

ELIZABETH II

c. 46



Health Service Commissioners Act 1993

1993 CHAPTER 46

An Act to consolidate the enactments relating to the Health Service Commissioners for England, for Wales and for Scotland with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission. [5th November 1993]

^{F1}Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Amendments (Textual)

- F1** Act repealed (S.) (23.10.2002) by 2002 asp 11, s. 25(1), **Sch. 6 para. 14** (with savings in Sch. 7); S.S.I. 2002/467, **art. 2**

Modifications etc. (not altering text)

- C1** Act applied (1.4.1999) by S.I. 1999/686, art. 5(1), **Sch. Pt. II**
Act applied (with modifications)(1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. II**
Act applied (6.4.2001) by S.I. 2001/137, art. 5, **Sch. Pt. II**
Act applied (S.) (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. II** (with art. 4(4))
Act applied (S.) (27.6.2002) by S.S.I. 2002/305, art. 5, **Sch. Pt. II** (with art.4(4))

Commencement Information

- II** Act not in force at Royal Assent; Act wholly in force at 5. 2. 1994 see s. 22(4).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Health Service Commissioners

1 The Commissioners.

- (1) For the purpose of conducting investigations in accordance with this Act, there shall continue to be—
- (a) a Health Service Commissioner for England,
 - (b) a Health Service Commissioner for Wales, and
 - (c) a Health Service Commissioner for Scotland.
- (2) References in this Act to a Commissioner (or Health Service Commissioner) are, unless the context otherwise requires, to any of the Commissioners.
- (3) Schedule 1 has effect with respect to the appointment and remuneration of [^{F2}, and other administrative matters relating to, the Health Service Commissioner for England and the Health Service Commissioner for Scotland; and Schedule 1A has effect with respect to the appointment and remuneration of, and other administrative matters relating to, the Health Service Commissioner for Wales].

Annotations:

Amendments (Textual)

- F2** Words in s. 1(3) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 2** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Health service bodies subject to investigation

2 The bodies subject to investigation.

- (1) The bodies subject to investigation by the Health Service Commissioner for England are—
- [^{F3}(a) Strategic Health Authorities,]
 - (c) Special Health Authorities to which this section applies exercising functions only or mainly in England,
 - (d) National Health Service trusts managing a hospital, or other establishment or facility, in England,
 - [^{F4}(da) Primary Care Trusts ^{F5}. . .]
 - ^{F6}(e)
 - (f) the Dental Practice Board, and
 - (g) the Public Health Laboratory Service Board.
- (2) The bodies subject to investigation by the Health Service Commissioner for Wales are —
- [^{F7}(a) Health Authorities ^{F8}. . .,]
 - [^{F9}(aa) Local Health Boards,]
 - (b) Special Health Authorities to which this section applies exercising functions only or mainly in Wales ^{F10}. . .,
 - (c) National Health Service trusts managing a hospital, or other establishment or facility, in Wales, ^{F11}. . . [^{F12} and
 - (ca) the National Assembly for Wales (“the Assembly”).]

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- ^{F13}(d)
- (3) The bodies subject to investigation by the Health Service Commissioner for Scotland are—
- (a) Health Boards,
 - (b) National Health Service trusts established under section 12A of the ^{M1}National Health Service (Scotland) Act 1978,
 - (c) the Common Services Agency for the Scottish Health Service, ^{F14} . . .
 - (d) the Scottish Dental Practice Board [^{F15}and
 - (e) the Mental Welfare Commission for Scotland]
- (4) References in this Act to a “health service body” are to any of the bodies mentioned above.
- (5) The Special Health Authorities to which this section applies are those—
- (a) established on or before 1st April 1974, or
 - (b) established after that date and designated by Order in Council as ones to which this section applies.
- (6) A statutory instrument containing an Order in Council made by virtue of subsection (5) (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Amendments (Textual)

- F3** S. 2(1)(a) substituted (E.W.) (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 47**; S.I. 2002/2478, **art. 3(1)(a)** (with savings in **art. 3(3)** and transitional provisions in **art. 4**)
- F4** S. 2(1)(da) inserted (E.W.) (4.1.2000) by 1999 c. 8, s. 65, **Sch. 4 para. 85(2)(a)**; S.I. 1999/2342, **art. 2(3)**, **Sch.**
- F5** Words in s. 2(1)(da) repealed (E.W.) (1.10.2002) by 2002 c. 17, ss. 2(5), 37(2), **Sch. 2 Pt. 2 para. 61(2)(a)**, **Sch. 9 Pt. 1**; S.I. 2002/2478, **art. 3(1)(a)** (with savings in **art. 3(3)** and transitional provisions in **art. 4**)
- F6** S. 2(1)(e) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5, 8, **Sch. 1 Pt. III para. 126(2)(a)**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)
- F7** S. 2(2)(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III para. 126(2)(b)** (with **Sch. 2 paras. 6, 16**)
- F8** Words in s. 2(2)(a) repealed ((E.W.) 1.10.2002 and (W.) 10.10.2002) by 2002 c. 17, ss. 2(5), 37(2), **Sch. 2 Pt. 2 para. 61(2)(b)**, **Sch. 9 Pt. 1**; S.I. 2002/2478, **art. 3(1)(a)** (with savings in **art. 3(3)** and transitional provisions in **art. 4**); S.I.2002/2532, **art. 2**, **Sch.**
- F9** S. 2(2)(aa) substituted (W.) (10.10.2002) by 2002 c. 17, s. 6(2), **Sch. 5 para. 38**; S.I. 2002/2532, **art. 2**, **Sch.**
- F10** Word in S. 2(2)(b) repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. I** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F11** Word in S. 2(2)(c) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5, 8, **Sch. 1 Pt. III para. 126(2)(b)**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)
- F12** S. 2(2)(ca) and preceding word “and” inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 3(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F13** S. 2(2)(d) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5, 8, **Sch. 1 Pt. III para. 126(2)(a)**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)
- F14** Word in s. 2(3)(c) repealed (1.4.1996) by 1996 c. 5, ss. 4(1), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F15** S. 2(3)(e) and preceding word “and” inserted (1.4.1996) by 1996 c. 5, s. 4(1); S.I. 1996/970, **art. 2(1)**

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Marginal Citations

M1 1978 c. 29.

[^{F30} Persons subject to investigation]

Annotations:

Amendments (Textual)

F30 Ss. 2A, 2B and crossheading inserted (1.4.1996) by 1996 c. 5, s. 1; S.I. 1996/970, art. 2(1)

2A [^{F16} Health service providers subject to investigation.

- (1) Persons are subject to investigation by the Health Service Commissioner for England [^{F17}if they are [^{F18}or were at the time of the action complained of]—
- (a) individuals undertaking to provide in England general medical services or general dental services under Part II of the National Health Service Act 1977;
 - (b) persons (whether individuals or bodies) undertaking to provide in England general ophthalmic services or pharmaceutical services under Part II of that Act; [^{F19}or]
 - (c) individuals performing in England personal medical services or personal dental services in accordance with arrangements made under section 28C of that Act (except as employees of, or otherwise on behalf of, a health service body or an independent provider)]
- [^{F20}or
- (d) individuals providing in England local pharmaceutical services in accordance with arrangements made under a pilot scheme established under section 28 of the Health and Social Care Act 2001 (except as employees of, or otherwise on behalf of, a health service body or an independent provider).]
- (2) Persons are subject to investigation by the Health Service Commissioner for Wales [^{F21}if they are [^{F22}or were at the time of the action complained of]—
- (a) individuals undertaking to provide in Wales general medical services or general dental services under Part II of the National Health Service Act 1977;
 - (b) persons (whether individuals or bodies) undertaking to provide in Wales general ophthalmic services or pharmaceutical services under Part II of that Act; or
 - (c) individuals performing in Wales personal medical services or personal dental services in accordance with arrangements made under section 28C of that Act (except as employees of, or otherwise on behalf of, a health service body or an independent provider)]
- (3) Persons are subject to investigation by the Health Service Commissioner for Scotland [^{F23}if they are—
- (a) individuals undertaking to provide in Scotland general medical services or general dental services under Part II of the ^{M2}National Health Service (Scotland) Act 1978;

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- (b) persons (whether individuals or bodies) undertaking to provide in Scotland general ophthalmic services or pharmaceutical services under Part II of that Act; or
 - (c) individuals performing in Scotland personal medical services or personal dental services in accordance with arrangements made under section 17C of that Act (except as employees of, or otherwise on behalf of, a health service body or an independent provider)]
- (4) In this Act—
- (a) references to a family health service provider are to any person mentioned in subsection (1), (2) or (3);
 - (b) references to family health services are to any of the services so mentioned.

Annotations:

Amendments (Textual)

- F16** S. 2A and sidenote inserted (1.4.1996) by 1996 c. 5, s. 1; S.I. 1996/970, art. 2(1)
- F17** S. 2A(1)(a)(b)(c) and words in s. 2A(1) substituted for words in s. 2A(1) (1.4.1998 with effect as mentioned in art. 3(3) of S.I. 1998/631) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I para. 68(2); S.I. 1998/631, art. 2(1)(b), Sch. 2
- F18** Words in s. 2A(1) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(2)(a), 4(2) (with s. 3)
- F19** Word in s. 2A(1)(b) repealed (E.) (12.12.2002) by S.I. 2002/2861, art. 26(a)
- F20** S. 2A(1)(d) and the word preceding it inserted (E.) (12.12.2002) by S.I. 2002/2861, art. 26(b)
- F21** S. 2A(2)(a)(b)(c) and words in s. 2A(2) substituted for words in s. 2A(2) (1.4.1998 with effect as mentioned in art. 3(3) of S.I. 1998/631) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I para. 68(3); S.I. 1998/631, art. 2(1)(b), Sch. 2
- F22** Words in s. 2A(2) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(2)(b), 4(2) (with s. 3)
- F23** S. 2A(3)(a)(b)(c) and words in s. 2A(3) substituted for words in s. 2A(3) (1.4.1998 with effect as mentioned in art. 3(3) of S.I. 1998/631) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I para. 68(4); S.I. 1998/631, art. 2(1)(b), Sch. 2

Marginal Citations

- M2** 1978 c. 29.

2B ^{F24} Independent providers subject to investigation.

- (1) Persons are subject to investigation by the Health Service Commissioner for England if—
- (a) they are ^{F25}or were at the time of the action complained of] persons (whether individuals or bodies) providing services in England under arrangements with health service bodies or family health service providers, and
 - (b) they are not ^{F26}or were not at the time of the action complained of] themselves health service bodies or family health service providers.
- (2) Persons are subject to investigation by the Health Service Commissioner for Wales if—
- (a) they are ^{F27}or were at the time of the action complained of] persons (whether individuals or bodies) providing services in Wales under arrangements with health service bodies or family health service providers, and
 - (b) they are not ^{F28}or were not at the time of the action complained of] themselves health service bodies or family health service providers.

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- [^{F29}(2A) Arrangements with the Assembly are not arrangements with a health service body for the purposes of this Act unless they are made in the exercise of a function of the Assembly relating to the National Health Service.]
- (3) Persons are subject to investigation by the Health Service Commissioner for Scotland if—
- (a) they are persons (whether individuals or bodies) providing services in Scotland under arrangements with health service bodies or family health service providers, and
 - (b) they are not themselves health service bodies or family health service providers.
- (4) The services provided under arrangements mentioned in subsection (1)(a), (2)(a) or (3) (a) may be services of any kind.
- (5) In this Act references to an independent provider are to any person providing services as mentioned in subsection (1), (2) or (3).]

Annotations:

Amendments (Textual)

- F24** S. 2B and sidenote inserted (1.4.1996) by 1996 c. 5, s. 1; S.I. 1996/970, art. 2(1)
- F25** Words in s. 2B(1)(a) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(3)(a), 4(2) (with s. 3)
- F26** Words in s. 2B(1)(b) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(3)(b), 4(2) (with s. 3)
- F27** Words in s. 2B(2)(a) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(3)(c), 4(2) (with s. 3)
- F28** Words in s. 2B(2)(b) inserted (23.2.2001) by 2000 c. 28, ss. 1(1)(3)(d), 4(2) (with s. 3)
- F29** S.2B(2A) inserted (1.4.1999) by 1998 c. 38, s. 112, Sch. 10 para. 4 (with ss. 139(2), 143(2)); S.I. 1999/782, art. 2

Matters subject to investigation

3 General remit of Commissioners.

- (1) On a complaint duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—
- (a) a failure in a service provided by a health service body,
 - (b) a failure of such a body to provide a service which it was a function of the body to provide, or
 - (c) maladministration connected with any other action taken by or on behalf of such a body,
- the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

- [^{F31}(1YA) In the case of the Assembly the Health Service Commissioner for Wales may only conduct an investigation in respect of—
- (a) a failure in a service provided by the Assembly in the exercise of a function of the Assembly relating to the National Health Service (an “Assembly health service function”),
 - (b) a failure of the Assembly to provide a service the provision of which is an Assembly health service function, or

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- (c) maladministration connected with any other action taken by or on behalf of the Assembly in the exercise of an Assembly health service function.]

