
National Consumer Council.  
National Employer Advisory Board.  
National Endowment for Science, Technology and the Arts.  
National Forest Company.  
National Gallery.  
National Health Service-wide Clearing Service.  
National Heritage Memorial Fund.  
National Lottery Charities Board.  
National Lottery Commission.  
National Maritime Museum.  
National Museum of Science and Industry.  
National Museums and Galleries on Merseyside.  
National Portrait Gallery.  
National Specialist Commissioning Advisory Group.  
Natural Environment Research Council.  
Natural History Museum.  
New Opportunities Fund.  
Northern Ireland Court Service.  
Northern Ireland Human Rights Commission.  
Northern Ireland Legal Services Commission.

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Northern Ireland Office.  
Northern Ireland Policing Board.  
Nuclear Decommissioning Authority.  
Nutrition Forum.

### Editorial Information

- X1** Sch. 2: this version of this provision contains details of amendments coming into force on or after 1.4.2005 and before 20.1.2006 (repealed text is retained). For previous amendment history, please refer to the earlier version.

### Textual Amendments

- F56** Sch. 2: entry inserted (1.7.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), ss. 28, 65, **Sch. 4 para. 5**; S.I. 2004/3322, **art. 2(3)**, Sch. 3 (with arts. 3-13)
- F57** Sch. 2: entry inserted (1.10.2005) by Water Act 2003 (c. 37), ss.101(1), 105(3), **Sch. 7 para. 18(a)**; S.I. 2005/2714, **art. 2(1)(ii)**
- F58** Sch. 2: entry repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), Sch. 4 para. 10(a), **Sch. 5**; S.I. 2005/1126, **art. 2(2)(h)(i)**
- F59** Sch. 2: entry substituted (1.10.2005) by Gambling Act 2005 (c. 19), ss. 356, 358, **Sch. 16 para. 5**; S.I. 2005/2455, **art. 2(1)**, Sch.
- F60** Sch. 2: entry inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 10(c)**; S.I. 2005/1126, **art. 2(2)(h)**
- F61** Sch. 2: entry inserted (1.4.2005) by Human Tissue Act 2004 (c. 30), ss. 13, 60, **Sch. 2 para. 24** (with ss. 37(7), 58); S.I. 2005/919, **art. 3**, Sch. (with art. 2)
- F62** Sch. 2: entry repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), Sch. 4 para. 10(b), **Sch. 5**; S.I. 2005/1126, **art. 2(2)(h)(i)**
- F63** Sch. 2: entry omitted (28.11.2005) by virtue of The Railways Infrastructure (Access and Management) Regulations 2005 (S.I. 2005/3049), reg. 2(4), **Sch. 1 para. 1**
- F64** Sch. 2: entry repealed (1.4.2005) by Health Protection Agency Act 2004 (c. 17), ss. 11, 12, **Sch. 4**; S.I. 2005/121, **art. 2(2)**
- F65** Sch. 2: entry repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 320, 322, **Sch. 13**; S.I. 2005/ 275, {art. 2(7)}, Sch. Pt. 7 (subject to art. 2(12))
- F66** Sch. 2: entry inserted (8.7.2005) by Horserace Betting and Olympic Lottery Act 2004 (c. 25), ss. 29, 40, **Sch. 5 para. 10**; S.I. 2005/1831, **art. 2**
- F67** Sch. 2: entry repealed (1.9.2005) by Pensions Act 2004 (c. 35), ss. 320, 322, **Sch. 13**; S.I. 2005/1720, **art. 2(16)**, Sch. Pt. 3 (with art. 4)
- F68** Sch. 2: entry inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. ss. 3, 322, {Sch. 1 para. 33}; S.I. 2005/275, **art. 2(7)**, Sch. Pt. 7 (subject to art. 2(12))
- F69** Sch. 2: entry repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 59, 60, **Sch. 13** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art. 2**, Sch.
- F70** Sch. 2: entry repealed (1.9.2005) by Education Act 2005 (c. 18), ss. 123, 125, **Sch. 19 Pt. 3**
- F71** Sch. 2: entry inserted (1.9.2005) by Education Act 2005 (c. 18), ss. 98, 125, **Sch. 14 para. 2**

## NOTES

### General

In relation to any function exercised on behalf of the Crown by a department or authority to which this Act applies which was previously exercisable on behalf of the Crown by a department or authority to which this Act does not apply, the reference to the department or authority to which this Act applies includes a reference to the other department or authority if the other department or authority—

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- (a) ceased to exercise the function before the commencement of this Act; or
- (b) where it exercised the function after the commencement of this Act, did so only when it was a department or authority to which this Act applied.

