

PARLIAMENTARY STANDARDS ACT

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Parliamentary Standards Act 2009 which received Royal Assent on 21st July 2009. They have been prepared by the Ministry of Justice in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND

Outline of the current system of MPs' allowances

3. Allowances for MPs have been set by a series of resolutions approved by the House of Commons over many years. The first allowances schemes related to stationery and travel. The scheme has grown over the years and the matters for which allowances are claimable have similarly expanded.

4. In January 2008, the Review Body on Senior Salaries ("the SSRB") produced a *Review of parliamentary pay, pensions and allowances 2007* (January 2008) Cm 7270-I. That report made a range of recommendations concerning the way in which MPs' allowances should be paid. The House considered the SSRB report on 24th January 2008, resolving to accept some of the recommendations and referring others to the Members Estimate Committee. The Members Estimate Committee published its report on the review of allowances on 25th June 2008.¹ It described its report as a "root and branch review" driven by the objectives of adequately equipping MPs and "to meet public expectations for clearer audit and transparency".

5. The House of Commons debated this report on 2nd July 2008, accepting some of the recommendations but not others, and tasked the Advisory Panel on Members' Allowances with setting out the conclusions of the House of Commons in a revised system of allowances. The Advisory Panel's work was contained in a January 2009 report of the Members Estimate

¹ Members Estimate Committee, *Review of Allowances* (Third report, 2007-08) HC 578-I.

Committee.² On 22nd January 2009, the House resolved that the revised system of allowances should govern all expenditure on MPs' allowances for claims on or after 1st April 2009 and empowered the Members Estimate Committee to make such modifications to previous House resolutions relating to MPs' allowances "as are necessary to ensure that they are consistent with the provisions in the Green Book".³

6. Also on 22nd January 2009, the House resolved to accept the arrangements for audit and assurance of MPs' allowances set out in the report of the Members Estimate Audit Committee to the Members Estimate Committee (contained as annex 3 to the January 2009 report).⁴ Amongst other things, the Members Estimate Committee recommended that the current limitation on the scope of the audit by the National Audit Office should be removed. The effect of this is to bring about full scope audit, the same level of audit provided by the National Audit Office for other public sector bodies.

7. The current system of allowances is set out in *The Green Book: A guide to Members' allowances* ("the Green Book"). The allowances scheme is designed to ensure MPs are able to work effectively in Parliament and in their constituencies. It provides support for employing staff, servicing MPs' offices, overnight stays away from home while on Parliamentary duties, communicating with constituents, House stationery and postage, and travel.

8. The *Green Book* sets out certain principles, derived from the MPs' Code of Conduct, which MPs are to adhere to when making claims against parliamentary allowances. The principles are as follows.

- a) Claims should be above reproach and must reflect actual usage of the resources being claimed.
- b) Claims must only be made for expenditure that it was necessary for a Member to incur to ensure that he or she could properly perform his or her parliamentary duties.
- c) Allowances are reimbursed only for the purpose of a Member carrying out his or her parliamentary duties. Claims cannot relate to party political activity of any sort, nor must any claim provide a benefit to a party political organisation.
- d) It is not permissible for a Member to claim under any parliamentary allowance for anything that the Member is claiming from any other source.
- e) Members must ensure that claims do not give rise to, or give the appearance of giving rise to, an improper personal financial benefit to themselves or anyone else.

² Members Estimate Committee, *Revised Green Book and audit of Members' allowances* (First Report, 2008-09) HC 142 (<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmmemest/142/142.pdf>).

³ Set out in the Members Estimate Committee, *Consolidated list of provisions of the Resolutions of the House relating to expenditure charged to the Estimate for House of Commons: Members* (Second Report, 2008-09) HC 281.

⁴ House of Commons Hansard, 22nd January 2009, col 970 (<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090122/debtext/90122-0015.htm#09012244000014>).

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- f) Members are committed to openness about what expenditure has been incurred and for what purposes.
- g) Individual Members take personal responsibility for all expenses incurred, for making claims and for keeping records, even if the administration of claims is delegated by them to others.
- h) The requirement of ensuring value for money is central in claiming for accommodation, goods or services – Members should avoid purchases which could be seen as extravagant or luxurious.
- i) Claims must be supported by documentary evidence, except where the House has agreed that such evidence is not necessary.

9. Parliamentary oversight of the *Green Book* is currently provided by two House of Commons committees: the Members Estimate Committee and the Committee on Members' Allowances. The Members Estimate Committee has the same membership as the House of Commons Commission, and is chaired by the Speaker of the House of Commons.

10. The functions of the Members Estimate Committee are: to codify and keep under review Commons resolutions and the *Green Book*; modify those provisions in the interests of clarity, consistency, accountability and effective administration, and conformity with current circumstances; and consider appeals against determinations by the Committee on Members' Allowances. (See Standing Order No. 152D.)