[^{F32}(1ZA) Any failure or maladministration mentioned in subsection (1) may arise from action of—

- (a) the health service body,
- (b) a person employed by that body,
- (c) a person acting on behalf of that body, or
- (d) a person to whom that body has delegated any functions.]

[^{F33}(1A) Where a family health service provider has undertaken to provide any family health services and a complaint is duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—

- (a) action taken by the family health service provider in connection with the services,
- (b) action taken in connection with the services by a person employed by the family health service provider in respect of the services,
- (c) action taken in connection with the services by a person acting on behalf of the family health service provider in respect of the services, or
- (d) action taken in connection with the services by a person to whom the family health service provider has delegated any functions in respect of the services,

the Commissioner may, subject to the provisions of this Act, investigate the alleged action.

^{F34}(1B)

(1C) Where an independent provider has made an arrangement with a health service body or a family health service provider to provide a service (of whatever kind) and a complaint is duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—

- (a) a failure in the service provided by the independent provider,
- (b) a failure of the independent provider to provide the service, or
- (c) maladministration connected with any other action taken in relation to the service,

the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

(1D) Any failure or maladministration mentioned in subsection (1C) may arise from action of—

- (a) the independent provider,
- (b) a person employed by the provider,
- (c) a person acting on behalf of the provider, or
- (d) a person to whom the provider has delegated any functions.]

(2) In determining whether to initiate, continue or discontinue an investigation under this Act, a Commissioner shall act in accordance with his own discretion.

(3) Any question whether a complaint is duly made to a Commissioner shall be determined by him.

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- (4) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by a health service body in the exercise of a discretion vested in that body.
- [^{F35}(5) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—
- (a) a family health service provider,
 - (b) a person employed by a family health service provider,
 - (c) a person acting on behalf of a family health service provider, or
 - (d) a person to whom a family health service provider has delegated any functions.
- (6) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—
- (a) an independent provider,
 - (b) a person employed by an independent provider,
 - (c) a person acting on behalf of an independent provider, or
 - (d) a person to whom an independent provider has delegated any functions.]

[^{F36}(7) Subsections (4) to (6) do not apply to the merits of a decision to the extent that it was taken in consequence of the exercise of clinical judgment.]

Annotations:

Amendments (Textual)

- F31** S. 3(1YA) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 5** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F32** S. 3(1ZA) inserted (1.4.1998 with effect as mentioned in art. 3(3) of S.I. 1998/631) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 68(5)**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**
- F33** S. 3(1A)-(1D) inserted (1.4.1996 with effect as mentioned in art. 2(2) of S.I. 1996/970) by 1996 c. 5, s. 2(2); S.I. 1996/970, **art. 2(1)(2)**
- F34** S. 3(1B) repealed (1.10.1999 for E. and S. and 1.4.2000 for W.) by 1999 c. 8, s. 65, **Sch. 4 para. 85(3)**, **Sch. 5**; S.I. 1999/2540, art. 2, **Sch. 1**; S.I. 1999/90, art. 2(b), **Sch. 2**; S.I. 2000/1041, art. 2(d), **Sch.**
- F35** S. 3(5)(6) inserted (1.4.1996) by 1996 c. 5, s. 2(3); S.I. 1996/970, **art. 2(1)**
- F36** S. 3(7) inserted (1.4.1996) by 1996 c. 5, s. 6(2); S.I. 1996/970, **art. 2(1)**

Matters excluded from investigation

4 Availability of other remedy.

- (1) A Commissioner shall not conduct an investigation in respect of action in relation to which the person aggrieved has or had—
- (a) 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, or
 - (b) a remedy by way of proceedings in any court of law,
- unless the Commissioner is satisfied that in the particular circumstances it is not reasonable to expect that person to resort or have resorted to it.
- (2) A Commissioner shall not conduct an investigation in respect of action which has been, or is, the subject of an inquiry under section 84 of the ^{M3}National Health Service

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Act 1977 or section 76 of the ^{M4}National Health Service (Scotland) Act 1978 (general powers to hold inquiries).

(3) A Commissioner shall not conduct an investigation in respect of action [^{F37}by a health service body other than the Mental Welfare Commission for Scotland if it is action] in relation to which the protective functions of the Mental Welfare Commission for Scotland have been, are being or may be exercised under the ^{M5}Mental Health (Scotland) Act 1984.

[^{F38}(4) Subsection (5) applies where—

- (a) action by reference to which a complaint is made under section 3(1), (1A) or (1C) is action by reference to which a complaint can be made under a procedure operated by a health service body, a family health service provider or an independent provider, and
- (b) subsection (1), (2) or (3) does not apply as regards the action.

(5) In such a case a Commissioner shall not conduct an investigation in respect of the action unless he is satisfied that—

- (a) the other procedure has been invoked and exhausted, or
- (b) in the particular circumstances it is not reasonable to expect that procedure to be invoked or (as the case may be) exhausted.

(6) Section 1(2) of the ^{M6}Hospital Complaints Procedure Act 1985 (which provides that no right of appeal etc. conferred under section 1 of that Act is to preclude an investigation under this Act) shall have effect subject to subsection (5) above.]

Annotations:

Amendments (Textual)

F37 Words in *S. 4(3)* inserted (1.4.1996 with application as mentioned in art. 2(2) of *S.I. 1996/970*) by *1996 c. 5, s. 4(2)*; *S.I. 1996/970, art. 2(1)*

F38 *S. 4(4)-(6)* inserted (1.4.1996) by *1996 c. 5, s. 5*; *S.I. 1996/970, art. 2(1)*

Marginal Citations

M3 1977 c. 49.

M4 1978 c. 29.

M5 1984 c. 36.

M6 1985 c. 42.

^{F39}5

Annotations:

Amendments (Textual)

F39 *S. 5* repealed (1.4.1996 with application as mentioned in art. 2(2) of *S.I. 1996/970*) by *1996 c. 5, ss. 6(1), 13, Sch. 2*; *S.I. 1996/970, art. 2(1)*

6 General health services and service committees.

^{F40}(1)

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- (2)
- (3) A Commissioner shall not conduct an investigation in respect of action taken by a [^{F41}Primary Care Trust or][^{F42}Health Authority] in the exercise of its functions under the ^{M7}National Health Service (Service Committees and Tribunal) Regulations 1992, or any instrument amending or replacing those regulations.
- (4) A Commissioner shall not conduct an investigation in respect of action taken by a Health Board in the exercise of its functions under the ^{M8}National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992, or any instrument amending or replacing those regulations.
- [^{F43}(5) A Commissioner shall not conduct an investigation in respect of action taken by a [Primary Care Trust or]Health Authority in the exercise of its functions under regulations made under section 29, 36, 39 or 42 of the ^{M9}National Health Service Act 1977 by virtue of section 17 of the ^{M10}Health and Medicines Act 1988 (investigations of matters relating to services).
- (6) A Commissioner shall not conduct an investigation in respect of action taken by a Health Board in the exercise of its functions under regulations made under section 19, 25(2), 26(2) or 27(2) of the ^{M11}National Health Service (Scotland) Act 1978 by virtue of section 17 of the ^{M12}Health and Medicines Act 1988.]

Annotations:

Amendments (Textual)

- F40** S. 6(1)(2) repealed (1.4.1996) by 1996 c. 5, ss. 7(2), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F41** Words in s. 6(3)(5) inserted (E.W.) (1.10.2002) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 61(3)**; S.I. 2002/2478, **art. 3(1)(a)** (with savings in **art. 3(3)** and transitional provisions in **art. 4**)
- F42** Words in s. 6(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, **ss. 2(1)(3)**, 8 Sch. 1 Pt. III para. 126(3) (with Sch. 2 paras. 6, 16)
- F43** S. 6(5)(6) inserted (1.4.1996) by 1996 c. 5, **s. 7(3)**; S.I. 1996/970, **art. 2(1)**

Marginal Citations

- M7** S.I. 1992/664.
- M8** S.I. 1992/434.
- M9** 1977 c. 49.
- M10** 1988 c. 49.
- M11** 1978 c. 29.
- M12** 1988 c. 49.

7 Personnel, contracts etc.

- (1) A Commissioner shall not conduct an investigation in respect of action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service under the ^{M13}National Health Service Act 1977 or the ^{M14}National Health Service (Scotland) Act 1978 [^{F44}or the ^{M15}National Health Service and Community Care Act 1990][^{F45}or service as a member of the staff of the Assembly].
- (2) A Commissioner shall not conduct an investigation in respect of action taken in matters relating to contractual or other commercial transactions, except for—

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- (a) matters relating to NHS contracts (as defined by section 4 of the ^{M16}National Health Service and Community Care Act 1990 and, in relation to Scotland, by section 17A of the National Health Service (Scotland) Act 1978), ^{F46} . . .
 - (b) matters arising from arrangements between a health service body and [^{F47}an independent provider for the provision of services by the provider][^{F48}and.
 - (c) matters arising from arrangements between a family health service provider and an independent provider for the provision of services by the independent provider.]
- (3) In determining what matters arise from arrangements mentioned in subsection (2)(b) the Health Service Commissioners for England and for Wales shall disregard any arrangements for the provision of services at an establishment maintained by a Minister of the Crown mainly for patients who are members of the armed forces of the Crown.
- [^{F49}(3A) A Commissioner shall not conduct an investigation in pursuance of a complaint if—
- (a) the complaint is in respect of action taken in any matter relating to arrangements made by a health service body and a family health service provider for the provision of family health services,
 - (b) the action is taken by or on behalf of the body or by the provider, and
 - (c) the complaint is made by the provider or the body.]
- [^{F50}(3B) Nothing in the preceding provisions of this section prevents a Commissioner conducting an investigation in respect of action taken by a health service body in operating a procedure established to examine complaints.]
- (4) Her Majesty may by Order in Council amend this section so as to permit the investigation by a Commissioner of any of the matters mentioned in subsection (1) or (2).
- (5) A statutory instrument containing an Order in Council made by virtue of subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Amendments (Textual)

- F44** Words in s. 7(1) inserted (1.4.1996) by 1996 c. 5, s. 8(2); S.I. 1996/970, art. 2(1)
- F45** Words in s. 7(1) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 6** (with ss. 139(2), 143(2)); S.I. 1999/782, art. 2
- F46** Word in s. 7(2)(a) repealed (1.4.1996) by 1996 c. 5, ss. 3, 13, Sch. 1 para. 2(2), **Sch. 2**; S.I. 1996/970, art. 2(1)
- F47** Words in s. 7(2)(b) substituted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 2(3)**; S.I. 1996/970, art. 2(1)
- F48** S. 7(2)(c) and preceding word “and” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 2(4)**; S.I. 1996/970, art. 2(1)
- F49** S. 7(3A) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 2(5)**; S.I. 1996/970, art. 2(1)
- F50** S. 7(3B) inserted (1.4.1996) by 1996 c. 5, s. 8(3); S.I. 1996/970, art. 2(1)

Marginal Citations

- M13** 1977 c. 49.
- M14** 1978 c. 29.
- M15** 1990 c. 19.
- M16** 1990 c. 19.

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7A ^{F51} Certain functions of Mental Welfare Commission for Scotland.

A Commissioner shall not conduct an investigation in respect of action taken by the Mental Welfare Commission for Scotland under section 33 (orders for discharge of hospital patients) ^{F52}or], 35I (revocation of community care orders) ^{F53}or 50 (orders discharging patients from guardianship)] of the ^{M17}Mental Health (Scotland) Act 1984 [or section 73 of the Adults with Incapacity (Scotland) Act 2000].]

Annotations:

Amendments (Textual)

- F51** S. 7A and sidenote inserted (1.4.1996) by 1996 c. 5, s. 4(3); S.I. 1996/970, art. 2(1)
- F52** Words in s. 7A inserted (S.)(1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 24**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F53** Words in s. 7A repealed (S.)(1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 24**; S.S.I. 2001/81, art. 3 **Sch. 2**

Marginal Citations

M17 1984 c. 36.

Complaints

8 Individuals and bodies entitled to complain.

- (1) A complaint under this Act may be made by an individual or a body of persons, whether incorporated or not, other than a public authority.
- (2) In subsection (1), “public authority” means—
- (a) a local authority or other authority or body constituted for the purposes of the public service or of local government ^{F54}(including the Assembly)],
 - (b) an authority or body constituted for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking, and
 - (c) any other authority or body—
 - (i) whose members are appointed by Her Majesty or any Minister of the Crown or government department ^{F55}or by the Assembly], or
 - (ii) whose revenues consist wholly or mainly of money provided by Parliament ^{F56}or out of the Scottish Consolidated Fund][or the Assembly].

Annotations:

Amendments (Textual)

- F54** Words in s. 8(2)(a) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 7(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, art. 2
- F55** Words in s. 8(2)(c)(i)(ii) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 7(b)** (with ss. 139(2), 143(2)); S.I. 1999/782, art. 2
- F56** Words in s. 8(2)(c) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 112(2)**; S.I. 1998/3178, art. 3

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9 Requirements to be complied with.