#### *Assets Recovery Agency*

In the case of the Director of the Assets Recovery Agency an investigation may be conducted only in respect of the exercise of functions vested in him by virtue of a notice served on the Commissioners of Inland Revenue under section 317(2), 321(2) or 322(2) of the Proceeds of Crime Act 2002 <sup>F72</sup>(Inland Revenue functions).

#### **Textual Amendments**

**F72** 2002 c. 29.

#### **Textual Amendments**

**F72** 2002 c. 29.

#### *Cabinet Office*

The reference to the Cabinet Office does not include any of the Secretariats, the Joint Intelligence Organisation or the office of the Secretary of the Cabinet and Head of the Home Civil Service, but includes the executive agencies of the Cabinet Office and the office of any Minister whose expenses are defrayed out of moneys provided by Parliament for the service of the Cabinet Office.

#### *Commission for the New Towns*

In the case of the Commission for the New Towns no investigation is to be conducted in respect of any action in connection with functions in relation to housing.

#### *Department for Constitutional Affairs*

The reference to the Department for Constitutional Affairs includes the Lord Chancellor's Department and the Public Trustee.

#### *Environment Agency*

The reference to the Environment Agency is a reference to that Agency in relation to all its functions other than its flood defence functions, within the meaning of the Water Resources Act 1991 <sup>F73</sup>; and no investigation is to be conducted in respect of any action in connection with functions of the Environment Agency in relation to Wales (within the meaning of the Government of Wales Act 1998 <sup>F74</sup>).

#### **Textual Amendments**

**F73** 1991 c. 57; section 221(1) substituted by the Environment Act 1995, s 120(1), Sch 22, para 177(1), (7).

**F74** 1998 c. 38.

#### **Textual Amendments**

**F73** 1991 c. 57; section 221(1) substituted by the Environment Act 1995, s 120(1), Sch 22, para 177(1), (7).

**F74** 1998 c. 38.

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### *Forestry Commission*

In the case of the Forestry Commission no investigation is to be conducted in respect of any action in connection with functions of the Forestry Commissioners in relation to Wales (within the meaning of the Government of Wales Act 1998).

### *Government Actuary's Department*

In the case of the Government Actuary's Department an investigation may be conducted only in respect of the giving of advice by the Government Actuary's Department on or before 26 April 2001 relating to the exercise of functions under—

- (a) Part 2 of the Insurance Companies Act 1982 <sup>F75</sup>, or
- (b) any other enactment relating to the regulation of insurance companies within the meaning of that Act.

#### **Textual Amendments**

**F75** 1982 c. 50; repealed by S.I. 2001/3649.

#### **Textual Amendments**

**F75** 1982 c. 50; repealed by S.I. 2001/3649.

### *Health Protection Agency*

In the case of the Health Protection Agency <sup>F76</sup> no investigation is to be conducted in relation to any action taken by or on behalf of that Agency in the exercise in or as regards Scotland of any function to the extent that the function is exercisable within devolved competence (within the meaning of section 54 of the Scotland Act 1998 <sup>F77</sup>).

#### **Textual Amendments**

**F76** At the date on which this Order was made, section 1 of the Health Protection Agency Act 2004 which establishes this agency was not in force.

**F77** 1998 c. 46.

#### **Textual Amendments**

**F76** At the date on which this Order was made, section 1 of the Health Protection Agency Act 2004 which establishes this agency was not in force.

**F77** 1998 c. 46.

### *HM Treasury*

The reference to Her Majesty's Treasury includes its subordinate departments and the office of any Minister whose expenses are defrayed out of moneys provided by Parliament for the service of Her Majesty's Treasury.