11. The functions of the Committee on Members' Allowances are: to advise the Members Estimate Committee on the discharge of its functions; advise the Speaker, the Members Estimate Committee and the Leader of the House on the development of the arrangements concerning MPs' allowances; approve practice notes on MPs' allowances; and determine (subject to an appeal to the Members Estimate Committee) the application of the rules in such cases as may be referred to them by Members. (See Standing Order No. 152G.)

12. The scheme set out in the *Green Book* is administered by the Commons Department of Resources, often referred to as the "Fees Office". As set out in the Standing Orders, if an MP's expenses claim is refused by the Fees Office, the MP may appeal to the Committee on Members' Allowances. The MP may make a further appeal to the Members Estimate Committee.

Recent and ongoing developments concerning MPs' allowances

13. There have been a number of recent developments concerning MPs' allowances.

14. By motion dated 30th April 2009, the House has agreed that staff who work for MPs should be employed by the House “as a personal appointment and managed by the hon. Member”. The House asked the House of Commons Commission to consider how the transfer can be made and to make recommendations by 29th October 2009.⁵

15. The Committee on Standards in Public Life (“the CSPL”) has launched a review of MPs’ expenses, publishing an issues and questions paper on 23rd April 2009.⁶ The CSPL asked for submissions of evidence and held public meetings in June and July.

16. The Speaker of the House of Commons announced a series of interim measures connected with MPs’ allowances to take effect immediately without pre-empting the work of the CSPL.⁷ These interim measures relate to second homes, capital gains tax, the status of couples both of whom are MPs, mortgages, and staffing.

Outline of the current system of salaries for MPs

17. MPs have received a regular salary since 1911. For many years, these salaries were set by the House of Commons by resolution, although since the 1970s the SSRB has advised on the level of these salaries.

18. The origins of the current system lie in the Government’s response to the January 2008 SSRB report *Review of Parliamentary Pay, Pensions and Allowances 2007*. In response to this review, the Government announced that it considered it “inappropriate that MPs should vote on their own pay and pensions.”⁸

19. Sir John Baker, retiring chairman of the SSRB, was accordingly asked to conduct a review. He was asked to “make recommendations for a mechanism for independently determining the pay and pensions of MPs which does not involve MPs voting on their own pay”.⁹ His report, published in June 2008, recommended that MPs’ pay should be uprated annually in line with the Public Sector Average Earnings Index, with a review by the SSRB each Parliament.

20. The current system for MPs’ salaries is set out in the Commons resolutions of 3rd July 2008. The House resolved that MPs’ salaries are to be increased annually through an uprating formula. Rather than using the Public Sector Average Earnings Index, the uprating formula is derived from the increase in a package of salaries for certain public sector workers. The increase in salary is achieved by the SSRB notifying the Speaker of the House of

⁵ See House of Commons Hansard, 30th April 2009, col 1133
(<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090430/debtext/90430-0019.htm#09043030000013>).

⁶ Available at http://www.public-standards.gov.uk/Library/I_Q_paper_13th_Inquiry_Final_copy.pdf.

⁷ See House of Commons Hansard, 19th May 2009, col 1421
(<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090519/debtext/90519-0016.htm#090519107000002>).

⁸ See House of Commons Hansard, 16th January 2008, col 32WS.

⁹ Sir John Baker CBE, *Review of Parliamentary Pay and Pensions* (June 2008) Cm 7416.

Commons of the percentage increase. The SSRB must also conduct a more general review of MPs' salaries in the first year of each new Parliament.

21. These salaries are separate from what an MP might additionally receive by virtue of holding ministerial office, as provided for in the Ministerial and other Salaries Act 1975.

Outline of the current mechanisms for regulating standards in the House of Commons including the registration of MPs' financial interests

22. The Code of Conduct for MPs, which is based on the seven general principles identified by the CSPL,¹⁰ includes requirements for MPs to register and declare interests in the Register of Members' Financial Interests. The function of administering and applying the Code of Conduct is presently split between the House of Commons Committee on Standards and Privileges ("the Committee on Standards and Privileges"), the Parliamentary Commissioner for Standards ("the Standards Commissioner") and the House of Commons itself.

23. The current version of the Code of Conduct was agreed by the House of Commons in July 2005.¹¹ The purpose of the Code is to provide "guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties". It sets out the public duties undertaken by MPs, as well as the seven general principles identified by the CSPL.

24. Amongst other standards, the Code requires that MPs must "ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services". MPs must also fulfil the requirements of the House in respect of the registration of interests in the Register of Members' Financial Interests.

25. The Committee on Standards and Privileges is established under Standing Order No. 149. The functions of the Committee are to: consider specific matters relating to privileges referred to it by the House; oversee the work of the Standards Commissioner, examine the arrangements for the Register of Members' Financial Interests and other registers of interests and to consider any specific complaints made concerning registering or declaring of interests referred to it by the Standards Commissioner; consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to its attention by the Standards Commissioner; and recommend any modification to the Code of Conduct.