- (1) The following requirements apply in relation to a complaint made to a Commissioner.
 - (2) A complaint must be made in writing.
 - (3) The complaint shall not be entertained unless it is made—
 - (a) by the person aggrieved, or
 - (b) where the person by whom a complaint might have been made has died or is for any reason unable to act for himself, by—
 - (i) his personal representative,
 - (ii) a member of his family, or
 - (iii) some body or individual suitable to represent him.
 - (4) The Commissioner shall not entertain the complaint if it is made more than a year after the day on which the person aggrieved first had notice of the matters alleged in the complaint, unless he considers it reasonable to do so.
- [^{F57}(4A) In the case of a complaint against a person who is no longer of a description set out in section 2A(1) or (2), but was of such a description at the time of the action complained of, the Commissioner shall not entertain the complaint if it is made more than three years after the last day on which the person was a family health service provider.
- (4B) In the case of a complaint against a person falling within section 2B(1) or (2) in relation to whom there are no longer any such arrangements as are mentioned there, the Commissioner shall not entertain the complaint if it is made more than three years after the last day on which the person was an independent provider.]
- ^{F58}(5)
- ^{F59}(6)

Annotations:

Amendments (Textual)

- F57** S. 9(4A)(4B) inserted (23.2.2001) by 2000 c. 28, ss. 2, 4(2) (with s. 3)
- F58** S. 9(5) repealed (1.4.1996) by 1996 c. 5, ss. 9(a), 13, Sch. 2; S.I. 1996/970, art. 2(1)
- F59** S. 9(6) repealed (1.4.1996) by 1996 c. 5, ss. 9(b), 13, Sch. 2; S.I. 1996/970, art. 2(1)

10 Referral of complaint by health service body.

- (1) A health service body may itself refer to a Commissioner a complaint made to that body that a person has, in consequence of a failure or maladministration for which the body is responsible, sustained such injustice or hardship as is mentioned in section 3(1).
- (2) A complaint may not be so referred unless it was made—
 - (a) in writing,
 - (b) by the person aggrieved or by a person authorised by section 9(3)(b) to complain to the Commissioner on his behalf, and
 - (c) not more than a year after the person aggrieved first had notice of the matters alleged in the complaint, or such later date as the Commissioner considers appropriate in any particular case.

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- [^{F60}(2A) The Assembly may only refer a complaint under this section if it is in respect of a matter which the Health Service Commissioner for Wales can investigate by virtue of section 3(1YA).]
- (3) A health service body may not refer a complaint under this section after the period of one year beginning with the day on which the body received the complaint.
- (4) Any question whether a complaint has been duly referred to a Commissioner under this section shall be determined by him.
- (5) A complaint referred to a Commissioner under this section shall be deemed to be duly made to him.

Annotations:

Amendments (Textual)

F60 S. 10(2A) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 8** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Investigations

11 Procedure in respect of investigations.

- (1) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under [^{F61}section 3(1)], he shall afford—
- (a) to the health service body concerned, and
 - (b) 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.
- [^{F62}(1A) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1A), he shall afford—
- (a) to the family health service provider, and
 - (b) to any person by reference to whose action the complaint is made (if different from the family health service provider),
- an opportunity to comment on any allegations contained in the complaint.
- (1B) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1C), he shall afford—
- (a) to the independent provider concerned, and
 - (b) 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) An investigation shall be conducted in private.
- (3) In other respects, the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case, and in particular—
- (a) he may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and

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- (b) he may determine whether any person may be represented, by counsel or solicitor or otherwise, in the investigation.
- (4) A Commissioner may, if he thinks fit, pay to the person by whom the complaint was made and to any other person who attends or supplies information for the purposes of an investigation—
- (a) sums in respect of expenses properly incurred by them, and
 - (b) allowances by way of compensation for the loss of their time.

Payments [^{F63}made by the Health Service Commissioner for England or the Health Service Commissioner for Scotland] under this subsection shall be in accordance with such scales and subject to such conditions as may be determined by the Treasury [^{F64}; and payments made by the Health Service Commissioner for Wales under this subsection shall be in accordance with such scales and subject to such conditions as may be determined by him.]

- (5) The conduct of an investigation [^{F65}pursuant to a complaint under section 3(1)] shall not affect any action taken by the health service body concerned, or any power or duty of that body to take further action with respect to any matters subject to the investigation.
- [^{F66}(5A) The conduct of an investigation pursuant to a complaint under section 3(1A) or (1C) shall not affect any action taken by the family health service provider or independent provider concerned, or any power or duty of that provider to take further action with respect to any matters subject to the investigation.]
- (6) Where the person aggrieved has been removed from the United Kingdom under any order in force under the ^{M18}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.

Annotations:

Amendments (Textual)

- F61** Words in s. 11(1) substituted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 3(2)**; S.I. 1996/970, **art. 2(1)**
- F62** S. 11(1A)(1B) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 3(3)**; S.I. 1996/970, **art. 2(1)**
- F63** Words in s. 11(4) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 9(a)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F64** Words in s. 11(4) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 9(b)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F65** Words in s. 11(5) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 3(4)**; S.I. 1996/970, **art. 2(1)**
- F66** S. 11(5A) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 3(5)**; S.I. 1996/970, **art. 2(1)**

Modifications etc. (not altering text)

- C2** S. 11(1)(a)(5) modified (1.4.1996) by 1996/709, art. 9(3)(a)(i)(ii)

Marginal Citations

- M18** 1971 c. 77.

12 Evidence.

- (1) For the purposes of an investigation [^{F67}pursuant to a complaint under section 3(1)] a Commissioner may require any officer or member of the health service body concerned or any other person who in his opinion is able to supply information or produce

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documents relevant to the investigation to supply any such information or produce any such document.

[^{F68}(1A) For the purposes of an investigation pursuant to a complaint under section 3(1A) or (1C) a Commissioner may require any person who in his opinion is able to supply information or produce documents relevant to the investigation to supply any such information or produce any such document.]

(2) For the purposes of an investigation a Commissioner shall have the same powers as the Court in respect of—

- (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
- (b) the production of documents.

(3) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied 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.

(4) The Crown shall not be entitled in relation to an 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.

(5) No person shall be required or authorised by this Act—

- (a) to supply any information or answer any question relating to proceedings of the Cabinet or of any Committee of the Cabinet, or
- (b) 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 relates to such proceedings shall be conclusive.

(6) Subject to subsections (3) and (4), no person shall be compelled for the purposes of an investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the Court.

Annotations:

Amendments (Textual)

F67 Words in s. 12(1) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 4(2)**; S.I. 1996/970, **art. 2(1)**

F68 S. 12(1A) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 4(3)**; S.I. 1996/970, **art. 2(1)**

Modifications etc. (not altering text)

C3 S. 12(1) applied with modifications (1.4.1996) by S.I. 1996/709, **art. 9(3)(b)**

13 Obstruction and contempt.

(1) A Commissioner may certify an offence to the Court where—

- (a) a person without lawful excuse obstructs him or any of his officers in the performance of his functions, or

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- (b) a person is guilty of any act or omission in relation to an investigation which, if that investigation were a proceeding in the Court, would constitute contempt of court.
- (2) Where an offence is so certified the Court may inquire into the matter and after hearing —
- (a) any witnesses who may be produced against or on behalf of the person charged with the offence, and
 - (b) any statement that may be offered in defence,
- the Court may deal with the person charged with the offence in any manner in which it could deal with him if he had committed the like offence in relation to the Court.
- (3) Nothing in this section shall be construed as applying to the taking of any such action as is mentioned in section 11(5).

Reports

14 Reports by [^{F69}English and Scottish] Commissioners.

- (1) [^{F70}In any case where [^{F71}the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1) he shall send a report of the results of the investigation]—
- (a) to the person who made the complaint,
 - (b) to any member of the House of Commons [^{F72}or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
 - [^{F73}(c) to the health service body who at the time the report is made provides the service, or has the function, in relation to which the complaint was made,]
 - (d) to any person who is alleged in the complaint to have taken or authorised the action complained of, [^{F74}and]
 - [^{F75}(e) to the Secretary of State.]
- (2) In any case where [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation [^{F76}pursuant to a complaint under section 3(1)]he shall send a statement of his reasons—
- (a) to the person who made the complaint, [^{F77}and]
 - (b) to any such member of the House of Commons [or member of the Scottish Parliament] as is mentioned in subsection (1)(b), ^{F78} . . .
 - ^{F79}(c)
- [^{F80}(2A) In any case where [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1A) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint,
 - (b) to any member of the House of Commons [or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
 - (c) to any person by reference to whose action the complaint is made,

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- (d) to the family health service provider (if he does not fall within paragraph (c)),
 - (e) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
 - (f) to the Secretary of State.
- (2B) In any case where [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation pursuant to a complaint under section 3(1A) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons [or member of the Scottish Parliament] as is mentioned in subsection (2A)(b).
- (2C) In any case where [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1C) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint,
 - (b) to any member of the House of Commons [or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
 - (c) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (d) to the independent provider,
 - (e) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned, and
 - (f) to the Secretary of State.
- (2D) In any case where [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation pursuant to a complaint under section 3(1C) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons [or member of the Scottish Parliament] as is mentioned in subsection (2C)(b).]
- (3) If after conducting an investigation it appears to [the Health Service Commissioner for England or the Health Service Commissioner for Scotland] that—
- (a) the person aggrieved has sustained such injustice or hardship as is mentioned in section 3(1) [^{F81}, (1A) or (1C)], and
 - (b) the injustice or hardship has not been and will not be remedied,
- he may if he thinks fit [^{F82} lay before each House of Parliament a special report on the case.].
- ^{F83}(4) [^{F84}The Health Service Commissioner for England and the Health Service Commissioner for Scotland]—
- (a) shall [^{F85}each] annually lay before each House of Parliament a general report on the performance of his functions under this Act, and
 - (b) may [each] 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, the publication of any matter by [the Health Service Commissioner for England or the Health Service Commissioner for

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Scotland] in sending or making a report or statement in pursuance of this section shall be absolutely privileged.

Annotations:

Extent Information

E1 S. 14(5) extends to Northern Ireland see s. 22(2)(a).

Amendments (Textual)

- F69** Words in sidenote to s. 14 inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(4)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F70** Words in s. 14(1) substituted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(2)**; S.I. 1996/970, **art. 2(1)**
- F71** Words in s. 14(1)(2)(2A)(2B)(2C)(2D)(3)(5) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(2)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F72** Words in s. 14(1)(b)(2)(b)(2A)(b)(2B)(b)(2C)(b)(2D)(b) inserted (1.7.1999) by S.I. 1999/1820, **art. 4, Sch. 2 Pt. I para. 112(3)**; S.I. 1998/3178, **art. 3**
- F73** S. 14(1)(c) substituted (1.4.1996) by 1996 c. 5, s. 10(2); S.I. 1996/970, **art. 2(1)**
- F74** Word in s. 14(1)(d) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III para. 126(4)(a)** (with Sch. 2 paras. 6, 16)
- F75** S. 14(e) substituted for s. 14(e)(f) (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III para. 126(4)(b)** (with Sch. 2 paras. 6, 16)
- F76** Words in s. 14(2) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(3)**; S.I. 1996/970, **art. 2(1)**
- F77** Word in s. 14(2)(a) inserted (1.4.1996) by 1996 c. 5, s. 10(3)(a); S.I. 1996/970, **art. 2(1)**
- F78** Word in s. 14(2)(b) repealed (1.4.1996) by 1996 c. 5, ss. 10(3)(b), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F79** S. 14(2)(c) repealed (1.4.1996) by 1996 c. 5, ss. 10(3)(b), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F80** S. 14(2A)-(2D) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(4)**; S.I. 1996/970, **art. 2(1)**
- F81** Words in s. 14(3)(a) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(5)**; S.I. 1996/970, **art. 2(1)**
- F82** Words in s. 14(3) substituted (1.4.1996) by 1996 c. 5, s. 10(4); S.I. 1996/970, **art. 2(1)**
- F83** S. 14(4) substituted (1.4.1996) by 1996 c. 5, s. 10(5); S.I. 1996/970, **art. 2(1)**
- F84** Words in s. 14(4) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(3)(a)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F85** Words in s. 14(4) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(3)(b)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Modifications etc. (not altering text)

C4 S. 14(1)(c) applied with modifications (1.4.1996) by S.I. 1996/709, **art. 9(3)(c)**

14A ^{F86} **Reports by Welsh Commissioner.**

- (1) In any case where the Health Service Commissioner for Wales has conducted an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a report of the results of the investigation and send copies of it—
- (a) to the person who made the complaint,
 - (b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate), and
 - (c) to the Assembly First Secretary.
- (2) He shall also send a copy of the report—
- (a) in the case of a complaint under section 3(1)—

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- (i) to the health service body who at the time of the report provides the service, or has the function, in relation to which the complaint was made, and
 - (ii) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (b) in the case of a complaint under section 3(1A)—
 - (i) to any person by reference to whose action the complaint is made,
 - (ii) to the family health service provider (if he does not fall within subparagraph (i)), and
 - (iii) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
 - (c) in the case of a complaint under section 3(1C)—
 - (i) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (ii) to the independent provider, and
 - (iii) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned.
- (3) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a statement of his reasons for not conducting an investigation and shall send copies of it—
- (a) to the person who made the complaint, and
 - (b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate).]