### *Corporation of the Trinity House of Deptford Strond*

In the case of the Corporation of the Trinity House of Deptford Strond an investigation may be conducted only in respect of action in connection with its functions as a general lighthouse authority.

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### *Lord President of the Council's Office*

The reference to the Lord President of the Council's Office does not include the Privy Council Office.

### *Ministry of Defence*

The reference to the Ministry of Defence includes the Defence Council, the Admiralty Board, the Army Board and the Air Force Board.

### *Treasury Solicitor*

The reference to the Treasury Solicitor does not include a reference to Her Majesty's Procurator General.

### *Urban Development Corporation*

In the case of an urban development corporation no investigation is to be conducted in respect of any action in connection with functions in relation to town and country planning.

### *Urban Regeneration Agency*

In the case of the Urban Regeneration Agency no investigation is to be conducted in respect of any action in connection with functions in relation to town and country planning.

## SCHEDULE 3

### MATTERS NOT SUBJECT TO INVESTIGATION

- 1 Action taken in matters certified by a Secretary of State or other Minister of the Crown to affect relations or dealings between the Government of the United Kingdom and any other Government or any international organisation of States or Governments.
- 2 Action taken, in any country or territory outside the United Kingdom, by or on behalf of any officer representing or acting under the authority of Her Majesty in respect of the United Kingdom, or any other officer of the Government of the United Kingdom [<sup>F78</sup>other than action which is taken by an officer (not being an honorary consular officer) in the exercise of a consular function on behalf of the government of the United Kingdom . . . <sup>F79</sup>.]

#### Textual Amendments

**F78** Words added by S.I. 1979/915, art. 2

**F79** Words repealed by S.I. 1988/1985, art. 2

- 3 Action taken in connection with the administration of the government of any country or territory outside the United Kingdom which forms part of Her Majesty's dominions or in which Her Majesty has jurisdiction.

[<sup>F80</sup>4 Action taken by the Secretary of State under the Extradition Act 2003.]

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#### Textual Amendments

**F80** Sch. 3 para. 4 substituted (1.1.2004) by Extradition Act 2003 (c. 41), ss. 219, 221, **Sch. 3 para. 2**; S.I. 2003/3103, **art. 2** (subject to savings in Order)

#### Modifications etc. (not altering text)

**C29** Para. 4 extended by Fugitive Offenders Act 1967 (c. 68, SIF 48), **s. 21(4)**

5 Action taken by or with the authority of the Secretary of State for the purposes of investigating crime or of protecting the security of the State, including action so taken with respect to passports.

#### Modifications etc. (not altering text)

**C30** Sch. 3 para. 5 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(a)**

6 The commencement or conduct of civil or criminal proceedings before any court of law in the United Kingdom, of proceedings at any place under the<sup>M7</sup>Naval Discipline Act 1957, the<sup>M8</sup>Army Act 1955 or the<sup>M9</sup>Air Force Act 1955, or of proceedings before any international court or tribunal.

#### Marginal Citations

**M7** 1957 c. 53(7:1).

**M8** 1955 c. 18(7:1).

**M9** 1955 c. 19(7:1).

[<sup>F81</sup>6A Action taken by any person appointed by the Lord Chancellor as a member of the administrative staff of any court or tribunal, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in a judicial capacity or in his capacity as a member of the tribunal.]

#### Textual Amendments

**F81** Sch. 3 para. 6A inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 110(2)**

[<sup>F82</sup>6B (1) Action taken by any member of the administrative staff of a relevant tribunal, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as a member of the tribunal.

(2) In this paragraph, “relevant tribunal” has the meaning given by section 5(8) of this Act.]

#### Textual Amendments

**F82** Sch. 3 para. 6B inserted (5.9.1994) by 1994 c. 14, **ss. 1(2), 3(2)**

#### Modifications etc. (not altering text)

**C31** Sch. 3 para. 6B(2) extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(b)**



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[<sup>F83</sup>6C Action taken by any person appointed under section 5(3)(c) of the Criminal Injuries Compensation Act 1995, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as an adjudicator appointed under section 5 of that Act to determine appeals.]

