

SCHEDULES

SCHEDULE 12

Section 182

THE COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF PART 3 OF LOCAL GOVERNMENT ACT 1974

- 1 Part 3 of the Local Government Act 1974 (c. 7) (Commission for Local Administration in England) is amended in accordance with this Part of this Schedule.
- 2 In section 23(12) (three-yearly reviews by the Commission), for “complaints” substitute “matters”.
- 3 (1) Section 26 (matters subject to investigation) is amended as follows.
 - (2) In subsection (5)—
 - (a) for “a complaint” substitute “a matter”;
 - (b) in paragraph (a)—
 - (i) for “the complaint has” substitute “the matter has”;
 - (ii) for “the person aggrieved” substitute “the person affected”;
 - (iii) for “the complaint relates” substitute “it relates”;
 - (iv) for “to investigate, and reply to, the complaint” substitute “to investigate the matter and to respond”;
 - (c) in paragraph (b)—
 - (i) for “the complaint to be” substitute “the matter to be”;
 - (ii) for “to investigate, and reply to, the complaint” substitute “to investigate the matter and to respond”.
 - (3) In subsection (6), for “person aggrieved” (in each place) substitute “person affected”.
 - (4) In subsection (6A), for “any action taken in connection with the discharge by an authority” substitute “any action taken by or on behalf of an authority in the exercise”.
 - (5) In subsection (7), in paragraphs (aa), (a) (in both places) and (ba), for “complaint” substitute “matter”.
 - (6) Omit subsection (10) (Local Commissioners' discretion to investigate matters etc).
 - (7) In subsection (11)—
 - (a) in paragraph (a), for “person aggrieved” substitute “person affected”;
 - (b) omit paragraph (b).
 - (8) Omit subsections (12) and (13) (restrictions on investigating matters arising before specified dates).

- 4 (1) Section 28 (payments to complainants and persons assisting with investigations) is amended as follows.
- (2) In subsection (1)—
- (a) for “conduct an investigation pursuant to a complaint” substitute “investigate a matter under this Part of this Act”;
 - (b) after “who is alleged in the complaint” insert “(if any), or who otherwise appears to the Local Commissioner.”;
 - (c) for “the action complained of” substitute “the action which would be the subject of the investigation”;
 - (d) for “any allegations contained in the complaint” substitute “the matter”.
- (3) In subsection (2), for “such investigation” substitute “investigation under this Part of this Act”.
- (4) In subsection (3)—
- (a) after “the complaint” insert “(if any)”;
 - (b) omit the words following paragraph (b).
- (5) In subsection (4)—
- (a) after “the authority concerned” insert “or any other person”;
 - (b) for “that authority” substitute “the authority concerned or any other person”.
- 5 (1) Section 29 (further provisions about investigations) is amended as follows.
- (2) In subsection (6), omit “with the approval of the Minister for the Civil Service”.
- (3) In subsection (8), for “or any officer of the Commission assisting in the performance” substitute “or any person discharging or assisting in the discharge”.
- 6 (1) Section 31A (consideration of adverse reports) is amended as follows.
- (2) For subsections (1) to (2A) substitute—
- “(1A) Where a further report of a Local Commissioner under section 31(2A) is considered by a person other than the appropriate listed authority and it is proposed that—
- (a) no action should be taken on the report, or
 - (b) the action recommended in the report should not be taken,
- consideration of the report shall be referred to that authority.
- (1B) For the purposes of subsection (1A)—
- (a) “listed authority” means an authority mentioned in section 25(1) or specified in an order under subsection 25(2) (but does not include a person mentioned in section 25(4) to (5)), and
 - (b) a listed authority is the appropriate listed authority in relation to a further report if the report relates to the authority (or to any person with which the authority is connected for the purposes of this Part of this Act by virtue of section 25(4) to (5)).
- (1C) Subsection (1A) has effect subject to subsection (3).”
- (3) In subsection (3)—
- (a) for “subsections (1) and (2)” substitute “subsection (1A)”;

- (b) in paragraph (a), for “the said section 101, or” substitute “section 101 of the Local Government Act 1972,”;
- (c) for paragraph (b) substitute—
 - “(b) a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966, or
 - (c) an admission appeal panel or exclusion appeal panel mentioned in section 25(5)(c) or (e),

and the report is considered by that committee or panel.”