Annotations:

Amendments (Textual)

F86 S. 14A and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

14B [^{F87} **Action in response to reports by Welsh Commissioner.**

- (1) Where the Assembly First Secretary receives a copy of a report under section 14A(1), he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.
- (2) Where in a report under section 14A(1) the Health Service Commissioner for Wales states that the person aggrieved has sustained such injustice or hardship as is mentioned in section 3(1), (1A) or (1C), any body or provider subject to the investigation shall consider the report and within—
 - (a) the period of three months beginning with the date on which the body or provider received the report, or
 - (b) such longer period as the Commissioner may agree in writing,
 shall notify the Commissioner of the action taken or proposed to be taken.

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- (3) The Health Service Commissioner for Wales shall prepare a further report if he—
- (a) does not receive the notification required by subsection (2) within the period allowed by or under that subsection,
 - (b) is not satisfied with the action taken or proposed to be taken, or
 - (c) does not within the period of three months beginning with the end of the period allowed by or under subsection (2), or such longer period as the Commissioner may agree in writing, receive confirmation from the body or provider that action has been taken, as proposed, to his satisfaction.
- (4) The further report shall set out those facts and make such recommendations as the Health Service Commissioner for Wales thinks fit to make with respect to action which, in his opinion, should be taken—
- (a) to remedy the injustice or hardship to the person aggrieved, and
 - (b) to prevent similar injustice or hardship being caused in the future;
- and a copy of the further report shall be sent to each of the persons to whom a copy of the report under section 14A(1) was sent.
- (5) Where the Assembly First Secretary receives a copy of a further report, he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.
- (6) Where the Assembly First Secretary receives a copy of a further report arising from an investigation relating to the Assembly, he shall also—
- (a) lay a copy of it before the Assembly, and
 - (b) (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed) give to the Assembly notice of his intention to move that the Assembly resolve to approve the recommendations specified in it.
- (7) The standing orders of the Assembly must make provision for any motion of which notice has been given pursuant to subsection (6)(b) to be moved as soon as is reasonably practicable (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed).]

Annotations:

Amendments (Textual)

F87 S. 14B and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

14C [^{F88} **Reports: supplementary.**

- (1) Apart from identifying any body or provider investigated, a report under section 14A(1), a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A shall not—
- (a) mention the name of any person, or
 - (b) include any particulars which, in the opinion of the Health Service Commissioner for Wales, are likely to identify any person and can be omitted without impairing the effectiveness of the report or further report,

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unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Commissioner considers it necessary for the report or further report to mention his name or include such particulars.

- (2) For the purposes of the law of defamation, the following are absolutely privileged—
- (a) the publication of any matter by the Health Service Commissioner for Wales in a report or statement under section 14A, a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A,
 - (b) the publication of any matter in communications between—
 - (i) an Assembly member or a member of the Assembly's staff or a member or an officer or member of the staff of any other body or provider subject to investigation by the Commissioner, and
 - (ii) the Commissioner or a member of his staff,
 in connection with a complaint to the Commissioner,
 - (c) the publication of any matter in communications between any person and an Assembly member in connection with a complaint by the person to the Commissioner, and
 - (d) the publication of any matter in communications between any person and the Commissioner or a member of his staff in connection with a complaint by the person to the Commissioner.]

Annotations:

Amendments (Textual)

F88 S. 14C and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Information and consultation

15 Confidentiality of information.

- (1) Information obtained by a Commissioner or his officers in the course of or for the purposes of an investigation shall not be disclosed except—
- (a) for the purposes of the investigation and any report to be made in respect of it,
 - (b) for the purposes of any proceedings for—
 - (i) an offence under the Official Secrets Acts 1911 to 1989 alleged to have been committed in respect of information obtained by virtue of this Act by a Commissioner or any of his officers, or
 - (ii) an offence of perjury alleged to have been committed in the course of the investigation,
 - (c) for the purposes of an inquiry with a view to the taking of such proceedings as are mentioned in paragraph (b),^{F89} . . .
 - (d) for the purposes of any proceedings under section 13 (offences of obstruction and contempt) [^{F90}or
 - (e) [^{F91}where the information is to the effect that any person is likely to constitute a threat to the health or safety of patients]as permitted by subsection (1B).]

^{F92}^{F93}(1A) Subsection (1B) applies where, in the course of an investigation, a Commissioner or any of his officers obtains information which—

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- (a) does not fall to be disclosed for the purposes of the investigation or any report to be made in respect of it, and
 - (b) is to the effect that a person is likely to constitute a threat to the health or safety of patients.]
- (1B) In [^{F94}a case within subsection (1)(e)] the Commissioner may disclose the information to any persons to whom he thinks it should be disclosed in the interests of the health and safety of patients [^{F95}; and a person to whom disclosure may be made may, for instance, be a body which regulates the profession to which the person mentioned in subsection (1A)(b) belongs or his employer or any person with whom he has made arrangements to provide services.]
- (1C) If a Commissioner discloses information as permitted by subsection (1B) he shall—
- [^{F96}(a) where he knows the identity of the person mentioned in subsection (1)(e), inform that person that he has disclosed the information and of the identity of any person to whom he has disclosed it, and
 - (b) inform the person from whom the information was obtained that he has disclosed it.]]
- (2) Neither a Commissioner nor his officers [^{F97} nor his advisers] shall be called on to give evidence in any proceedings, other than proceedings mentioned in subsection (1), of matters coming to his or their knowledge in the course of an investigation under this Act.
- [^{F98}(3) The reference in subsection (2) to a Commissioner's advisers is a reference to persons from whom the Commissioner obtains advice under paragraph 13 of Schedule 1 [^{F99} or paragraph 6(6) of Schedule 1A].]
- [^{F100}(4) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of subsection (1) as obtained for the purposes of an investigation 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.]

Annotations:

Amendments (Textual)

- F89** Word in s. 15(1)(c) repealed (1.4.1996) by 1996 c. 5, ss. 11(2), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F90** S. 15(1)(e) and preceding word "or" inserted (1.4.1996) by 1996 c. 5, s. 11(2); S.I. 1996/970, **art. 2(1)**
- F91** Words in s. 15(1)(e) inserted (1.10.1999 for E.W., 1.3.2000 for S. otherwise *prosp.*) by 1999 c. 8, s. 43(2); S.S.I. 2000/38, **art. 2**
- F92** S. 15(1A)-(1C) inserted (1.4.1996) by 1996 c. 5, s. 11(3); S.I. 1996/970, **art. 2(1)**
- F93** S. 15(1A) repealed (1.10.1999 for E.W., 1.3.2000 for S. otherwise *prosp.*) by 1999 c. 8, ss. 43(3), 65, **Sch. 5**; S.I. 1999/2540, **art. 2(1)(b)**; S.S.I. 2000/38, **art. 2**
- F94** Words in s. 15(1B) substituted (1.10.1999 for E.W., 1.3.2000 for S. otherwise *prosp.*) by 1999 c. 8, s. 43(4)(a); S.I. 1999/2540, **art. 2(1)(b)**; S.S.I. 2000/38, **art. 2**
- F95** Words in s. 15(1B) repealed (1.10.1999 for E.W., 1.3.2000 for S. otherwise *prosp.*) by 1999 c. 8, ss. 43(4)(b), 65, **Sch. 5**; S.I. 1999/2540, **art. 2(1)(b)**; S.S.I. 2000/38, **art. 2**
- F96** S. 15(1C)(a)(b) substituted (1.10.1999 for E.W., 1.3.2000 for S. otherwise *prosp.*) by 1999 c. 8, s. 43(5); S.I. 1999/2540, **art. 2(1)(b)**; S.S.I. 2000/38, **art. 2**
- F97** Words in s. 15(2) inserted (1.4.1996) by 1996 c. 5, s. 11(4); S.I. 1996/970, **art. 2(1)**
- F98** S. 15(3) inserted (1.4.1996) by 1996 c. 5, s. 11(5); S.I. 1996/970, **art. 2(1)**
- F99** Words in s. 15(3) inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 12** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

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F100 S. 15(4) inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), **Sch. 7 para. 5** (with ss. 56, 78)

16 Information prejudicial to the safety of the State.

- (1) A Minister of the Crown may give notice in writing to a Commissioner with respect to any document or information specified in the notice that in the Minister's opinion the disclosure of the document or information would be prejudicial to the safety of the State or otherwise contrary to the public interest.
- (2) Where such a notice is given to a Commissioner, nothing in this Act shall be construed as authorising or requiring him or any of his officers to communicate to any person or for any purpose any document or information specified in the notice.
- (3) References above to a document or information include references to a class of document or a class of information.

17 Use of information by Commissioner in other capacity.

- (1) This section applies where a Commissioner also holds either of the other offices of Health Service Commissioner [^{F101}, the office of Welsh Administration Ombudsman] or the office of Parliamentary Commissioner (an "additional office").
- (2) Where—
 - (a) a person initiates a complaint to the Commissioner as the holder of the additional office, and
 - (b) the complaint relates partly to a matter with respect to which that person has previously initiated, or subsequently initiates, a complaint to the Commissioner in his capacity as such,

information obtained by the Commissioner or his officers in the course of or for the purposes of the investigation of that other complaint may be disclosed for the purposes of carrying out his functions in relation to the complaint initiated to him as the holder of the additional office.

Annotations:

Amendments (Textual)

F101 Words in s. 17(1) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 13** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

Modifications etc. (not altering text)

C5 S. 17 extended (1.7.1999) by S.I. 1999/1351, **art. 17(5)(a)**; S.I. 1998/3178, **art. 3**

18 Consultation during investigations.

- (1) Where a Commissioner, at any stage in the course of conducting an investigation, forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation—
 - (a) by either of the other Health Service Commissioners under this Act,
 - (b) by the Parliamentary Commissioner under the ^{M19}Parliamentary Commissioner Act 1967,

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- [^{F102}(ba) by the Welsh Administration Ombudsman under the Government of Wales Act 1998,]
(c) by a Local Commissioner under Part III of the ^{M20}Local Government Act 1974, or
(d) by the Commissioner for Local Administration in Scotland under Part II of the ^{M21}Local Government (Scotland) Act 1975,

he shall consult about the complaint with the appropriate Commissioner [^{F103}or the Ombudsman] and, if he considers it necessary, he shall inform the person initiating the complaint of the steps necessary to initiate a complaint to that Commissioner [or the Ombudsman].

- (2) Where a Commissioner consults with another Commissioner [^{F104}or the Welsh Administration Ombudsman] in accordance with this section, the consultations may extend to 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.
- (3) Nothing in section 15 (confidentiality of information) applies in relation to the disclosure of information [^{F105}. . .] in the course of consultations held in accordance with this section.

Annotations:

Amendments (Textual)

F102 S. 18(1)(ba) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 14(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

F103 Words in s. 18(1) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 14(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

F104 Words in s. 18(2) inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 14(3)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

F105 Words in s. 18(3) repealed (1.4.1999) by 1998 c. 38, ss. 112, 152, Sch. 10 para. 14(4), **Sch. 18 Pt. I** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**

Modifications etc. (not altering text)

C6 S. 18 extended (1.7.1999) by S.I. 1999/1351, **art. 17(5)(a)**; S.I. 1998/3178, **art. 3**

C7 S. 18(1)(b) extended (1.7.1999) by S.I. 1999/1351, **art. 17(5)(b)**; S.I. 1998/3178, **art. 3**

Marginal Citations

M19 1967 c. 13.

M20 1974 c. 7.

M21 1975 c. 30.

18A [^{F106} Disclosure of information to Information Commissioner.

- (1) The Health Service Commissioner for England or the Health Service Commissioner for Wales may disclose to the Information Commissioner any information obtained by, or furnished to, the Health Service Commissioner under or for the purposes of this Act if the information appears to the Health Service Commissioner to relate to—
(a) a matter in respect of which the Information Commissioner could exercise any power conferred by—

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- (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
 - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).
- (3) Nothing in section 15 (confidentiality of information) applies in relation to the disclosure of information in accordance with this section.]

Annotations:

Amendments (Textual)

F106 S. 18A and sidenote inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), Sch. 7 para. 6 (with ss. 56, 78)

Supplementary

19 Interpretation.

In this Act—

“action” includes failure to act, and related expressions shall be construed accordingly;

[^{F107}[^{F108}“allotted sum” shall be construed in accordance with section 15 of the ^{M22}National Health Service and Community Care Act 1990 or, in Scotland, section 87B of the ^{M23}National Health Service (Scotland) Act 1978;]]

[^{F109}“the Assembly” means the National Assembly for Wales;]

“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 in Northern Ireland;

[^{F110}“family health services” has the meaning given by section 2A;

“family health service provider” has the meaning given by section 2A;]

[^{F111}“financial year” and “first financial year of the Assembly” have the same meanings as in the Government of Wales Act 1998;]

“functions” includes powers and duties;

“health service body” has the meaning given by section 2;

[^{F112}“independent provider” has the meaning given by section 2B;]

“local authority” means—

- (a) in relation to England ^{F113}. . . , a county, district or London borough council or the Common Council of the City of London,

[^{F114}(aa) in relation to Wales, a county council or county borough council,]

- (b) in relation to Scotland, a regional, district or islands council;

“officer” includes employee [^{F115}and, in the case of the Health Service Commissioner for Wales, any member of his staff;]

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“Parliamentary Commissioner” means Parliamentary Commissioner for Administration;

“patient” includes an expectant or nursing mother and a lying-in woman;
F116 . . .