#### Textual Amendments

**F83** Sch. 3 para. 6C inserted (8.11.1995) by 1995 c. 53, s. 10(2)(3)

7 Any exercise of the prerogative of mercy or of the power of a Secretary of State to make a reference in respect of any person to <sup>F84</sup> . . . the High Court of Justiciary or the Courts-Martial Appeal Court.

#### Textual Amendments

**F84** Sch. 3 para. 7: words repealed (31.3.1997) by 1995 c. 35, s. 29(2), Sch. 3; S.I. 1997/402, arts. 3(f), 4.

#### Modifications etc. (not altering text)

**C32** Sch. 3 para. 7 extended (13.5.1999) by S.I. 1999/1351, art. 9(6)(a)

**C33** Sch. 3 para. 7 continued (28.2.1999) by S.I. 1999/652, art. 3(2)

8 [<sup>F85</sup>(1)] Action taken on behalf of the Minister of Health or the Secretary of State by [<sup>F86</sup>a Strategic Health Authority,][<sup>F87</sup>a Health Authority, a Primary Care Trust, a Special Health Authority][<sup>F88</sup>except the Rampton Hospital Review Board][<sup>F89</sup> . . . <sup>F90</sup> the Rampton Hospital Board], [<sup>F91</sup>the Broadmoor Hospital Board or the Moss Side and Park Lane Hospitals Board,][<sup>F92</sup> . . . a Health Board or the Common Services Agency for the Scottish Health Service][<sup>F93</sup>by the Dental Practice Board or the Scottish Dental Practice Board]. . . .

[<sup>F94</sup>(2) For the purposes of this paragraph, action taken by a [<sup>F95</sup>Strategic Health Authority,] Health Authority, Special Health Authority or Primary Care Trust in the exercise of functions of the Secretary of State shall be regarded as action taken on his behalf.]

#### Textual Amendments

**F85** Sch. 3 para. 8 renumbered (8.2.2000) as Sch. 3 para. 8(1) by S.I. 2000/90, art. 3(1), Sch. 1 para. 5 (with art. 2(5))

**F86** Words in Sch. 3 para. 8(1) inserted (1.10.2002) by S.I. 2002/2469, reg. 4, Sch. 1 Pt. 1 para. 3(a) (with reg. 2(4))

**F87** Words in Sch. 3 para. 8 substituted (8.2.2000) by S.I. 2000/90, art. 3(1), Sch. 1 para. 5(a) (with art. 2(5))

**F88** Words inserted by S.I. 1981/736, art. 2

**F89** Words inserted by S.I. 1986/1168, art. 2

**F90** Word repealed by S.I. 1987/661, art. 2(a)

**F91** Words inserted by S.I. 1987/661, art. 2(b)

**F92** Sch. 3 para. 8: words repealed (28.6.1995) by 1995 c. 17, s. 5(1), Sch. 3

**F93** Words in Sch. 3 para. 8 inserted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), Sch. 2 para. 2

**F94** Sch. 3 para. 8(2) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), Sch. 1 para. 5(b) (with art. 2(5))

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**F95** Words in Sch. 3 para. 8(2) inserted (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 Pt. 1 para. 3(b)** (with reg. 2(4))

**Modifications etc. (not altering text)**

**C34** Sch. 3 para. 8 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(a)**

- 9 Action taken in matters relating to contractual or other commercial transactions, whether within the United Kingdom or elsewhere, being transactions of a government department or authority to which this Act applies or of any such authority or body as is mentioned in paragraph (a) or (b) of subsection (1) of section 6 of this Act and not being transactions for or relating to—
- (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
  - (b) the disposal as surplus of land acquired compulsorily or in such circumstances as aforesaid.