- (4) In subsection (5), for the words from the beginning to “shall vote” substitute “No individual shall decide or vote”.
 - (5) Omit subsections (5A) and (6).
 - (6) In subsection (7)—
 - (a) omit “Where the authority concerned is the Greater London Authority,”;
 - (b) for “the Authority” substitute “the Greater London Authority”;
 - (c) for “the authority concerned (other than references to a member of the authority concerned)” substitute “an authority”.
- 7 (1) Section 32 (law of defamation and disclosure of information) is amended as follows.
- (2) In subsection (1)(a), for “any officer of the Commission” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner”.
 - (3) In subsection (1)(b)—
 - (a) for “any officer of the Commission” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner”;
 - (b) after “a complainant” insert “, or with the person affected in relation to a matter,”.
 - (4) In subsection (1)(ba), for “any officer of the Commission,” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner”.
 - (5) In subsection (1)(d), for “section 24” substitute “section 23A”.
 - (6) After subsection (1)(e) insert—
 - “(f) the publication of any matter by inclusion in a report, statement or summary published or supplied under section 31B.”
 - (7) In subsection (2)—
 - (a) for “any officer of the Commission” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner”;
 - (b) in paragraph (a), for “report to be made under section 30 or 31” insert “report, statement or summary under section 30, 31 or 31B”;
 - (c) in paragraph (b), for “an officer of the Commission” substitute “a person discharging or assisting in the discharge of a function of Local Commissioner”;
 - (d) in the words following paragraph (c), for “the officers of the Commission” substitute “persons discharging or assisting in the discharge of a function of a Local Commissioner”.
 - (8) In subsection (3)—

- (a) for “any of the authorities mentioned in section 25(1) above” substitute “any of the authorities to which this Part of this Act applies”;
 - (b) for “any member of the staff of the Commission who is allocated to assist him” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner”.
- (9) After subsection (3A) (inserted by section 178) insert—
- “(3B) Section 25(4), (4A) and (5) do not apply for the purpose of subsection (3).”
- 8 (1) Section 33 (consultation with other Commissioners etc) is amended as follows.
- (2) In subsection (1)—
- (a) for “the complaint relates partly to” substitute “the matters which are the subject of the investigation include”;
 - (b) for “about the complaint and” substitute “about the matter and, where a complaint was made about the matter, he shall”.
- (3) In subsection (2)—
- (a) for “a complaint under this Part of this Act” substitute “a matter under investigation under this Part of this Act”;
 - (b) for “any matter relating to the complaint” substitute “anything relating to the matter”;
 - (c) in paragraph (a), for “complaint” substitute “matter”.
- 9 (1) Section 33ZA (collaborative working between Local Commissioners and other Commissioners) is amended as follows.
- (2) In subsection (1), for “the complaint relates partly to” substitute “the matters which are the subject of the investigation include”.
- (3) In subsection (2)—
- (a) for “the person aggrieved” substitute “the person affected”;
 - (b) for “any person acting on his behalf in accordance with subsection (2) of section 27 of this Act” substitute “the complainant (if any)”.
- (4) In subsection (4), omit “of a complaint”.
- 10 In section 34(1) (interpretation of Part)—
- (a) in the definition of “member”, omit paragraphs (b) and (c);
 - (b) for the definition of “person aggrieved” substitute—
 - ““person affected”—
 - (a) in relation to a matter which is the subject of a complaint made or to be made under this Part of this Act, means the member of the public who claims or is alleged to have sustained injustice in consequence of the matter, and
 - (b) in relation to a matter coming to the attention of a Local Commissioner to which section 26D applies, means the member of the public who the Local Commissioner considers has, or may have, sustained injustice in consequence of the matter;”.
- 11 (1) Schedule 4 (the Commission) is amended as follows.
- (2) In paragraph 3 (remuneration etc of Commissioners and their officers)—

- (a) in sub-paragraph (1) omit “, with the approval of the Minister for the Civil Service.”;
 - (b) in sub-paragraph (2) omit “, with the consent of the Minister for the Civil Service.”.
- (3) In paragraph 4 (staff and accommodation)—
- (a) in sub-paragraph (2), for “complaints” substitute “matters”;
 - (b) omit sub-paragraphs (5) and (6).
- 12 In Schedule 5 (matters not subject to investigation), in paragraphs 2, 6, 7 and 8, after “taken by” insert “or on behalf of”.