“person aggrieved” means the person who claims or is alleged to have sustained such injustice or hardship as is mentioned in section 3(1) [F117, (1A) or (1C)].

[F118[F119“recognised fund-holding practice” shall be construed in accordance with section 14 of the National Health Service and Community Care Act 1990 or, in Scotland, section 87A of the National Health Service (Scotland) Act 1978.]]

Annotations:

Amendments (Textual)

- F107** S. 19: definition of “alloted sum” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 6(2)**; S.I. 1996/970, **art. 2(1)**
- F108** S. 19: definition of “alloted sum”
repealed (1.10.1999 for E. and S. and 1.4.2000 for W. otherwise *prosp.*) by 1999 c. 8, s. 65, Sch. 4 para. 85(4), **Sch. 5**; S.I. 1999/2540, art. 2, **Sch. 1**; S.I. 1999/90, art. 2, **Sch. 2**; S.I. 2000/1026, art. 2(1), **Sch.**
- F109** S. 19: definition of “the Assembly” inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 15(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F110** S. 19: definitions of “family health services” and “family health service provider” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 6(3)**; S.I. 1996/970, **art. 2(1)**
- F111** S. 19: definition of “financial year” inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 15(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F112** S. 19: definition of “independent provider” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 6(4)**; S.I. 1996/970, **art. 2(1)**
- F113** S. 19: words in para.(a) in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, s. 66(6) (8), Sch. 16 para. 108, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F114** S. 19: para. (aa) in definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 108** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F115** S. 19: words in definition of “officer” inserted (1.4.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 15(4)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F116** S. 19: word in definition of “patient” repealed (1.4.1996) by 1996 c. 5, ss. 3, 13, Sch. 1 para. 6(5), **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F117** S. 19: words in the definition of “person aggrieved” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 6(6)**; S.I. 1996/970, **art. 2(1)**
- F118** S. 19: definition of “recognised fund-holding practice” inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 6(7)**; S.I. 1996/970, **art. 2(1)**
- F119** S. 19: definition of “recognised fund-holding practice”
repealed (1.10.1999 for E. and S. and 1.4.2000 for W. otherwise *prosp.*) by 1999 c. 8, s. 65, Sch. 4 para. 85(4), **Sch. 5**; S.I. 1999/2540, art. 2, **Sch. 1**; S.I. 1999/90, art. 2, **Sch. 2**; S.I. 2000/1026, art. 2(1), **Sch.**

Marginal Citations

- M22** 1990 c. 19.
M23 1978 c. 29.

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20 Consequential amendments and repeals.

- (1) Schedule 2 to this Act (which contains amendments consequential on this Act) has effect.
- (2) The enactments set out in Schedule 3 are repealed to the extent specified.

21 Transitional provisions.

- (1) The repeal and re-enactment of provisions in this Act does not affect the continuity of the law.
- (2) Anything done, or having effect as if done, under a provision reproduced in this Act has effect as if done under the corresponding provision of this Act.
- (3) Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision of this Act shall (so far as the context permits) be construed as (according to the context) being or including in relation to times, circumstances or purposes before the commencement of this Act a reference to the corresponding provision repealed in this Act.
- (4) Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision repealed in this Act shall (so far as the context permits) be construed as (according to the context) being or including in relation to times, circumstances or purposes after the commencement of this Act a reference to the corresponding provision of this Act.
- (5) Subsection (4) is subject to Schedule 2.

22 Short title, extent and commencement.

- (1) This Act may be cited as the Health Service Commissioners Act 1993.
- (2) The following provisions of this Act extend to Northern Ireland—
 - (a) sections 11, 12, 13, 14(5), 15, 16 and this section;
 - (b) section 19 so far as it relates to provisions mentioned in this subsection;
 - (c) Schedule 2 so far as it amends any enactment which extends to Northern Ireland; and
 - (d) Schedule 3 so far as it repeals any enactment which extends to Northern Ireland.
- (3) The Secretary of State may by order provide that this Act shall apply to the Isles of Scilly with such modifications, if any, as are specified in the order.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (4) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

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SCHEDULES

SCHEDULE 1

Section 1(3).

THE [^{F135}ENGLISH AND SCOTTISH] COMMISSIONERS

Annotations:

Amendments (Textual)

F135 Sch. 1: words in heading inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(2)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F121} *Introductory*

Annotations:

Amendments (Textual)

F121 Sch. 1 para A1 and crossheading inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F120} **A1** In this Schedule references to a Commissioner (or Health Service Commissioner) are to the Health Service Commissioner for England or the Health Service Commissioner for Scotland or to either of those Commissioners (as the context requires).]

Annotations:

Amendments (Textual)

F120 Sch. 1 para. A1 inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(3)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Appointment of Commissioners

- 1** (1) Her Majesty may by Letters Patent appoint a person to be a Commissioner and a person so appointed shall hold office during good behaviour.
- (2) A person appointed to be a Commissioner—
- (a) may at his own request be relieved of office by Her Majesty, or
 - (b) [^{F122}except in the case of the Health Service Commissioner for Scotland] may be removed from office by Her Majesty in consequence of Addresses from both Houses of Parliament; [^{F123}or
 - (c) in the case of the Health Service Commissioner for Scotland may be removed from office by Her Majesty in consequence of a resolution of the Scottish Parliament;]

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and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five.

- (3) 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 of performing the duties of his office and of requesting to be relieved of it.

Annotations:

Amendments (Textual)

F122 Words in Sch. 1 para. 1(2)(b) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(a); S.I. 1998/3178, art. 3

F123 Sch. 1 para. 1(2)(c) and preceding “or” inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(b); S.I. 1998/3178, art. 3

Appointment of acting Commissioners

- 2 (1) [^{F124}Where either] of the offices of Commissioner becomes vacant, Her Majesty may, pending the appointment of the new Commissioner, appoint a person under this paragraph to act as that 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 paragraph shall hold office during Her Majesty’s pleasure and, subject to that, shall hold office—
- (a) until the appointment of the 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 Secretary of State may, with the approval of the Treasury, determine.
- (3) A person appointed under this paragraph shall, while he holds office, be treated for all purposes except those of paragraphs 4 to 10 as the Commissioner.

Annotations:

Amendments (Textual)

F124 Words in Sch. 1 para. 2(1) substituted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 16(4) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

Modifications etc. (not altering text)

C8 Sch 1. para. 2: transfer of certain functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 24

Ineligibility of certain persons for appointment

- 3 (1) A person who is a member of a relevant health service body shall not be appointed a Commissioner or acting Commissioner; and a person so appointed shall not, during his appointment, become a member of such a body.
- (2) For this purpose a “relevant health service body” means—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in relation to the Health Service Commissioner for England ^{F125} . . . or a person appointed to act as such, a body mentioned in section 2(1) or (2), and
- (b) in relation to the Health Service Commissioner for Scotland or a person appointed to act as such, a body mentioned in section 2(3) or any management committee of such a body.

Annotations:

Amendments (Textual)

F125 Words in Sch. 1 para. 3(2)(a) repealed (1.7.1999) by 1998 c. 38, ss. 112, 152, Sch. 10 para. 16(5), Sch. 18 Pt. I (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/1290, art. 4

- [^{F126}3A (1) A person who is a relevant family health service provider shall not be appointed a Commissioner or acting Commissioner; and a person so appointed shall not, during his appointment, become a relevant family health service provider.
- (2) For this purpose a “relevant family health service provider” means—
- (a) in relation to the Health Service Commissioner for England ^{F127} . . . or a person appointed to act as such, a person mentioned in section 2A(1) or (2), and
 - (b) in relation to the Health Service Commissioner for Scotland or a person appointed to act as such, a person mentioned in section 2A(3).]

Annotations:

Amendments (Textual)

F126 Sch. 1 para. 3A inserted (1.4.1996) by 1996 c. 5, s. 3, Sch. 1 para. 7; S.I. 1996/970, art. 2(1)

F127 Words in Sch. 1 para. 3A(2)(a) repealed (1.7.1999) by 1998 c. 38, ss. 112, 152, Sch. 10 para. 16(5), Sch. 18 Pt. I (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/1290, art. 4

Salaries

- 4 [^{F128}(a)] There shall be paid to the holder of the office of a 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 any such resolution may take effect from the date on which it is passed or from such other date as may be specified in it.
- [^{F129}(b) in relation to the Health Service Commissioner for Scotland the reference in subparagraph (a) above to the House of Commons shall be construed as a reference to the Scottish Parliament.]

Annotations:

Amendments (Textual)

F128 Sch. 1 para. 4: “(a)” inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(c)(i); S.I. 1998/3178, art. 3

F129 Sch. 1 para. 4(b) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 112(4)(c)(ii); S.I. 1998/3178, art. 3

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- 5** The salary payable to a holder of the office of a 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 has previously been appointed or elected.
- 6** (1) Where a person holds—
- (a) the office of Parliamentary Commissioner, and
 - (b) [^{F130}either or both] of the offices of Health Service Commissioner,
- he shall, so long as he does so, be entitled only to the salary pertaining to the office of Parliamentary Commissioner.
- (2) Where a person holds [^{F131}both] of the offices of Health Service Commissioner he shall, so long as he does so, be entitled only to the salary pertaining to such one of those offices as he selects.

Annotations:

Amendments (Textual)

F130 Words in Sch. 1 para. 6(1)(b) substituted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 16(6)(a) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

F131 Words in Sch. 1 para. 6(2) substituted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 16(6)(b) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

Modifications etc. (not altering text)

C9 Sch. 1 para. 6 extended (1.7.1999) by S.I. 1999/1351, art. 17(5)(a); S.I. 1998/3178, art. 3

Pensions and other benefits

- 7** Schedule 1 to the ^{M24}Parliamentary Commissioner Act 1967 (which relates to pensions and other benefits) has effect with respect to persons who hold or have held office as a Commissioner as it has effect with respect to persons who hold or have held office as the Parliamentary Commissioner.

Annotations:

Marginal Citations

M24 1967 c. 13.

- 8** In computing the salary of a former holder of the office of Commissioner for the purposes of Schedule 1 to the 1967 Act, there shall be disregarded—
- (a) any abatement of that salary under paragraph 5,
 - (b) any temporary abatement of that salary in the national interest, and
 - (c) any voluntary surrender of that salary in whole or in part.
- 9** (1) In this paragraph, “relevant office” means the office of Parliamentary Commissioner or any of the offices of Health Service Commissioner.
- (2) The Treasury may by regulations provide that Schedule 1 to the Parliamentary Commissioner Act 1967 shall have effect, in relation to persons who have held more than one relevant office, with such modifications as it considers necessary in consequence of those persons having held more than one such office; and different regulations may be made in pursuance of paragraph 4 of Schedule 1 to the 1967 Act in relation to different relevant offices.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) A person shall not be entitled to make simultaneously different elections in pursuance of paragraph 1 or 2 of Schedule 1 to the 1967 Act in respect of different relevant offices.
- (4) Where a person has made or is treated as having made an election in pursuance of paragraph 1 or 2 of Schedule 1 to the 1967 Act in respect of any relevant office, he shall be deemed to have made the same election in respect of all such other offices to which he is, or is subsequently, appointed.
- (5) No account shall be taken for the purposes of Schedule 1 to the 1967 Act of a period of service in a relevant office if salary in respect of the office was not paid for that period.
- (6) Regulations under this paragraph may make such incidental or supplementary provision as the Treasury considers necessary.
- (7) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Modifications etc. (not altering text)

C10 Sch. 1 para. 9: transfer of certain functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 24

- 10** In any case where a person makes an election under paragraph 2(1)(a) of Schedule 1 to the ^{M25}Parliamentary Commissioner Act 1967 (as substituted by Part II of Schedule 4 to the ^{M26}Judicial Pensions and Retirement Act 1993) so that Schedule 1 to the 1967 Act continues to have effect in relation to him as it did before the coming into force of Part II of Schedule 4 to the 1993 Act, this Schedule shall have effect—
- (a) as if in paragraph 7 the words “hold or” (in both places) and in paragraph 9(3) and (4) the words “or 2” (in both places) were omitted, and
 - (b) as if for the reference in paragraph 9(2) to paragraph 4 of Schedule 1 to the 1967 Act there were substituted a reference to paragraph 8 of that Schedule.

Annotations:

Marginal Citations

M25 1967 c. 13.

M26 1993 c. 8.

Staff and advisers

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

^{F132}(2)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

Amendments (Textual)

F132 Sch. 1 para. 11(2) repealed (1.7.1999) by 1998 c. 38, ss. 112, 152, Sch. 10 para. 16(7), **Sch. 18 Pt. I** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/1290, **art. 4**

- 12** Any functions of a Commissioner under this Act may be performed by any officer of the Commissioner authorised by him for that purpose, or by any officer so authorised of [^{F133}the other Commissioner, the Health Service Commissioner for Wales, the Parliamentary Commissioner or the Welsh Administration Ombudsman].