**Modifications etc. (not altering text)**

**C35** Sch. 3 para. 9 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(c)**

- 10<sup>[F96]</sup>(1) Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters, in relation to—
- (a) service in any of the armed forces of the Crown, including reserve and auxiliary and cadet forces;
  - (b) service in any office or employment under the Crown or under any authority <sup>[F97]</sup>to which this Act applies]; or
  - (c) service in any office or employment, or under any contract for services, in respect of which power to take action, or to determine or approve the action to be taken, in such matters is vested in Her Majesty, any Minister of the Crown or any such authority as aforesaid.
- <sup>[F98]</sup>(2) Sub-paragraph (1)(c) above shall not apply to any action (not otherwise excluded from investigation by this Schedule) which is taken by the Secretary of State in connection with:—
- (a) the provision of information relating to the terms and conditions of any employment covered by an agreement entered into by him under section 12(1) of the <sup>M10</sup>Overseas Development and Co-operation Act 1980 <sup>[F99]</sup>or pursuant to the exercise of his powers under Part I of the International Development Act 2002] or
  - (b) the provision of any allowance, grant or supplement or any benefit (other than those relating to superannuation) arising from the designation of any person in accordance with such an agreement.]

**Textual Amendments**

**F96** Sch. 3 para. 10 renumbered as Sch. 3 para. 10(1) by S.I. 1983/1707, **art. 2(a)**

**F97** Words substituted by Parliamentary and Health Service Commissioners Act 1987 (c. 39 SIF 89), s. 1(3)(c)

**F98** Sch. 3 para. 10(2) inserted by S.I. 1983/1707, **art. 21(b)**

**F99** Words in Sch. 3 para. 10(2)(a) inserted (17.6.2002) by 2002 c. 1, s. 19, **Sch. 3 para. 2**; S.I. 2002/1408, **art. 2**

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**Modifications etc. (not altering text)**

**C36** Sch. 3 para. 10 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(c)**

**Marginal Citations**

**M10** 1980 c. 63(88).

11 The grant of honours, awards or privileges within the gift of the Crown, including the grant of Royal Charters.

VALID FROM 03/04/2006

[<sup>F100</sup>12(1) Action not otherwise within this Schedule which is taken in the course of administrative functions exercised at the direction, or on the authority (whether express or implied), of a judge of any court established under the law of England and Wales or Northern Ireland.

(2) In this paragraph “judge” includes—

- (a) a person appointed under section 89 of, and Part 2 or 3 of Schedule 2 to, the Supreme Court Act 1981, and
- (b) a Master or District Judge appointed under section 70 of, and Schedule 3 to, the Judicature (Northern Ireland) Act 1978.]

**Textual Amendments**

**F100** Sch. 3 para. 12 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 145, 148, **Sch. 17 para. 6(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 28

SCHEDULE 4

Section 5(8)

RELEVANT TRIBUNALS FOR THE PURPOSES OF SECTION 5(7)

Adjudicators appointed under article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002 <sup>F101</sup>.

Agricultural Land Tribunals constituted under section 73 of the Agriculture Act 1947 <sup>F102</sup>.

Appeal tribunals constituted under Chapter 1 of Part 1 of the Social Security Act 1998 <sup>F103</sup>.

The appeal tribunal established for Scotland under section 29 of the Betting, Gaming and Lotteries Act 1963 <sup>F104</sup> which is known as the Horserace Betting Levy Appeal Tribunal for Scotland.

Tribunals of Appeal constituted under section 109 of the London Building Acts (Amendment) Act 1939 <sup>F105</sup>.

Care Standards Tribunal constituted under section 9 of the Protection of Children Act 1999 <sup>F106</sup>.

Central Arbitration Committee constituted under section 259 of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>F107</sup>.

Commons Commissioners constituted under section 17 of the Commons Registration Act 1965 <sup>F108</sup>.

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Competition Appeal Tribunal constituted under section 12 of the Enterprise Act 2002 <sup>F109</sup>.  
 Copyright Tribunal constituted under section 145 of the Copyright, Designs and Patents Act 1988 <sup>F110</sup>.

Dairy Produce Quota Tribunal for England and Wales constituted under regulation 7 of, and the Schedule to, the Dairy Produce Quotas (General Provisions) Regulations 2002 <sup>F111</sup>.

Dental Vocational Training Authority Appeal body established under regulation 5B National Health Service (General Dental Services) Regulations 1992 <sup>F112</sup>.

Employment Tribunals (England and Wales) and Employment Tribunals (Scotland) established under regulation 5 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 <sup>F113</sup>.

Employment Appeal Tribunal continued in existence under section 20 of the Employment Tribunals Act 1996 <sup>F114</sup>.