PART 2

OTHER AMENDMENTS

Parliamentary Commissioner Act 1967 (c. 13)

- 13 (1) The Parliamentary Commissioner Act 1967 is amended as follows.
- (2) In section 3(2A) (administrative provisions) for “any officer or member of staff of the Commission for Local Administration in England” substitute “any person discharging or assisting in the discharge of a function of a Local Commissioner, but only if the person is”.
 - (3) In section 11 (provision for secrecy of information), in subsection (2)(aa) for “a complaint” substitute “a matter”.
 - (4) In section 11ZAA (collaborative working between Parliamentary Commissioner and other Commissioners)—
 - (a) in subsection (3)—
 - (i) for “a complaint which is being investigated” substitute “matters which are the subject of an investigation”;
 - (ii) for “relates partly to” substitute “include”;
 - (iii) after “investigation” insert “of that matter”;
 - (b) in subsection (4)—
 - (i) for “a complaint” substitute “a matter”;
 - (ii) for “the complaint” substitute “a complaint about the matter”;
 - (c) in subsection (5), omit “of a complaint”.

Local Government and Housing Act 1989 (c. 42)

- 14 (1) The Local Government and Housing Act 1989 is amended as follows.
- (2) In section 5 (reports of monitoring officer), in subsection (2)—
 - (a) after paragraph (a) insert—
 - “(aa) any such maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners), or”;
 - (b) in paragraph (b), omit “Part III of the Local Government Act 1974 (Local Commissioners) or”.

- (3) In section 5A (reports of monitoring officer_local authorities operating executive arrangements), in subsection (3)(b), for “injustice” substitute “failure”.

Health Service Commissioners Act 1993 (c. 46)

- 15 (1) The Health Service Commissioners Act 1993 is amended as follows.
- (2) In section 15 (confidentiality of information), in subsection (1)(aa) for “a complaint” substitute “a matter”.
- (3) In section 18ZA (collaborative working between the Commissioner and other Commissioners)—
- (a) in subsection (3)—
 - (i) for “a complaint which is being investigated” substitute “matters which are the subject of an investigation”;
 - (ii) for “relates partly to” substitute “include”;
 - (iii) after “investigation” insert “of that matter”;
 - (b) in subsection (4), omit “of a complaint”;
 - (c) in subsection (5), for “the interests of the complainant and of persons other than the complainant” substitute “the interests of the complainant (if any) and of other persons”.
- (4) In Schedule 1 (the English Commissioner), in paragraph 12A—
- (a) after “performed by” insert “—
 - (a)”;
 - (b) for “the Commission for Local Administration in England” substitute—
 - “(b) any person discharging or assisting in the discharge of a function of a Local Commissioner,
 - who is”.

Greater London Authority Act 1999 (c. 29)

- 16 In section 73(6) of the Greater London Authority Act 1999 (monitoring officer), for “injustice” substitute “failure”.

Local Government Act 2000 (c. 22)

- 17 (1) The Local Government Act 2000 is amended as follows.
- (2) In section 62 (further provisions about investigations by ethical standards officers), in subsection (7)(b) for “by any members or officers of the Commission for Local Administration in England” substitute “obtained in connection with investigations under Part 3 of that Act (Commission for Local Administration in England)”.
- (3) In section 67(2) (consultation by Local Commissioners with ethical standards officers)—
- (a) for “the complaint relates” substitute “the matters which are the subject of the investigation relate”;
 - (b) after “about the investigation and” insert “, where a complaint was made about the matter, he may”.

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

- 18 In section 114 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about social services), in subsection (5)(a) for “(and to be treated as if it had been duly made under section 26 of that Act)” substitute “(and for the complaint to be treated as satisfying sections 26A and 26B of that Act)”.