Annotations:

Amendments (Textual)

F133 Words in Sch. 1 para. 12 substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 16(8)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- 13** (1) To assist him in any investigation a Commissioner may obtain advice from any person who, in his opinion, is qualified to give it.
- (2) A Commissioner may pay to any such person from whom he obtains advice under this paragraph such fees or allowances as he may determine with the approval of the Treasury.

Financial provisions

- 14** The expenses of a Commissioner [^{F134}except the Health Service Commissioner for Scotland] under this Act—
- (a) shall be paid out of money provided by Parliament, and
 - (b) shall not exceed such amount as the Treasury may sanction.

Annotations:

Amendments (Textual)

F134 Words in Sch. 1 para. 14 inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 112(4)(d)**; S.I. 1998/3178, **art. 3**

- 15** Any salary, pension or other benefit payable by virtue of paragraph 2 and paragraphs 4 to 9 shall be charged on and issued out of the Consolidated Fund.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

[^{F165}SCHEDULE 1A

Section 1(3).

THE WELSH COMMISSIONER

Annotations:

Amendments (Textual)

F165 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F137} *Appointment*

Annotations:

Amendments (Textual)

F137 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F136}**1** (1) The Health Service Commissioner for Wales shall be appointed by Her Majesty.
- (2) Subject to sub-paragraphs (3) and (4), the Health Service Commissioner for Wales shall hold office until the end of the year of service in which he attains the age of 65.
- (3) Her Majesty may relieve the Health Service Commissioner for Wales of office before the end of that year of service—
- (a) at his request, or
- (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (4) Her Majesty may remove the Health Service Commissioner for Wales from office before the end of the year of service in which he attains the age of 65 if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.

Annotations:

Amendments (Textual)

F136 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F139} *Status*

Annotations:

Amendments (Textual)

F139 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F138}**2** (1) The Health Service Commissioner for Wales shall be regarded as holding office under Her Majesty and as exercising his functions on behalf of the Crown.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Service as the Health Service Commissioner for Wales shall not be service in Her Majesty's Home Civil Service but he shall be taken to be a Crown servant for the purposes of the ^{M27}Official Secrets Act 1989.

Annotations:

Amendments (Textual)

F138 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Marginal Citations

M27 1989 c. 6.

^{F141}Appointment of acting Commissioner

Annotations:

Amendments (Textual)

F141 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F140}**3** (1) Where the office of Health Service Commissioner for Wales becomes vacant, Her Majesty may, at any time during the period of twelve months beginning with the date on which the vacancy arose, appoint a person to act as that Commissioner.
- (2) Subject to sub-paragraphs (3) to (5), an acting Health Service Commissioner for Wales shall hold office in accordance with the terms of his appointment.
- (3) An acting Health Service Commissioner for Wales shall not hold office after—
- (a) the appointment of a new Health Service Commissioner for Wales, or
 - (b) the end of the period of twelve months beginning with the date on which the vacancy arose,
- whichever occurs first.
- (4) Her Majesty may at any time relieve an acting Health Service Commissioner for Wales of office—
- (a) at his request, or
 - (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (5) Her Majesty may remove an acting Health Service Commissioner for Wales from office at any time if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.
- (6) A person appointed under this paragraph shall, while he holds office, be regarded for all purposes (except those of paragraph 1 and this paragraph) as the Health Service Commissioner for Wales.

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Annotations:

Amendments (Textual)

F140 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F143}Ineligibility of certain persons for appointment

Annotations:

Amendments (Textual)

F143 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- F142** 4 (1) A person who is a member of a body mentioned in section 2(1) or (2) shall not be appointed as Health Service Commissioner for Wales or acting Health Service Commissioner for Wales; and a person so appointed shall not, during his appointment, become a member of such a body.
- (2) A person mentioned in section 2A(1) or (2) shall not be appointed as Health Service Commissioner for Wales or acting Health Service Commissioner for Wales; and a person so appointed shall not, during his appointment, become a person so mentioned.

Annotations:

Amendments (Textual)

F142 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

^{F145}Remuneration

Annotations:

Amendments (Textual)

F145 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- F144** 5 (1) The Assembly shall—
- (a) pay the Health Service Commissioner for Wales such salary and any such allowances, and
 - (b) make any such payments towards the provision of superannuation benefits for or in respect of him,
- as may be provided for by or under the terms of his appointment.
- (2) But where the Health Service Commissioner for Wales is also—
- (a) Parliamentary Commissioner, or
 - (b) Welsh Administration Ombudsman,

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he shall not be entitled to any salary as Health Service Commissioner for Wales.

- (3) Where the Health Service Commissioner for Wales also holds either or both of the other offices of Health Service Commissioner, he shall be entitled only to the salary pertaining to such one of the offices of Health Service Commissioner as he selects.
- (4) The Assembly shall pay to or in respect of a person who has ceased to hold office as Health Service Commissioner for Wales such amounts (if any) by way of—
 - (a) pension or gratuities, or
 - (b) provision for those benefits,
 as may have been provided for by or under the terms of his appointment.
- (5) In Schedule 1 to the ^{M28}Superannuation Act 1972 (offices etc. to which section 1 of that Act applies), in the list of “Offices” insert—

“Health Service Commissioner for Wales.”
- (6) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to subparagraph (5) in the sums payable out of money provided by Parliament under the ^{M29}Superannuation Act 1972.

Annotations:

Amendments (Textual)

F144 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Marginal Citations

M28 1972 c. 11.

M29 1972 c. 11.

^{F147}Staff and advisers

Annotations:

Amendments (Textual)

F147 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F146}6 (1) The Health Service Commissioner for Wales may appoint such staff as he considers necessary for assisting him in the exercise of his functions.
- (2) The Health Service Commissioner for Wales shall include among his staff such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.
 - (3) Service as a member of the staff of the Health Service Commissioner for Wales shall be service in Her Majesty’s Home Civil Service.
 - (4) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-

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paragraph (3) in the sums payable out of money provided by Parliament under the ^{M30}Superannuation Act 1972.

- (5) Any function of the Health Service Commissioner for Wales may be exercised by—
- (a) a member of his staff,
 - (b) a member of the staff of the Welsh Administration Ombudsman, or
 - (c) an officer of the Parliamentary Commissioner or of another Health Service Commissioner,
- if authorised by the Health Service Commissioner for Wales for that purpose; and references in any enactment to a member of the staff of the Health Service Commissioner for Wales include any person exercising any function of his by virtue of paragraph (b) or (c).
- (6) To assist him in the exercise of his functions the Health Service Commissioner for Wales may obtain advice from any person who, in his opinion, is qualified to give it.
- (7) The Health Service Commissioner for Wales may pay to any person from whom he obtains advice under sub-paragraph (6) any such fees or allowances as he may determine.
- (8) No arrangements shall be made—
- (a) for any of the functions of the Health Service Commissioner for Wales or of the Assembly to be exercised by the other or by a member of the other's staff, or
 - (b) for the provision of any administrative, professional or technical services by the Health Service Commissioner for Wales or the Assembly for the other.

Annotations:

Amendments (Textual)

F146 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Marginal Citations

M30 1972 c. 11.

F149 Reports

Annotations:

Amendments (Textual)

F149 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F148}7 (1) The Health Service Commissioner for Wales—
- (a) shall annually prepare and lay before the Assembly a general report on the performance of his functions, and
 - (b) may from time to time prepare and lay before the Assembly such other reports with respect to his functions as he thinks fit.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Assembly shall, and the Health Service Commissioner for Wales may, publish reports laid before the Assembly under this paragraph.

Annotations:

Amendments (Textual)

F148 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

F151 Expenses

Annotations:

Amendments (Textual)

F151 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- F150g** (1) The expenses of the Health Service Commissioner for Wales shall, so far as they cannot be met out of income received by him, be met by the Assembly.
- (2) Those expenses include any sums payable by the Health Service Commissioner for Wales in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him in the exercise of his functions).

Annotations:

Amendments (Textual)

F150 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

F153 Estimates

Annotations:

Amendments (Textual)

F153 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- F152g** (1) For each financial year after the first financial year of the Assembly the Health Service Commissioner for Wales shall prepare, and submit to the executive committee, an estimate of the income and expenses of his office.
- (2) Each such estimate shall be submitted to the executive committee at least five months before the beginning of the financial year to which it relates.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The executive committee shall examine each such estimate submitted to it and, after having done so, shall lay the estimate before the Assembly with any such modifications as the committee thinks fit.
- (4) Where the executive committee proposes to lay such an estimate before the Assembly with modifications, the committee shall first consult the Secretary of State and have regard to any advice which he may give.
- (5) In this paragraph “the executive committee” means the committee of the Assembly referred to as the executive committee in the Government of Wales Act 1998.

Annotations:

Amendments (Textual)

F152 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

F155 **Accounts**

Annotations:

Amendments (Textual)

F155 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- F154****10** (1) The Health Service Commissioner for Wales shall keep proper accounting records.
- (2) The Health Service Commissioner for Wales shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
 - (3) The directions which the Treasury may give under sub-paragraph (2) include, in particular, directions as to—
 - (a) the information to be contained in the accounts and the manner in which it is to be presented,
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and
 - (c) the additional information (if any) that is to accompany the accounts.

Annotations:

Amendments (Textual)

F154 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

^{F158}Audit

Annotations:

Amendments (Textual)

F158 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F156}**11** (1) The accounts prepared by the Health Service Commissioner for Wales for any financial year shall be submitted by him to the Auditor General for Wales [^{F157}no later than 30th November of the following financial year].
- (2) The Auditor General for Wales shall—
- (a) examine and certify any accounts submitted to him under this paragraph, and
 - (b) no later than four months after the accounts are submitted to him, lay before the Assembly a copy of them as certified by him together with his report on them.
- (3) In examining any accounts submitted to him under this paragraph, the Auditor General for Wales shall, in particular, satisfy himself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

Annotations:

Amendments (Textual)

F156 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

F157 Words in Sch. 1A para. 11(1) substituted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 19**; S.I. 2000/3349, **art. 3(1)(a)** (subject to transitional provisions in arts. 4, 5)

Modifications etc. (not altering text)

C11 Sch. 1A para. 11(1): power to amend conferred (1.4.2001) by 2000 c. 20, s. 29, Sch. 1 paras. 19, **27**; S.I. 2000/3349, **art. 3(1)(a)** (subject to transitional provisions in arts. 4, 5)

^{F160}Accounting officer

Annotations:

Amendments (Textual)

F160 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F159}**12** (1) The accounting officer for the Office of the Health Service Commissioner for Wales shall be the Health Service Commissioner for Wales.
- (2) But where—
- (a) the Health Service Commissioner for Wales is incapable of discharging his responsibilities as accounting officer, or
 - (b) the office of Health Service Commissioner for Wales is vacant (and there is no acting Health Service Commissioner for Wales),

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- the Treasury may designate a member of the staff of the Health Service Commissioner for Wales to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Office of the Health Service Commissioner for Wales shall have, in relation to the accounts of the Health Service Commissioner for Wales and the finances of the Office of the Health Service Commissioner for Wales, the responsibilities which are from time to time specified by the Treasury.
- (4) In this paragraph references to responsibilities include in particular—
- (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the finances of the Office of the Health Service Commissioner for Wales, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Health Service Commissioner for Wales are used.
- (5) The responsibilities which may be specified under this paragraph include responsibilities owed to—
- (a) the Assembly, the executive committee or the Audit Committee of the Assembly, or
 - (b) the House of Commons or its Committee of Public Accounts.
- (6) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee of the Assembly may—
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Office of the Health Service Commissioner for Wales, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (7) In this paragraph and paragraphs 13 and 14 “the Office of the Health Service Commissioner for Wales” means the Health Service Commissioner for Wales and the members of his staff; and in this paragraph “the executive committee” has the same meaning as in paragraph 9.

Annotations:

Amendments (Textual)

F159 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

F162 Examinations into use of resources

Annotations:

Amendments (Textual)

F162 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health Service Commissioners Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- ^{F161}**13** (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Health Service Commissioner for Wales has used the resources of the Office of the Health Service Commissioner for Wales in discharging his functions.
- (2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Health Service Commissioner for Wales.
- (3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account the views of the Audit Committee of the Assembly as to the examinations which he should carry out under this paragraph.
- (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this paragraph.
- (5) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Health Service Commissioner for Wales under this paragraph or section 7 of the ^{M31}National Audit Act 1983 (economy etc. examinations).

Annotations:

Amendments (Textual)

F161 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Marginal Citations

M31 1983 c. 44.

^{F164}*Examinations by the Comptroller and Auditor General*

Annotations:

Amendments (Textual)

F164 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

- ^{F163}**14** (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Health Service Commissioner for Wales, the Comptroller and Auditor General—
- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Health Service Commissioner for Wales, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General shall—
- (a) consult the Auditor General for Wales, and

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- (b) take into account any relevant work done or being done by the Auditor General for Wales,
before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Health Service Commissioner for Wales under section 7 of the ^{M32}National Audit Act 1983 (economy etc. examinations).]

Annotations:

Amendments (Textual)

F163 Sch. 1A inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 17** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

Marginal Citations

M32 1983 c. 44.

SCHEDULE 2

Section 20.