Financial Services and Markets Tribunal constituted under section 132 of the Financial Services and Markets Act 2000 <sup>F115</sup>.

Foreign Compensation Commission constituted under section 1 of the Foreign Compensation Act 1950 <sup>F116</sup>.

Horserace Betting Levy Appeal Tribunal for England and Wales constituted under section 29 of the Betting, Gaming and Lotteries Act 1963 <sup>F117</sup>.

Information Tribunal constituted under section 6 of the Data Protection Act 1998 <sup>F118</sup>.

Insolvency Practitioners Tribunal referred to in section 396 of the Insolvency Act 1986 <sup>F119</sup>.

Meat Hygiene Appeals Tribunal constituted under—

regulation 6(2) of, and Schedule 15 to, the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 <sup>F120</sup>,

regulation 6(2) of, and Schedule 21 to, the Fresh Meat (Hygiene and Inspection) Regulations 1995 <sup>F121</sup>, or

regulation 5(2) of, and Schedule 12 to, the Wild Game Meat (Hygiene and Inspection) Regulations 1995 <sup>F122</sup>.

Mental Health Review Tribunals constituted under section 65 of, and Schedule 2 to, the Mental Health Act 1983 <sup>F123</sup>.

Misuse of Drugs Advisory Body constituted under section 16(1) of, and Part 2 of Schedule 3 to, the Misuse of Drugs Act 1971 <sup>F124</sup>.

Misuse of Drugs Professional Panel constituted under section 16(1) of, and Part 3 of Schedule 3 to, the Misuse of Drugs Act 1971.

Misuse of Drugs Tribunal constituted under section 16(1) of, and Part 1 of Schedule 3 to, the Misuse of Drugs Act 1971.

National Health Service Medicines (Control of Prices and Profits) Appeal Tribunal constituted under regulation 7 of the Health Service Medicines (Price Control Appeals) Regulations 2000 <sup>F125</sup>.

Ombudsman for the Board of the Pension Protection Fund appointed under section 209 of the Pensions Act 2004 <sup>F126</sup>.

Pensions Ombudsman established under section 145 of the Pension Schemes Act 1993 <sup>F127</sup>.

Pensions Regulator Tribunal constituted under section 102 of the Pensions Act 2004 <sup>F128</sup>.

Persons hearing consumer credit licensing appeals appointed under regulation 24 of the Consumer Credit Licensing (Appeals) Regulations 1998 <sup>F129</sup>.

Persons hearing estate agents' appeals appointed under regulation 19 of the Estate Agents (Appeals) Regulations 1981 <sup>F130</sup>.

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Plant Varieties and Seeds Tribunal (referred to in section 42 of the Plant Varieties Act 1997<sup>F131</sup>).

Reference Committees constituted under section 27 of the Forestry Act 1967<sup>F132</sup>.

Registered Inspectors of Schools Appeal Tribunals constituted under section 9 of, and Schedule 2 to, the Schools Inspections Act 1996<sup>F133</sup>.

Rent Assessment Committees constituted under section 65 of, and Schedule 10 to, the Rent Act 1977<sup>F134</sup> and also known as Leasehold Valuation Tribunals for the purpose of determinations pursuant to section 21(1), (2) and (3)<sup>F135</sup> of the Leasehold Reform Act 1967<sup>F136</sup> and continued as rent tribunals for the purpose of references pursuant to the provisions in Part V of the Rent Act 1977.

Special Educational Needs and Disability Tribunal constituted under section 333 of the Education Act 1996<sup>F137</sup>.

Traffic Commissioners appointed under section 4 of the Public Passenger Vehicles Act 1981<sup>F138</sup>.

Valuation Tribunals continued in existence under regulation 3 of the Valuation and Community Charge Tribunals Regulations 1989<sup>F139</sup>.

#### Textual Amendments

**F101** SI 2002/796 (NI 1).

**F102** 1947 c. 48; section 73 (1) amended or substituted by the Agriculture Act 1958, sections 8(1), Sch 1, Part I, para 3. Section 73(3) amended by the Agriculture Act 1958, s8(1), 10(1), Sch 1, Part I, para 3, Sch 3, Part I and substituted by the Agricultural Holdings Act 1986, s 100, Sch 14, para 18. Section 73(4) amended by the Agriculture Act 1958, ss 8(1), 10(1), Sch 1, Part I, para 3, Sch 3, Part I. Section 73(5) amended by the Agriculture Act 1958, ss 8(1), 10(1), Sch 1, Part I, para 3, Sch 3, Part I.