¹⁰ Cm 2850-I, p 14. The seven general principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

¹¹ Contained, together with the version of the Guide to the Rules relating to the conduct of Members approved by the House of Commons on 9th February 2009, in HC 735 (<http://www.publications.parliament.uk/pa/cm200809/cmcode/735/735.pdf>).

26. The Standards Commissioner is an Officer of the House, appointed by the House. Standing Order No. 150 provides that the Standards Commissioner is to: maintain the Register of Members' Financial Interests and any other register established by the House; provide confidential advice to MPs and other persons subject to registration; advise the Committee on Standards and Privileges and any MPs on the interpretation of the Code of Conduct or on questions of propriety; monitor the operation of the Code of Conduct and make recommendations on it; and "receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of: (i) the registration or declaration of interests, or, (ii) other aspects of the propriety of a Member's conduct, and to report to the Committee on Standards and Privileges".

27. At the conclusion of any investigation, the Standards Commissioner reports to the Committee on Standards and Privileges with a finding of fact and an opinion on whether there has been a breach of the Code. The Committee does not have to accept the Standards Commissioner's conclusions and can conduct its own investigation before issuing its report to the House of Commons.

28. Standing Order No. 150(3) provides that no report is to be made to the Committee on Standards and Privileges at the conclusion of an investigation if, for example, in a registration case the Standards Commissioner considers that the interest involved is minor, or the failure inadvertent and the MP has taken appropriate action. In addition, the Standards Commissioner must not report if the Commissioner and MP have agreed on how to secure "appropriate financial reimbursement" and the MP has made such reimbursement within a reasonable period of time.

29. It is the Committee, and not the Commissioner, that makes any recommendation to the House of Commons about the sanctions that should be imposed on an MP. The House of Commons is the ultimate arbiter in these matters and may choose not to accept the recommended sanction.

30. Although complaints relating to the conduct of Members are usually brought under the procedure described above, the House retains a power to deal with conduct that is not necessarily related to financial propriety (for example, disorderly behaviour or conduct wholly related to the privileges of Parliament).

31. The House of Commons has a range of disciplinary powers in the event of misconduct by an MP. The House may resolve to reprimand or admonish an MP, withhold his or her salary, or suspend or expel him or her.

SUMMARY

32. The Act establishes the Independent Parliamentary Standards Authority (“IPSA”) as a body corporate. The IPSA will have functions in relation to MPs’ salaries, allowances and financial interests. The Act also establishes a separate Commissioner for Parliamentary Investigations.

Salaries and allowances for MPs

33. The IPSA is to take over paying the salaries of MPs in accordance with the relevant resolutions of the House of Commons.

34. The IPSA will also be responsible for drawing up the MPs’ allowances scheme. In doing so, it is expected that the IPSA will draw on the outcome of the current work of the CSPL in reviewing MPs’ allowances. The Act lays out certain matters which the IPSA may include in the scheme, such as specifying the types of expenditure or the limits on the amounts to be paid. The IPSA will also take over responsibility for authorising and making payments under the allowances scheme (these administrative functions are to be exercised on the IPSA’s behalf by its chief executive).

MPs’ code of conduct relating to financial interests

35. The IPSA will be responsible for preparing a code of conduct relating to financial interests. This code will include some matters which are presently covered by the current MPs’ Code of Conduct. The code will cover the registration of relevant financial interests and the “no paid advocacy” rule. The code will be subject to approval by resolution of the House of Commons.

Investigation and enforcement

36. The Act establishes a Commissioner for Parliamentary Investigations (“the Commissioner”). The Commissioner will have the power to investigate any overpayments under the allowances scheme and failures to comply with requirements in the code relating to the registration of financial interests. The Commissioner will be able to initiate such investigations. An investigation may also be conducted at the request of a member or after an individual complaint. The IPSA must provide any information that the Commissioner reasonably requires for the purposes of an investigation.

37. The IPSA must determine procedures for the Commissioner to follow. These must include safeguards for the MP, including that the MP have an opportunity to make representations to the Commissioner during the investigation and in light of the Commissioner’s findings.

38. If the Commissioner finds that the member was overpaid an allowance or failed to comply with a requirement to register a financial interest, the Commissioner must refer his or her findings to the Committee on Standards and Privileges. However, there are exceptions to this requirement to refer if, amongst other criteria, the MP accepts the Commissioner’s findings and takes steps to rectify the matter. The Commissioner may also refer a finding to the Committee on Standards and Privileges if the Commissioner finds that the MP has not

provided the Commissioner with information that he or she reasonably requires for the purposes of the investigation.

39. The Act will create a new criminal offence of knowingly providing false or misleading information in a claim for an allowance.