CONSEQUENTIAL AMENDMENTS

The Parliamentary Commissioner Act 1967 (c.13)

- 1** In section 11A of the Parliamentary Commissioner Act 1967 (consultations between Parliamentary Commissioner and Health Service Commissioners) in subsection (1)(b) for the words “Part V of the National Health Service Act 1977” to the end there shall be substituted “ the Health Service Commissioners Act 1993.”
- 2** In paragraph 8 of Schedule 3 to that Act (action taken by certain health service bodies not subject to investigation by the Parliamentary Commissioner) after the words “Scottish Health Service” there shall be inserted “ by the Dental Practice Board or the Scottish Dental Practice Board”.

The Local Government Act 1974 (c.7)

- 3** In section 29(5)(b) of the Local Government Act 1974 (restriction on disclosure of information by Health Service Commissioners in relation to investigations by Local Commissioners) for the words “paragraph 16 of Schedule 13 to the National Health Service Act 1977” there shall be substituted “ section 15 of the Health Service Commissioners Act 1993”.
- 4** (1) Section 33 of that Act (consultation between Local Commissioners, Parliamentary Commissioner and Health Service Commissioners) shall be amended as follows.
- (2) In subsection (1) for the words “sections 109” to the end of paragraph (b) and for the words “Part V of the Act of 1977” there shall be substituted “ the Act of 1993.”
- (3) In subsection (3)—
- (a) for the words from the beginning to “Commissioner conducting the investigation” there shall be substituted—
- “(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner”

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- (b) the words “under the Act of 1967 or Part V of the Act of 1977, as the case may be,” shall be omitted.
- (4) In subsection (4) the words “or Part V of the Act of 1977” shall be omitted.
- (5) In subsection (5) for the words “paragraph 16 of Schedule 13 to the National Health Service Act 1977” there shall be substituted “ section 15 of the Act of 1993”.
- (6) In subsection (6) for the words “the Act of 1977” onwards there shall be substituted “ the “Act of 1993” means the Health Service Commissioners Act 1993.”

The Local Government (Scotland) Act 1975 (c.30)

- 5 In section 27(5)(b) of the Local Government (Scotland) Act 1975 (restriction on disclosure of information by Health Service Commissioner for Scotland in relation to investigations by Commissioner for Local Administration in Scotland) for the words “that section (as applied by section 95 of the National Health Service (Scotland) Act 1978)” there shall be substituted “ section 15 of the Health Service Commissioners Act 1993”.
- 6 (1) Section 31 of that Act (consultation between Commissioner for Local Administration in Scotland, Parliamentary Commissioner and Health Service Commissioner for Scotland) shall be amended as follows.
 - (2) In subsection (1) for the words “section 93 of the Act of 1978” and “Part VI of the Act of 1978” there shall be substituted “ the Act of 1993”.
 - (3) In subsection (3)—
 - (a) for the words from the beginning to “Commissioner conducting the investigation” there shall be substituted—

“(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner”
 - (b) the words “under the Act of 1967 or Part VI of the Act of 1978, as the case may be,” shall be omitted.
 - (4) In subsection (4) the words “or Part VI of the Act of 1978” shall be omitted.
 - (5) In subsection (5) for the words “in that section as applied by section 95 of the Act of 1978” there shall be substituted “ in section 15 of the Act of 1993”.
 - (6) In subsection (6) for the words “the“ Act of 1978”” onwards there shall be substituted “ the “Act of 1993” means the Health Service Commissioners Act 1993.”

The Hospital Complaints Procedure Act 1985 (c.42)

- 7 In section 1(2) of the Hospital Complaints Procedure Act 1985 for the words “under Part V” to “Commissioners)” there shall be substituted “ under the Health Service Commissioners Act 1993”.

The Parliamentary and Health Service Commissioners Act 1987 (c.39)

- 8 In section 2(1) of the Parliamentary and Health Service Commissioners Act 1987 (removal of a Commissioner on medical grounds) for the words from the beginning to “for Scotland)” there shall be substituted “ Section 1 of the 1967 Act (which deals with the appointment and tenure of office by the Parliamentary Commissioner)”.

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SCHEDULE 3

Section 20.

REPEALS

Chapter	Short title	Extent of repeal
1974 c. 7.	The Local Government Act 1974.	In section 33(3), the words “under the Act of 1967 or Part V of the Act of 1977 as the case may be”. In section 33(4), the words “or Part V of the Act of 1977”.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In section 31(3), the words “under the Act of 1967 or Part VI of the Act of 1978 as the case may be”. In section 31(4), the words “or Part VI of the Act of 1978”.
1977 c. 49.	The National Health Service Act 1977.	Sections 106 to 120. Section 130(3)(c). Schedule 13. In Schedule 14, paragraph 17. In Schedule 15, paragraphs 60 and 61.
1978 c. 29.	The National Health Service (Scotland) Act 1978.	Sections 90 to 97. Schedule 14. In Schedule 15, paragraph 12.
1980 c. 53.	The Health Services Act 1980.	In Schedule 1, paragraphs 72 to 74. In Schedule 2, paragraphs 7, 8 and 9 and sub-paragraphs (a) to (f) of paragraph 11.
1984 c. 36.	The Mental Health (Scotland) Act 1984.	In Schedule 3, paragraph 42.
1987 c. 39.	The Parliamentary and Health Service Commissioners Act 1987.	Section 2(2). Section 4(3) to (5). Section 5. Section 6(2) and (3).

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		Section 7.
		Section 8.
1988 c. 49.	The Health and Medicines Act 1988.	Section 12(4) and (5).
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 1(h).
1990 c. 19.	The National Health Service and Community Care Act 1990.	In Schedule 9, paragraphs 18(10) and (11) and 19(18).
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	Part III of Schedule 4.

TABLE OF DERIVATIONS

Notes:

1 Notes:

This Table shows the derivation of the provisions of the Bill.

2 The following abbreviations are used in this Table:

1967	= The Parliamentary Commissioner Act 1967 (c.13)
1977	= The National Health Service Act 1977 (c.49)
1978	= The National Health Service (Scotland) Act 1978 (c.29)
1980	= The Health Services Act 1980 (c.53)
1987	= The Parliamentary and Health Service Commissioners Act 1987 (c.39)
1990	= The National Health Service and Community Care Act 1990 (c.19)

3 The abbreviation “Law Comm R” followed by a number refers to the recommendation set out in the paragraph of that number in the Appendix to the Report of the Law Commission and the Scottish Law Commission (Cm. 2255).

4 Certain functions of the Minister for the Civil Service were transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670 Articles 2(1),(2) and 3(5)). References to the Minister for the Civil Service in the National Health Service Act 1977 and the National Health Service (Scotland) Act 1978 are therefore reproduced in the Bill as references to the Treasury.

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Provision	Derivation
1(1)	1977 s.106(1); 1978 s.90(1)
(2),(3)	drafting
2(1),(2)	1977 s.109, s.110; 1980 Sch.1 paras.72,73, Sch.2 para.7; Health and Medicines Act 1988 (c.49) s.12(4); 1990 s.2(1), Sch.9 para.18(10),(11); Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39) art.7(20)
(3)	1978 s.93(1); Health and Medicines Act 1988 (c.49) s.12(5); 1990 Sch.9 para.19(18)
(4)	drafting
(5)	1977 s.109(c),(d)
(6)	1977 s.126(1)
3(1)	1977 s.115; 1978 s.93(2)
(2)	1977 s.113(1); 1978 s.93(6)
(3)	1977 s.113(2); 1978 s.93(6)
(4)	1977 s.120(2); 1978 s.97(2)
4(1)	1977 s.116(1); 1978 s.93(3)
(2)	1977 Sch.13 para.19(5); 1978 s.93(4), Sch.14 para.6
(3)	1978 s.93(4), Sch.14 para 7; Mental Health (Scotland) Act 1984 (c.36) Sch.3 para.42; Law Comm R2
5(1)	1977 Sch.13 para.19(1); 1978 s.93(4), Sch.14 para.2
(2)	1977 s.128(1); 1978 s.108(1); Mental Health Act 1983 (c.20) Sch.4 para.47(d); Mental Health (Scotland) Act 1984 (c.36) Sch.3 para.41
6(1)	1977 s.116(2)(b)
(2)	1978 s.93(4), Sch.14 para.1
(3)	1977 Sch.13 para.19(2); 1990 s.2(1)
(4)	1978 s.93(4), Sch.14 para.3
7(1)—(3)	1977 Sch.13 para.19(3),(4); 1978 s.93(4), Sch.14 paras.4,5
(4)	1977 s.116(3); 1978 s.93(5)
(5)	1977 s.126(1); 1978 s.105(2)

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8	1977 s.111(1); 1978 s.94(1)
9	1977 s.111(2), s.112, s.114(1); 1978 s.94(2)—(4)
10	1977 s.113(2), s.117; 1978 s.93(6), s.94(5); 1987 s.7, s.8
11	1967 s.7; 1977 Sch.13 paras.1-6; 1978 s.95
12	1967 s.8; Civil Evidence Act 1968 (c.64) s.17(1)(b); 1977 Sch.13 paras.7-11; 1978 s.95
13	1967 s.9; 1977 Sch.13 paras.12-14; 1978 s.95
14(1)	1977 s.119(1); 1978 s.96(1); 1987 s.5(1)
(2)	1977 s.119(2); 1978 s.96(3); 1987 s.5(2), (3)
(3)	1977 s.119(3); 1978 s.96(4); 1980 Sch.2 paras.9,11
(4)	1977 s.119(4)(b); 1978 s.96(5); 1980 Sch.2 paras.9,11
(5)	1977 s.119(5); 1978 s.96(7)
15	1967 s.11(2); 1977 Sch.13 para.16; 1978 s.95; Official Secrets Act 1989 (c.6) Sch.1 para.1
16	1967 s.11(3); 1977 Sch.13 para.17,18; 1978 s.95
17	1977 Sch.13 para.16A; 1978 s. 95A(3); 1987 s.4(4),(5)
18	Local Government (Scotland) Act 1975 (c.30) s.31(3)–(4); 1977 s.118(1)–(3); 1978 s.95A(1),(2); 1987 s.4(3),(5); Law Comm R4
19	1977 s.120(1), s.128(1); 1978 s.97(1), s.108(1)
20	
21	
22	1977 s.130(3),(4)
Sch. 1 para.1	1977 s.106(2)–(3A); 1978 s.90(2)–(3A); 1987 s.2(1),(2)
para.2	1977 s.108A(1)–(3); 1978 s.92A(1)–(3); 1987 s.6(2),(3)
para.3	1977 s.106(4), s.108A(5); 1978 s.90(5), s.92A(5); 1987 s.6(2),(3)

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para.4	1977 s.107(1); 1978 s.91(1)
para.5	1977 s.107(3); 1978 s.91(3)
para.6	1977 s.107(5); 1978 s.91(5)
para.7	1977 s.107(2); 1978 s.91(2)
para.8	1977 s.107(4); 1978 s.91(4)
para.9(1)	drafting
(2)	1977 s.107(7); 1978 s.91(7)
(3)—(5)	1977 s.107(6); 1978 s.91(6); Judicial Pensions and Retirement Act 1993 (c.8) Sch.4 Part III
(6)	1977 s.126(4); 1978 s.105(7)
(7)	1977 s.126(1); 1978 s.105(1),(2)
para.10	Judicial Pensions and Retirement Act 1993 (c.8) Sch.4 Part III
para.11	1977 s.108(1); 1978 s.92(1)
para.12	1977 s.108(2); 1978 s.92(2)
para.13	1977 s.108(3); 1978 s.92(3)
para.14	1977 s.108(4); 1978 s.92(4)
para.15	1977 s.107(8), s.108A(4); 1978 s.91(8), s.92A(4); 1987 s.6(2),(3)
Sch. 2	Para 2, Law Comm R1
Sch. 3	