**F103** 1998 c. 14.

**F104** 1963 c. 2. Section 29(1) amended by the Horserace Betting Levy Act 1981, s 4(6), Sch, para 2. Section 29(2) amended by the Courts and Legal Services Act 1990, s 71(2), Sch 10, para 16 and by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 48. Section 29(2A) inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 48.

**F105** 1939 c. 97. Section 109(1) amended by SI 1986/452, art 3, Sch 2, para 3(h), by SI 2001/3500, art 8, Sch 2, Pt I, para 4(b) and by the Courts and Legal Services Act 1990, s 71(2), Sch 10, para 4. Section 109(2) amended by SI 2001/3500, art 8, Sch 2, Pt I, para 4(b).

**F106** 1999 c. 14. Section 9(2) amended by the Care Standards Act 2000, s 116, Sch 4, para 26(1), (3)(a). Section 9(2) amended by the Criminal Justice and Court Services Act 2000, s 74, Sch 7, Pt II, paras 154, 157(a), the Education Act 2002, s 215(1), Sch 21, para 122(a), s 215(1), Sch 21, para 122(b), s 215(2), Sch 22, Pt 3 and s155, Sch 14, para 6 and the Criminal Justice and Court Services Act 2000, s 74, Sch 7, Pt II, paras 154, 157(d). Section 9(3A)-(3C) inserted by the Care Standards Act 2000, s 116, Sch 4, para 26(1), (3)(b).

**F107** 1992 c. 52.

**F108** 1965 c. 64. Section 17(1) amended by the Courts and Legal Services Act 1990, s 71(2), Sch 10, para 26. Section 17(1A) inserted with savings by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 26.

**F109** 2002 c. 40.

**F110** 1988 c. 48. Section 145(2) amended by SI 1999/678, art 2(1), Sch. Section 145(3) amended by the Courts and Legal Services Act 1990, s 71(2), Sch 10, para 73.