The appointment of the IPSA

40. The IPSA will consist of five members: a chair and four ordinary members. The members will be appointed by the Queen on an address of the House of Commons. A motion for an address may only be made with the agreement of the Speaker, for a candidate selected on merit on the basis of fair and open competition and approved by a Speaker's Committee. Members will be removable only in response to an address of both Houses. There are requirements that one member of the IPSA should have accountancy experience, that one member should have experience as an MP, and that one member should have held (but no longer hold) high judicial office.

The appointment of the Commissioner

41. The Commissioner will be appointed by the same process as members of the IPSA. There is a duty on the IPSA to provide the Commissioner with adequate resources and staffing to carry out the Commissioner's functions.

The Speaker's Committee for the Independent Parliamentary Standards Authority

42. There will be a Speaker's Committee for the Independent Parliamentary Standards Authority charged with exercising the functions given to it under the Act – in particular, approving the selection of persons to be members of the IPSA and the Commissioner.

Expiry of provisions of the Act

43. Certain provisions of the Act will expire two years after section 8 of the Act comes into force. Those provisions concern the code of conduct relating to financial interests, the offence, the Commissioner and the Commissioner's functions. A Minister of the Crown may by order extend these provisions for a further period (or periods) of two years.

TERRITORIAL EXTENT

44. The Act extends to the United Kingdom. Because this Act concerns the United Kingdom Parliament, the subject matter of this Act is reserved, for the purpose of the Scotland Act 1998, and excepted, for the purpose of the Northern Ireland Act 1998.

COMMENTARY ON SECTIONS

Section 1: Bill of Rights

45. *Section 1* provides that nothing in the Act should be construed by any court in the United Kingdom as affecting parliamentary privilege, as set out in Article IX of the Bill of Rights 1689. Article IX provides “that the freedom of speech and debates in Parliament ought not to be impeached or questioned in any court or place out of Parliament”. This section is to remove any doubt about whether any provision in the Act affects Article IX.

Section 2: House of Lords

46. *Section 2* provides that nothing in this Act shall affect the House of Lords with the exception of the matters listed in subsection (2). The references in subsection (2) are to those provisions in the Act where the House of Lords has a role, either explicitly or by implication. For example, paragraph 5(3) and (4) of Schedule 1 provides that the chair or an ordinary member of the IPSA may be removed on an address of both Houses of Parliament.

Section 3: Independent Parliamentary Standards Authority etc

47. *Section 3* establishes the Independent Parliamentary Standards Authority, an officer to be known as the Commissioner for Parliamentary Investigations, and a committee to be known as the Speaker’s Committee for the Independent Parliamentary Standards Authority.

Schedule 1: Independent Parliamentary Standards Authority

Part 1: Members of the IPSA

48. *Paragraph 1* makes provision for the membership of the IPSA. The IPSA is to consist of five members – one chair and four ordinary members. One of the five members must have held (but no longer hold) high judicial office; one must be qualified to be an auditor for the National Audit Office; and one must have been (but no longer be) a member of the House of Commons. Apart from this last-mentioned Parliamentary member, *paragraph 1* bars from appointment to the IPSA anyone who has been a member of the House of Commons within the last five years. There is no bar on members of the House of Lords being members of the IPSA.

49. *Paragraph 2* makes provision for the appointment of the chair of the IPSA. The chair is appointed by Her Majesty on an address of the House of Commons. The motion for an address may be made only with the agreement of the Speaker, for a candidate selected by the Speaker on merit on the basis of a fair and open competition and approved by the Speaker’s Committee. *Paragraph 2* also provides that the same selection and appointment process is to apply for ordinary members of the IPSA.

50. *Paragraph 3* provides that the terms and conditions of appointment of members of the IPSA are to be determined by the Speaker.

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51. *Paragraph 4* deals with the term of office of members of the IPSA, and re-appointment to the IPSA. Members of the IPSA are to be appointed for a fixed term not exceeding five years. They may be re-appointed once only, for a term not exceeding three years.

52. *Paragraph 5* makes provision for the resignation and removal from office of members of the IPSA. Members of the IPSA may resign by giving written notice to the Speaker. They may be removed from office by Her Majesty on an address of both Houses of Parliament.

53. *Paragraph 6* makes provision enabling the terms and conditions of appointment to the IPSA to provide for payment by the IPSA of remuneration and allowances, and for the provision of a pension.

54. *Paragraph 7* requires the IPSA to issue and periodically to revise a code of conduct for its members. The code must incorporate the seven general principles of public life set out by the CSPL or such other similar principles as the IPSA adopt, and must require members to disclose their interests.

55. *Paragraph 8* provides that all members of the IPSA are disqualified for membership of the House of Commons and the Northern Ireland Assembly.

Part 2: The IPSA

56. *Paragraph 9* makes it clear that the IPSA, its members and staff are not to be regarded as the servants or agents of the Crown, and that its property is not to be regarded as held on behalf of the Crown. This means that the IPSA is not to have “Crown status”.

