
STATUTORY INSTRUMENTS

2004 No. 1823

**The Scottish Public Services Ombudsman Act 2002
(Consequential Provisions and Modifications) Order 2004**

Health Service Commissioners Act 1993 (c. 46)

- 17.—(1) The Health Service Commissioners Act 1993~~((1))~~ is amended as follows.
- (2) In section 1 (the Commissioners)~~((2))~~—
- (a) in subsection (1)—
 - (i) after “England,” insert “and”; and
 - (ii) omit “, and (c) a Health Service Commissioner for Scotland”; and
 - (b) in subsection (3) omit “and the Health Service Commissioner for Scotland”.
- (3) In section 2 (bodies subject to investigation)~~((3))~~ omit subsection (3).
- (4) In section 2A (health service providers subject to investigation)~~((4))~~—
- (a) omit subsection (3); and
 - (b) in subsection (4)(a) for “, (2) or (3)” substitute “or (2)”.
- (5) In section 2B (independent providers subject to investigation)~~((5))~~—
- (a) omit subsection (3);
 - (b) in subsection (4) for “, (2)(a) or (3)(a)” substitute “or (2)(a)”; and
 - (c) in subsection (5), for “, (2) or (3)” substitute “or (2)”.
- (6) In section 7(2)(a) (personnel, contracts etc)~~((6))~~ omit “and, in relation to Scotland, by section 17A of the National Health Service (Scotland) Act 1978”.
- (7) In section 11(4) (procedure in respect of investigations)~~((7))~~ omit “or the Health Service Commissioner for Scotland”.
- (8) In section 14 (reports by English and Scottish Commissioners)~~((8))~~—
- (a) in subsections (1), (2), (2A), (2B), (2C), (2D), (3) and (5), omit “or the Health Service Commissioner for Scotland”;

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- (1) The Health Service Commissioners Act 1993 was repealed in respect of Scotland by the [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), section 25 and Schedule 6, paragraph 14.
- (2) Section 1 was amended by the Government of Wales Act [1998 \(c. 38\)](#), section 112 and Schedule 10, paragraph 2.
- (3) Section 2 was amended by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), section 4. There are other amendments to section 2 which are not relevant to this Order.
- (4) Section 2A was inserted by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), section 1. There are other amendments to section 2A which are not relevant to this Order.
- (5) Section 2B was inserted by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), section 1. There are other amendments to section 2B which are not relevant to this Order.
- (6) Section 7(2) was amended by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), Schedule 1, paragraph 2, and Schedule 2, and the Government of Wales Act [1998 \(c. 38\)](#), section 112 and Schedule 10, paragraph 6.
- (7) Section 11(4) was amended by the Government of Wales Act [1998 \(c. 38\)](#), section 112 and Schedule 10, paragraph 9.
- (8) Section 14 was amended by the Health Service Commissioners (Amendment) Act [1995 \(c. 5\)](#), sections 3, 10, 13 and Schedule 1, paragraph 5 and Schedule 2 and the Government of Wales Act [1998 \(c. 38\)](#), section 112 and Schedule 10, paragraph 10 and S.I. [1999/1820](#).