**F111** SI 2002/458.

**F112** SI 1992/661; amended by SI 1993/3172, reg 4.

**F113** SI 2004/1861.

**F114** 1996 c. 17.

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- F115** 2000 c. 8.
- F116** 1950 c. 12. Section 1(2) repealed by the Statute Law (Repeals) Act 1974. Section 1(3) amended by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 25. Section 1(3A) inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 25. Section 1(4) repealed by the House of Commons Disqualification Act 1957, s 14(1), Sch 4, Part I.
- F117** 1963 c. 2. Section 29(1) amended by the Horserace Betting Levy Act 1981, s 4(6), Schedule, para 2. Section 29(2) amended by the Courts and Legal Services Act 1990, s 71(2), Sch 10, para 16 and by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 48. Section 29(2A) inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 48.
- F118** 1998 c. 29. Section 6(1) amended by the Freedom of Information Act 2000, s 18(4), Sch 2, Pt I, para 13(1), (2). Section 6(3) amended by the Freedom of Information Act 2000, s 18(4), Sch 2, Pt I, para 13(1), (3). Section 6(4) amended by virtue of SI 1999/678, art 2(1), Schedule and by SI 2003/1887, art 9, Sch 2, para 9(1)(a). Section 6(6) amended by the Freedom of Information Act 2000, s 18(4), Sch 2, Pt II, para 16(a) and by the Freedom of Information Act 2000, s 18(4), Sch 2, Pt II, para 16(b).
- F119** 1986 c. 45.
- F120** SI 1995/540. Schedule 15 para 2, 3 and 4 amended by SI 2000/656, reg 6(4), Sch 4, Pt IV, para 2, and by SSI 2000/62, reg 6(4), Sch 4, Pt IV, para 2.
- F121** SI 1995/539. Schedule 21 para 2 amended by SI 2000/656, reg 6(3), Sch 4, Pt III, para 7, and SSI 2000/62, reg 6(3), Sch 4, Pt III, para 7 and by SI 1995/3189, reg 2(29). Schedule 21 para 2, 3 and 4 amended by SI 2000/656, reg 6(3), Sch 4, Pt III, para 2, and SSI 2000/62, reg 6(3), Sch 4, Pt III, para 2(1), (2).
- F122** SI 1995/2148. Para 2: Schedule 12 paras 1, 2 and 3 amended by SI 2000/656, reg 6(6), Sch 4, Pt VI, para 2, and SSI 2000/62, reg 6(6), Sch 4, Pt VI, para 2.
- F123** 1983 c. 20. Section 65(1)–(1C) amended by the Health Authorities Act 1995, s 2(1), Sch 1, para 107(6). Schedule 2 para 2 amended by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 40. Schedule 2 para 2A inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 40.
- F124** 1971 c. 38. Schedule 3, Part 2 para 13(1A) inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 42(3).
- F125** SI 2000/124.
- F126** 2004 c. 35. At the date on which this Order was made, section 209 of the Pensions Act 2004 was not in force.
- F127** 1993 c. 48. Section 145(1A)–(1C) inserted by the Pensions Act 2004, s 319(1), Sch 12, paras 9, 23. Section 145(2) amended by the Pensions Act 2004, s 274(1). Section 145(3) amended by the Pensions Act 2004, s 274(2). Section 145(4A)–(4C) inserted by the Pensions Act 1995, s 156. Section 145(5) amended by the Pensions Act 1995, ss 173, 177, Sch 6, para 7, Sch 7, Part IV.
- F128** 2004 c. 35. At the date on which this Order was made, section 102 of the Pensions Act 2004 was not in force.
- F129** SI 1998/1203.
- F130** SI 1981/1518.
- F131** 1997 c. 66.
- F132** 1967 c. 10. Section 27(1) amended by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(a) and by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b). Section 27(2) amended by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b). Section 27(3) amended by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (9) and by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b). Section 27(4) amended by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(c) and by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(d).
- F133** 1996 c. 57.
- F134** 1977 c. 42. Schedule 10 para 2 amended by the Housing Act 1980, s 152, Sch 25, para 56, Sch 26. Schedule 10 para 2A inserted by the Judicial Pensions and Retirement Act 1993, s 26, Sch 6, para 56. Schedule 10 para 5 amended by the Housing Act 1980, s 71(2). Schedule 10 para 6A inserted by the Housing Act 1980, s 71(2). Schedule 10 paras 8, 10 amended by the Housing Act 1996, ss 222, 227, Sch 18, para 22(1)(a), Sch 19, Part XIII. Para 8 amended by Housing Act 1980 s 152, Sch 25, para 56(b) and Sch 26. Schedule 10 para 7A inserted by the Housing Act 1980, s 148 and amended by the Housing Act 1996, ss 222, 227, Sch 18, para 22(1)(a), Sch 19, Part XIII. Schedule 10 para 9 amended by the

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Housing Act 1996, s 222, Sch 18, para 22(2). Schedule 10 para 10 amended by the Housing Act 1980, s 152, Sch 25, para 56, Sch 26.

**F135** Repealed with savings by SI 2003/1986, articles 1(2), 2(c)(iv), Sch 1, Pt 1 and Sch 2, para 13.

**F136** 1967 c. 88. Section 21(1) amended by the Housing Act 1980, s 142, Sch 22. Section 21(1)(ba) inserted by the Housing Act 1996, ss 115, 116, Sch 11, para 1(2). Section 21(1)(cza) inserted by the Commonhold and Leasehold Reform Act 2002, s 149(2) and section 21(1)(ca) inserted by the Housing Act 1996, ss 115, 116, Sch 11, para 1(2). Section 21(2) amended by the Housing Act 1980, s 142, Sch 22.

**F137** 1996 c. 56. Section 333(1Z) inserted by the Education Act 2002, s 195, Sch 18, paras 1, 4. Section 333(1) amended by the Special Educational Needs and Disability Act 2001, s 42(1), Sch 8, Pt 1, paras 1, 2.

**F138** 1981 c. 14.

**F139** SI 1989/439.

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