57. *Paragraph 12* enables the IPSA to establish such committees as it sees fit, and the committees to establish such sub-committees as they see fit. The members of such committees and sub-committees must be drawn from the membership of the IPSA.

58. Under *Paragraph 13(2)* the validity of proceedings of the IPSA, or any of its committees or sub-committees, is not affected by a vacancy among the members of the IPSA or a defect in the appointment of a member. This is to enable the normal functioning of the IPSA should such circumstances arise.

59. *Paragraph 14* requires the appointment of a chief executive, and enables the appointment of other staff by the IPSA. Their terms and conditions of appointment are to be determined by the IPSA, but the IPSA is to have regard to the desirability of keeping such terms and conditions broadly in line with civil service terms and conditions.

60. *Paragraph 15* enables the Speaker to appoint an interim chief executive, to act in the name of and on behalf of the IPSA, until such time as the IPSA appoints a chief executive. This provision will expedite the establishment of an organisation to support the IPSA. It is for the IPSA to determine when the powers exercised by the interim chief executive are to come to an end.

61. *Paragraph 16* provides for the staff of the IPSA to have access to the Principal Civil Service Pension Scheme.
62. *Paragraphs 17 and 18* separate the IPSA's administration and regulation functions. *Paragraph 17* requires that the administration functions of the IPSA be carried out separately from the regulation functions insofar as possible, and that the administration functions are to be carried out by the chief executive. *Paragraph 18* sets out the division. Administration functions are those relating to the payment of MPs' salaries, the payment of allowances, the processing of allowances claims and publishing and maintaining the register of interests. The regulation functions are the preparation and revision of the MPs' allowances scheme, preparation and revision of the code and determining procedures for investigations and conditions which must be met before the Commissioner need not refer findings to the Committee on Standards and Privileges.
63. *Paragraph 19* enables the IPSA to delegate functions to any of its members, any committee it establishes, or any of its staff, with the exception of the regulation functions and the appointment of a chief executive. *Paragraph 19* also enables the chief executive to delegate his or her statutory functions to any of the staff of the IPSA.
64. *Paragraph 20* provides for the IPSA to contract out its payment functions. This means that it would not be necessary for the processing of payments to be carried out by the staff of the IPSA. It could instead be contracted out to another body. *Paragraph 20(4)* makes it clear that the power to contract out functions does not include the power to contract out functions in relation to the determination of claims for allowances.
65. *Paragraph 21* provides for the chief executive to contract out the arrangements for managing the pensions of the staff of the IPSA.
66. *Paragraph 22* sets out that the IPSA is to be funded by money provided by Parliament. This means that it will be voted annually by Parliament in the same way as departmental resources. It is for the IPSA to prepare an estimate of the resources it will require. It is to submit this to the Speaker's Committee. The estimate is to be laid before the House of Commons by the Speaker after a process of review in which the Committee must involve the Treasury.
67. *Paragraph 23* requires the IPSA to prepare accounts in accordance with the directions given to it by the Treasury. *Paragraph 23(4)* appoints the chief executive as the accounting officer for the IPSA.
68. *Paragraph 24* requires the IPSA to submit its accounts annually to the Comptroller and Auditor General. The Comptroller and Auditor General is to examine and certify the accounts and lay a copy before each House of Parliament.
69. *Paragraph 25* requires the Speaker to lay the IPSA's annual report before Parliament.

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70. *Paragraph 26* provides for the application of the seal of the IPSA which is to be authenticated by the signature of any member of the IPSA or its staff who has been authorised for the purpose.

71. *Paragraph 27* extends the Freedom of Information Act 2000 to cover the IPSA. This will mean that the IPSA will have to introduce a publication scheme explaining how it intends to handle the information in its possession, as well as being obliged to consider requests for information in accordance with the provisions of that Act. In adopting or reviewing a publication scheme, the IPSA must consult the Leader of the House of Commons, the Speaker and the Committee on Standards and Privileges.

Schedule 2: Commissioner for Parliamentary Investigations

72. *Schedule 2* makes provision for the appointment of the Commissioner, for his or her terms and conditions, resignation and removal from office, remuneration and status which is the same as that made for the members of the IPSA in Schedule 1.

73. *Paragraph 3* sets limits to the term of office of the Commissioner. The Commissioner will be appointed for a single fixed term not exceeding five years. A person appointed as the Commissioner may not be reappointed to that office.

74. *Paragraph 7* lays a duty on the IPSA to provide the Commissioner with adequate resources to fulfil his or her functions, and in particular the staff to assist in carrying out those functions. Because his or her resources will be provided by the IPSA, there is no separate requirement on the Commissioner to prepare annual accounts. *Paragraph 8* requires the Commissioner to prepare an annual report which the Speaker must lay before each House of Parliament. The Commissioner is to publish the report in any manner he or she considers appropriate.