- (b) in subsections (1)(b), (2)(b), (2A)(b), (2B)(b), (2C)(b) and (2D)(b) omit “or member of the Scottish Parliament”;
 - (c) in subsection (4)–
 - (i) omit “and the Health Service Commissioner for Scotland”; and
 - (ii) in paragraphs (a) and (b) omit “each” where it first occurs; and
 - (d) in the heading omit “and Scottish”, and for “Commissioners” substitute “Commissioner”.
- (9) In section 18 (consultation during investigations)((9))–
- (a) in subsection (1)–
 - (i) in paragraph (a) for “by either of the other Health Service Commissioners” substitute “by the other Health Service Commissioner”;
 - (ii) in paragraph (d) for “by the Commissioner for Local Administration in Scotland under Part II of the Local Government (Scotland) Act 1975” substitute “by the Scottish Public Services Ombudsman under the Scottish Public Services Ombudsman Act 2002”; and
 - (iii) after paragraph (d) omit “the” where it occurs after “appropriate Commissioner or” and where it occurs after “that Commissioner or”; and
 - (b) in subsection (2) after “another Commissioner” insert “, the Scottish Public Services Ombudsman”.
- (10) In section 19 (interpretation)((10)) in the definition of “the Court”, omit “in relation to Scotland, the Court of Session,”.
- (11) In Schedule 1 (the English and Scottish Commissioners)–
- (a) in the heading((11)) omit “and Scottish”, and for “Commissioners” substitute “Commissioner”;
 - (b) in paragraph A1 (introductory)((12)) omit the words from “or” to the end of the paragraph;
 - (c) in paragraph 1 (appointment of Commissioners)((13))–
 - (i) in sub-paragraph (2)(b) omit “except in the case of the Health Service Commissioner for Scotland” and “or”; and
 - (ii) omit sub-paragraph (2)(c);
 - (d) in the heading to paragraph 2, for “Commissioners” substitute “Commissioner”;
 - (e) in paragraph 2(1) (appointment of acting Commissioners)((14))–
 - (i) for “either of the offices” substitute “the office”; and
 - (ii) for “that” substitute “the”;
 - (f) in paragraph 3(2) (ineligibility of certain persons for appointment)((15))–
 - (i) after “means” omit “(a) in relation to the Health service Commissioner for England or a person appointed to act as such,”;
 - (ii) omit “, and” at the end of head (a); and

(9) Section 18 was amended by the Government of Wales Act 1998 (c. 38), section 112 and 152 and Schedule 10, paragraph 14, and Schedule 18, Part 1.

(10) There are amendments to section 19 which are not relevant to this Order.

(11) The heading to Schedule 1 was amended by the Government of Wales Act 1998 (c. 38), section 112 and Schedule 10, paragraph 16(2).

(12) Paragraph A1 of Schedule 1 was inserted by the Government of Wales Act 1998 (c. 38), Schedule 10, paragraph 16(3).

(13) Paragraph 1 was amended by S.I. 1999/1820.

(14) Paragraph 2 was amended by the Government of Wales Act 1998 (c. 38), section 112 and Schedule 10, paragraph 16(4).

(15) Paragraph 3 was amended by the Government of Wales Act 1998 (c. 38), sections 112 and 152, Schedule 10, paragraph 16(5) and Schedule 18, Part 1.

- (iii) omit head (b);
 - (g) in paragraph (3A)(2) (ineligibility of certain persons for appointment)((16))–
 - (i) after “means” omit “(a) in relation to the Health Service Commissioner for England or a person appointed to act as such,”;
 - (ii) omit “, and” to the end of head (a); and
 - (iii) omit head (b);
 - (h) in paragraph 4 (salaries)((17)) omit head (b);
 - (i) in paragraph 6((18))–
 - (i) in sub-paragraph (1)(b) for “either or both of the offices” substitute “the office”; and
 - (ii) omit sub-paragraph (2);
 - (j) in paragraph 9(1) (pensions and other benefits) for “any of the offices” substitute “the office”;
 - (k) in paragraph 12 (staff and advisers)((19)) omit “the other Commissioner,”; and
 - (l) in paragraph 14 (financial provisions) omit “except the Health Service Commissioner for Scotland”.
- (12) In Schedule 1A (the Welsh Commissioner)((20))–
- (a) in paragraph 5(3) (remuneration) for “either or both of the other offices” substitute “the other office”; and
 - (b) in paragraph 6(5)(c) (staff and advisers) for “another” substitute “the other”.
- (13) In Schedule 2 (consequential amendments) omit paragraphs 5 and 6.

(16) Paragraph 3A was inserted by the Health Service Commissioners (Amendment) Act 1996 (c. 5), section 3 and Schedule 1, paragraph 7 and amended by the Government of Wales Act 1998 (c. 38), section 112 and 152, Schedule 10, paragraph 16(5) and Schedule 18, Part 1.

(17) Paragraph 4 was amended by S.I. 1999/1820.

(18) Paragraph 6 was amended by the Government of Wales Act 1998 (c. 38), section 112 and Schedule 10, paragraph 16(6).

(19) Paragraph 12 was amended by the Government of Wales Act 1998 (c. 38) Schedule 10, paragraph 16(8).

(20) Schedule 1A was inserted by the Government of Wales Act 1998 (c. 38) section 112 and Schedule 10, paragraph 17.