75. *Paragraph 10* extends the Freedom of Information Act 2000 to cover the Commissioner. This will mean that the Commissioner will have to introduce a publication scheme explaining how he or she intends to handle the information in his or her possession, as well as being obliged to consider requests for information in accordance with the provisions of that Act.

Schedule 3: Speaker's Committee for the Independent Parliamentary Standards Authority

76. This Schedule makes provision for the Speaker's Committee which is to have the functions set out in this Act – in particular, the function of approving the selection of candidates for appointment as a member of the IPSA or as the Commissioner.

77. *Paragraph 1* sets out the membership of the Speaker's Committee. It is to be the Speaker of the House of Commons, the Leader of the House of Commons, the chair of the Committee on Standards and Privileges and five MPs who are not Ministers of the Crown.

Sections 4-7: Salaries and allowances for MPs

78. *Section 4(1)* provides that MPs' salaries are to be paid by the IPSA, in accordance with the relevant resolutions of the House. *Section 4(2)* ensures that if the House should determine that an MP's salary should be withheld, the IPSA can give effect to that. The function in this section of paying salaries is to be exercised by the chief executive on behalf of the IPSA, see paragraph 17 of Schedule 1.

79. *Section 5* provides that the IPSA is to pay allowances according to an MPs' allowances scheme it prepares and keeps regularly under review. *Section 5(4)* provides that during preparation or revision of the scheme, the IPSA is required to consult the Speaker of the House of Commons, the CSPL, the Leader of the House of Commons, any committee of the House nominated by the Speaker, members of the House of Commons, the SSRB, Her Majesty's Revenue and Customs and the Treasury. The IPSA may also consult with any other person it considers appropriate. Once the scheme has been prepared or revised, the Speaker must lay it before the House of Commons, but the scheme does not require the formal agreement of the House.

80. *Section 5(7)* sets out matters which the scheme may include. These include for what types of expenditure and in what circumstances allowances may be payable; the conditions under which allowances may be paid (for example on the receipt of documentary evidence); and imposing limits on the amounts which can be paid. *Section 5(8)* makes it clear that the allowances which may be included in the allowances scheme and paid by the IPSA include resettlement grants payable to MPs. This is the allowance which is paid to an MP when he or she loses his or her seat or steps down from the House of Commons. It is intended to be the equivalent of redundancy pay for an employed person.

81. *Section 5(10)* is a consequential amendment. Section 3A of the European Parliament (Pay and Pensions) Act 1979 ("the 1979 Act") enables an order to be made bringing the provisions about resettlement grants for members of the European Parliament ("MEPs") into line with the equivalent provisions for MPs in resolutions of the House of Commons. If this power is to be available in future, where resettlement grants may be provided for in the MPs' allowances scheme rather than in resolutions, section 3A of the 1979 Act needs to be amended to refer to provision under the allowances scheme.

82. *Section 6* sets a formal framework for dealing with claims under the allowances scheme, and sets out that further provision for dealing with claims may be included within the allowances scheme prepared by the IPSA. These functions are to be exercised by the chief executive on behalf of the IPSA, see paragraph 17 of Schedule 1.

83. *Section 6(1)* requires a claim to be made to the IPSA before any allowance is paid to an MP. Those claims must usually be made by the MP, *section 6(2)*. *Section 6(3)* requires the IPSA to determine whether to allow or refuse the claim, and, if it is allowed, how much should be paid, and to pay it accordingly. *Section 6(4)* and *(5)* provide for a review mechanism if the IPSA determines that a claim should be refused or paid only in part. If an MP asks for a review, the IPSA must review its determination and decide whether or not to alter its decision.

84. *Section 6(6)* provides that the scheme may make further provision as to how claims are to be dealt with. This could include such matters as the sort of evidence required, or the format in which a claim must be made. This subsection also provides that the scheme may contain a mechanism through which overpayments may be recovered by permitting the setting off of payments to which an MP is not entitled against payments to which the MP is entitled.

85. *Section 6(7)* provides that an allowance to which a member is entitled under the scheme may be paid to another person at the member's direction.

86. Under *section 7* the IPSA must provide to MPs details of any general information or guidance about taxation issues published by Her Majesty's Revenue and Customs that it considers MPs should be aware of. The IPSA must also provide MPs with any other general information or guidance about taxation issues that it considers appropriate.

Section 8: MPs' code of conduct relating to financial interests

87. *Section 8* requires the IPSA to prepare, regularly review, and revise as appropriate a code of conduct relating to MPs' financial interests. *Subsection (4)* provides that during preparation or revision of the code, the IPSA is required to consult with the Speaker of the House of Commons, the Leader of the House of Commons, the Committee on Standards and Privileges, and members of the House of Commons. The IPSA may also consult with any other person it considers appropriate. Once the code has been prepared or revised, the Speaker must lay it before the House of Commons. *Subsection (6)* provides that the code must be approved by a resolution of the House of Commons before it is to have effect.

88. *Subsections (7) and (8)* set out the provisions which must be included in the code. *Subsection (7)* sets out a framework requiring MPs to register financial interests with the IPSA. *Subsection (8)* sets out that the code must prohibit paid advocacy. It covers both the actions of the MP in advocating or initiating any cause or matter for any consideration, whether financial or in kind, and also urging another member to advocate any cause or matter on his or her behalf.

89. *Subsection (9)* requires the IPSA to publish the register in any way that it considers appropriate.

90. *Subsection (10)* defines "financial interest" as including a benefit in kind or an indirect financial interest (such as a financial interest of a member of the family of the member). So, for example, an MP could be required to include on the register information about employing a member of his or her family as his or her staff.

Sections 9-10: Investigation and enforcement

91. *Section 9(1)* provides that the Commissioner may conduct an investigation if he or she has reason to believe that a member of the House of Commons may have been overpaid an allowance under the allowances scheme or may have failed to comply with a requirement relating to the registration of financial interests in the code of conduct relating to financial interests.

92. The Commissioner is not to have an investigation function in relation to the prohibition on paid advocacy. This is because any breach of the code as it relates to paid advocacy is likely to involve proceedings in Parliament. It is thought undesirable to place the Commissioner in the position where he or she is unable to investigate a breach of the code without investigating proceedings in Parliament.

93. *Section 9(2)* sets out who may initiate an investigation. This can be either the Commissioner on his or her own initiative, at the request of the member concerned or as the result of a complaint from an individual.

94. *Section 9(3)* requires the IPSA to provide any information reasonably required by the Commissioner for the purposes of the investigation.

95. *Section 9(4) to (8)* concerns what the Commissioner is to do after making a finding following an investigation. Under *section 9(4)*, if the Commissioner finds that an MP has been overpaid an amount under the allowances scheme, the Commissioner must refer these findings to the Committee on Standards and Privileges. However, under *section 9(5)*, the Commissioner need not refer these findings if the MP has accepted the findings, such other conditions as may be specified by the IPSA are met and the MP repays the IPSA such amount as the Commissioner considers reasonable.

96. Under *section 9(6)*, if the Commissioner finds that an MP has failed to comply with the code as it concerns registration of financial interests, the Commissioner must also refer these findings to the Committee on Standards and Privileges. However, under *section 9(7)*, the Commissioner need not refer these findings if the MP accepts the findings, the interest was minor or the infringement inadvertent, such other conditions as may be specified by the IPSA are met and the MP takes steps to rectify the register.

97. The third circumstance specified in the Act relating to references by the Commissioner to the Committee on Standards and Privileges is set out in *section 9(8)*. The Commissioner may refer a finding to the Committee on Standards and Privileges if the MP has not provided information which the Commissioner reasonably requires for the purposes of the investigation. This gives the Commissioner a method of informing the Committee that an MP is undermining an investigation by not co-operating with it.

98. *Section 9(9)* requires the IPSA to determine procedures for the conduct of investigations by the Commissioner and the handling of complaints from individuals. This may include procedures for refusing to conduct an investigation in response to a complaint, for example, where the complaint is vexatious or is frivolous. The IPSA must also determine procedures about the circumstances in which findings of the Commissioner are to be published.

99. *Section 9(10)* requires the IPSA to consult the Leader of the House of Commons, the Committee on Standards and Privileges, the Commissioner and any other person the IPSA considers appropriate, in determining its procedures. The IPSA must also consult those persons and that committee when determining the additional conditions which must be met before the Commissioner need not refer his or her findings of an overpayment or breach of the registration requirements to the Committee on Standards in Privileges (those conditions mentioned in section 9(5)(b) and (7)(c)).

100. *Section 9(11)* requires that such procedures must be fair and must afford any member of the House of Commons subject to an investigation the opportunity to make representations to the Commissioner, and to make representations in light of the Commissioner's findings before they are referred to the Committee on Standards and Privileges. The investigation and complaint procedures must give an MP an opportunity to be heard in person and an opportunity where appropriate to call and examine witnesses, see *section 9(12)*.

101. *Section 10* establishes a new offence in relation to claims made under the allowances scheme. *Section 10(1)* sets out that an MP commits an offence if he or she provides information which he or she knows to be false or misleading in a material respect in support of a claim for allowances.

102. *Section 10(2) and (3)* sets out the penalties for this offence. It can be tried either summarily or on indictment. If it is tried summarily, the maximum penalty is 6 months imprisonment (12 months in Scotland and 12 months in England and Wales on the coming into force of section 154(1) of the Criminal Justice Act 2003) or a fine not exceeding the statutory maximum, or both. If it is tried on indictment, the maximum penalty is 12 months imprisonment or a fine or both.

Sections 11-15: Final provisions

103. *Section 11(1)* provides that the Speaker, after consulting the Commissioner and the Committee on Standards and Privileges, may agree with the IPSA that the IPSA is to carry out agreed registration functions. These registration functions are functions performed by the Standards Commissioner which relate to registration. This section would permit the IPSA to take over the functions of the Standards Commissioner concerning other registers held by the Standards Commissioner, for example, the Register of Interests of Members' Secretaries and Research Assistants.

*These notes refer to the Parliamentary Standards Act 2009 (c. 13)
which received Royal Assent on 21st July 2009*

104. *Section 11(4)* provides a similar power by which the Speaker, after consulting the IPSA and the Committee on Standards and Privileges, may agree with the Commissioner that the Commissioner is to carry out agreed functions. Those functions are functions of the Standards Commissioner and which the Commissioner could not carry out under any provision of this Act. This subsection permits the Commissioner to take on additional functions which are at present exercised by the Standards Commissioner.

105. *Section 12* sets out the interpretation of terms used in the Act. It provides for the Speaker to make the final determination of which body would best be substituted for certain bodies named in the Act if one of those bodies changes its name or if the functions of the body become functions of a different body.

106. *Section 13* sets out the powers to make transitional provision. It confers the functions on a Minister of the Crown so that it is possible for them to be exercised by the Leader of the House of Commons.

107. *Section 13(1)* provides that a Minister of the Crown may by order make supplementary, incidental, transitional, transitory or saving provision in connection with this Act.

108. *Section 13(2)* provides that an order made under this section may include certain transitional provisions to facilitate the transition from the current system of allowances and rules governing financial interests to the new system. *Subsection (2)(a)* enables an order to provide that the current rules of the House of Commons relating to allowances are to have effect for specified purposes as if they were set out in accordance with the provisions of this Act. This is to ensure that there is a valid system of rules relating to allowances in place as soon as possible after the IPSA is established.

109. *Subsection (2)(b)* makes similar provision for the current rules relating to the registration of members' interests. *Subsection (2)(c)* makes similar provision for the current rules concerning the prohibition of paid advocacy.

110. *Subsection (3)* makes clear that the specified purposes for which any of the current rules are to have effect, does not include the purposes of section 10 (offence of providing false or misleading information for allowances claims). This means that the offence set out in section 10 cannot take effect in relation to allowances under subsection (2).

111. *Subsection (4)* enables consequential changes to be made to the relevant existing rules to substitute the Commissioner or the IPSA for references to an officer or committee of the House of Commons.

*These notes refer to the Parliamentary Standards Act 2009 (c. 13)
which received Royal Assent on 21st July 2009*

112. *Subsection (5)* enables provision to be made whereby payments of allowances to which a member of the House of Commons was not entitled may be set off against other claims for allowances made by that member. This would mean that where previous overpayments were being recouped against later claims for allowances under the current scheme, this setting off could continue even after the transition to the new scheme.

113. *Subsection (6)* enables provision to be made to transfer staff, property, rights, liabilities, documents and information from the House of Commons to the IPSA in accordance with a scheme. Such a scheme would be made by a Minister of the Crown and would have to be agreed with the Speaker in his or her capacity as the chair of the House of Commons Commission.

114. *Subsections (8) and (9)* provide that an order under section 13 is to be made by statutory instrument and may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

115. *Section 15* set out a review mechanism for the Act. It provides that two years after section 8 comes into force, sections 3(3) and (4) and 8 to 11 (and Schedule 2) will expire. These provisions relate to the Commissioner, the functions of the Commissioner, the code of conduct relating to financial interests and the offence. A Minister of the Crown may by order extend these provisions for a further period (or periods) of two years. Such an order is subject to the affirmative procedure in both Houses.

COMMENCEMENT DATES

116. Sections 12 to 15 of the Act came into force on the day it was passed. The other provisions come into force on the day appointed by a Minister of the Crown by order made by statutory instrument; and different days may be appointed for different purposes.

*These notes refer to the Parliamentary Standards Act 2009 (c. 13)
which received Royal Assent on 21st July 2009*

HANSARD REFERENCES

117. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	23rd June 2009	Vol. 494 Col 691
Second Reading	29th June 2009	Vol. 495 Cols. 44-131
Committee	30th June 2009 and 1st July 2009	Vol. 495 Cols. 186-272 and 310-387
Report and Third Reading	1st July 2009	Vol. 495 Cols. 387-412
House of Lords		
Introduction	2nd July 2009	Vol. 712 Col 333
Second Reading	8th July 2009	Vol. 712 Cols. 673-752
Committee	14th July 2009 and 16th July 2009	Vol. 712 Cols. 1046-1111, 1126-1158 and 1272-1324
Report	20th July 2009	Vol. 712 Cols. 1415-1451
Third Reading	20th July 2009	Vol. 712 Cols. 1500-1506
House of Commons		
Commons consideration of Lords amendments	21st July 2009	Vol. 496 Cols. 770-788
Royal Assent – 21st July 2009	House of Lords Hansard Vol. 712 Col 1580 House of Commons Hansard Vol. 496 Col 801	

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