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 1 heading substituted by 2005 c. 10 Sch. 6 para. 29
- s. 1 cross-heading text amended by 2005 c. 10 Sch. 6 para. 28
- s. 1(1) text amended by S.I. 2004/1823 art. 17(2)(a)
- s. 1(1)(b) repealed by 2005 c. 10 Sch. 6 para. 30(2)
- s. 1(2) text amended by 2005 c. 10 Sch. 6 para. 30(3)(a)
- s. 1(2) text amended by 2005 c. 10 Sch. 6 para. 30(3)(b)
- s. 1(3) text amended by 2005 c. 10 Sch. 6 para. 30(4)
- s. 1(3) text amended by 2005 c. 10 Sch. 7
- s. 1(3) text amended by S.I. 2004/1823 art. 17(2)(b)
- s. 2(1) text amended by 2005 c. 10 Sch. 6 para. 31(2)
- s. 2(1)(c) text amended by 2003 c. 43 Sch. 11 para. 61(a)
- s. 2(1)(f) repealed by 2003 c. 43 Sch. 14 Pt. 4
- s. 2(1)(g) and word(s) repealed by 2003 c. 43 Sch. 13 para. 7
- s. 2(1)(g) and word(s) repealed by 2003 c. 43 Sch. 14 Pt. 7
- s. 2(1)(db) inserted by 2003 c. 43 Sch. 4 para. 94
- s. 2(2) repealed by 2005 c. 10 Sch. 6 para. 31(3)
- s. 2(2) repealed by 2005 c. 10 Sch. 7
- s. 2(2)(b) text amended by 2003 c. 43 Sch. 11 para. 61(b)
- s. 2(3) omitted by S.I. 2004/1823 art. 17(3)
- s. 2(6) substituted by 2005 c. 10 Sch. 6 para. 31(4)
- s. 2A applied (with modifications) by S.I. 2006/552 Sch. 1 para. 11
- s. 2A savings for effects of 2003 c. 43 Sch. 11 para. 62 by S.I. 2004/1016 art. 89
- s. 2A savings for effects of 2003 c. 43 Sch. 11 para. 62-68 by S.I. 2004/865 art. 113
- s. 2A(1) text amended by 2005 c. 10 Sch. 6 para. 32(2)
- s. 2A(1)(a) modified by S.I. 2004/1016 art. 85(2)(e)
- s. 2A(1)(a) modified by S.I. 2004/865 art. 109(2)(e)
- s. 2A(1)(a) substituted by 2003 c. 43 Sch. 11 para. 62(1)
- s. 2A(1)(a) substituted by 2003 c. 43 Sch. 11 para. 62(2)(a)
- s. 2A(1)(a) text amended by 2006 c. 28 Sch. 8 para. 33(a)
- s. 2A(1)(a) text amended by 2006 c. 43 Sch. 1 para. 166(a)
- s. 2A(1)(b) text amended by 2006 c. 28 Sch. 8 para. 33(b)
- s. 2A(1)(b) text amended by 2006 c. 28 Sch. 9
- s. 2A(1)(b) text amended by 2006 c. 43 Sch. 1 para. 166(b)
- s. 2A(1)(c) text amended by 2003 c. 43 Sch. 11 para. 62(1)
- s. 2A(1)(c) text amended by 2003 c. 43 Sch. 11 para. 62(2)(b)
- s. 2A(1)(c) text amended by 2006 c. 43 Sch. 1 para. 166(c)
- s. 2A(1)(d) text amended by 2006 c. 43 Sch. 1 para. 166(d)
- s. 2A(2) repealed by 2005 c. 10 Sch. 6 para. 32(3)
- s. 2A(2) repealed by 2005 c. 10 Sch. 6 para. 33(3)
- s. 2A(2) repealed by 2005 c. 10 Sch. 7
- s. 2A(2) repealed by 2005 c. 10 Sch. 7
- s. 2A(2)(a) modified by S.I. 2004/1016 art. 85(2)(e)
- s. 2A(2)(a) modified by S.I. 2004/865 art. 109(2)(e)
- s. 2A(2)(a) substituted by 2003 c. 43 Sch. 11 para. 62(1)
- s. 2A(2)(a) substituted by 2003 c. 43 Sch. 11 para. 62(3)(a)
- s. 2A(2)(c) text amended by 2003 c. 43 Sch. 11 para. 62(1)
- s. 2A(2)(c) text amended by 2003 c. 43 Sch. 11 para. 62(3)(c)
- s. 2A(2A) repealed by 2005 c. 10 Sch. 6 para. 33(3)
- s. 2A(2A) repealed by 2005 c. 10 Sch. 7
- s. 2A(3) omitted by S.I. 2004/1823 art. 17(4)(a)
- s. 2A(4) text amended by 2005 c. 10 Sch. 6 para. 32(4)

- s. 2A(4) text amended by 2005 c. 10 Sch. 6 para. 33(4)
- s. 2A(4)(a) text amended by S.I. 2004/1823 art. 17(4)(b)
- s. 2A(5) text amended by 2005 c. 10 Sch. 6 para. 33(5)
- s. 2B(1) text amended by 2005 c. 10 Sch. 6 para. 33(2)
- s. 2B(1A) inserted by 2009 c. 21 s. 12(2)
- s. 2B(3) omitted by S.I. 2004/1823 art. 17(5)(a)
- s. 2B(4) text amended by S.I. 2004/1823 art. 17(5)(b)
- s. 2B(5) text amended by 2009 c. 21 s. 12(3)
- s. 2B(5) text amended by S.I. 2004/1823 art. 17(5)(c)
- s. 3 heading text amended by 2005 c. 10 Sch. 6 para. 34
- s. 3(1) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(1A) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(1C) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(1C) text amended by 2009 c. 21 s. 12(4)
- s. 3(1E) inserted by 2003 c. 43 s. 118
- s. 3(1E) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(1F) inserted by 2006 c. 44 s. 15(2)
- s. 3(1YA) repealed by 2005 c. 10 Sch. 6 para. 35(3)
- s. 3(1YA) repealed by 2005 c. 10 Sch. 7
- s. 3(2) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(3) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(4) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(5) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 3(6) text amended by 2005 c. 10 Sch. 6 para. 35(2)
- s. 4(1) text amended by 2005 c. 10 Sch. 6 para. 36(2)
- s. 4(2) text amended by 2005 c. 10 Sch. 6 para. 36(2)
- s. 4(4)(a) text amended by 2003 c. 43 Sch. 9 para. 11(2)
- s. 4(4)(a) text amended by 2006 c. 44 s. 15(3)
- s. 4(5) text amended by 2005 c. 10 Sch. 6 para. 36(3)
- s. 4(6) repealed by 2003 c. 43 Sch. 14 Pt. 2
- s. 6(3) text amended by 2005 c. 10 Sch. 6 para. 37(a)
- s. 6(3) text amended by 2005 c. 10 Sch. 6 para. 37(b)
- s. 6(3) text amended by 2005 c. 10 Sch. 7
- s. 6(5) savings for effects of 2003 c. 43 Sch. 11 para. 62-68 by S.I. 2004/865 art. 113
- s. 6(5) savings for effects of 2003 c. 43 Sch. 11 para. 63 by S.I. 2004/1016 art. 89
- s. 6(5) text amended by 2003 c. 43 Sch. 11 para. 63(a)
- s. 6(5) text amended by 2003 c. 43 Sch. 11 para. 63(b)
- s. 6(5) text amended by 2003 c. 43 Sch. 14 Pt. 4
- s. 6(5) text amended by 2005 c. 10 Sch. 6 para. 37(a)
- s. 6(5) text amended by 2005 c. 10 Sch. 6 para. 37(b)
- s. 6(5) text amended by 2005 c. 10 Sch. 7
- s. 6(5) text amended by 2006 c. 28 Sch. 8 para. 34
- s. 6(5) text amended by 2006 c. 28 Sch. 9
- s. 6(5) text amended by 2006 c. 43 Sch. 1 para. 167
- s. 7(1) text amended by 2005 c. 10 Sch. 6 para. 38(2)(a)
- s. 7(1) text amended by 2005 c. 10 Sch. 6 para. 38(2)(b)
- s. 7(1) text amended by 2006 c. 43 Sch. 1 para. 168(a)
- s. 7(2) text amended by 2005 c. 10 Sch. 6 para. 38(3)
- s. 7(2)(a) text amended by 2006 c. 43 Sch. 1 para. 168(b)
- s. 7(2)(a) text amended by S.I. 2004/1823 art. 17(6)
- s. 7(2)(b) text amended by 2006 c. 44 s. 15(4)(a)
- s. 7(2)(d) and word inserted by 2006 c. 44 s. 15(4)(b)
- s. 7(2)(aa) inserted by 2009 c. 21 s. 12(5)
- s. 7(3) text amended by 2005 c. 10 Sch. 6 para. 38(4)
- s. 7(3A) text amended by 2005 c. 10 Sch. 6 para. 38(5)
- s. 7(3B) text amended by 2005 c. 10 Sch. 6 para. 38(6)
- s. 7(4) text amended by 2005 c. 10 Sch. 6 para. 38(6)
- s. 9(1) text amended by 2005 c. 10 Sch. 6 para. 39(2)

- s. 9(4A) text amended by 2005 c. 10 Sch. 6 para. 39(3)
- s. 9(4B) text amended by 2005 c. 10 Sch. 6 para. 39(4)
- s. 10(1) text amended by 2005 c. 10 Sch. 6 para. 40(2)
- s. 10(2A) repealed by 2005 c. 10 Sch. 6 para. 40(3)
- s. 10(2A) repealed by 2005 c. 10 Sch. 7
- s. 10(4) text amended by 2005 c. 10 Sch. 6 para. 40(2)
- s. 10(5) text amended by 2005 c. 10 Sch. 6 para. 40(2)
- s. 11(1) to s. 11(1C) text amended by 2005 c. 10 Sch. 6 para. 41(2)
- s. 11(1C) inserted by 2003 c. 43 Sch. 9 para. 11(3)
- s. 11(1C) text amended by 2006 c. 44 s. 15(5)
- s. 11(4) text amended by 2005 c. 10 Sch. 6 para. 41(3)(a)
- s. 11(4) text amended by 2005 c. 10 Sch. 6 para. 41(3)(b)
- s. 11(4) text amended by 2005 c. 10 Sch. 6 para. 41(3)(c)
- s. 11(4) text amended by 2005 c. 10 Sch. 7
- s. 11(4) text amended by S.I. 2004/1823 art. 17(7)
- s. 12(1) to s. 12(2) text amended by 2005 c. 10 Sch. 6 para. 42
- s. 12(1A) text amended by 2003 c. 43 Sch. 9 para. 11(4)
- s. 12(1A) text amended by 2006 c. 44 s. 15(6)
- s. 13(1) text amended by 2005 c. 10 Sch. 6 para. 43
- s. 14 heading substituted by 2005 c. 10 Sch. 6 para. 44
- s. 14 heading text amended by S.I. 2004/1823 art. 17(8)(d)
- s. 14(1) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(1) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(1)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(2)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2A) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2A) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(2A)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2B) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2B) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(2B)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2C) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2C) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(2C)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2C)(e) text amended by 2009 c. 21 s. 12(6)
- s. 14(2D) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2D) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(2D)(b) text amended by S.I. 2004/1823 art. 17(8)(b)
- s. 14(2E) inserted by 2003 c. 43 Sch. 9 para. 11(5)
- s. 14(2E) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2F) inserted by 2003 c. 43 Sch. 9 para. 11(5)
- s. 14(2F) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(2G) inserted by 2006 c. 44 s. 15(7)
- s. 14(2H) inserted by 2006 c. 44 s. 15(7)
- s. 14(3) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(3) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14(4) text amended by S.I. 2004/1823 art. 17(8)(c)(i)
- s. 14(4)(a) text amended by S.I. 2004/1823 art. 17(8)(c)(ii)
- s. 14(4)(b) text amended by S.I. 2004/1823 art. 17(8)(c)(ii)
- s. 14(5) text amended by 2005 c. 10 Sch. 6 para. 45(2)
- s. 14(5) text amended by S.I. 2004/1823 art. 17(8)(a)
- s. 14A to s. 14C repealed by 2005 c. 10 Sch. 6 para. 46
- s. 14A to s. 14C repealed by 2005 c. 10 Sch. 7
- s. 14A(4) inserted by 2003 c. 43 Sch. 9 para. 11(6)
- s. 14A(5) inserted by 2003 c. 43 Sch. 9 para. 11(6)
- s. 14B text amended by 2003 c. 43 Sch. 9 para. 11(7)(a)

- s. 14B(2) text amended by 2003 c. 43 Sch. 9 para. 11(7)(b)
- s. 15 excluded by 1974 c. 7 s. 34M(7)(b) (as inserted) by 2009 c. 21 Sch. 5 para. 2
- s. 15(1) text amended by 2005 c. 10 Sch. 6 para. 47(2)
- s. 15(1)(aa) inserted by S.I. 2007/1889 art. 11
- s. 15(1)(aa) text amended by 2007 c. 28 Sch. 12 para. 15(2)
- s. 15(1A) text amended by 2005 c. 10 Sch. 6 para. 47(3)
- s. 15(1C) text amended by 2005 c. 10 Sch. 6 para. 47(3)
- s. 15(2) text amended by 2005 c. 10 Sch. 6 para. 47(3)
- s. 15(3) text amended by 2005 c. 10 Sch. 6 para. 47(4)(a)
- s. 15(3) text amended by 2005 c. 10 Sch. 6 para. 47(4)(b)
- s. 15(3) text amended by 2005 c. 10 Sch. 7
- s. 16(1) text amended by 2005 c. 10 Sch. 6 para. 48
- s. 16(2) text amended by 2005 c. 10 Sch. 6 para. 48
- s. 17(1) text amended by 2005 c. 10 Sch. 6 para. 49(2)(a)
- s. 17(1) text amended by 2005 c. 10 Sch. 6 para. 49(2)(b)
- s. 17(1) text amended by S.I. 2004/2359 art. 3(2)(a)
- s. 17(3) inserted by S.I. 2004/2359 art. 3(2)(b)
- s. 17(3) repealed by 2005 c. 10 Sch. 6 para. 49(3)
- s. 18(e) and word repealed by 2005 c. 10 Sch. 6 para. 50(2)(d)
- s. 18(e) and word repealed by 2005 c. 10 Sch. 7
- s. 18(1) text amended by 2003 c. 43 Sch. 11 para. 64
- s. 18(1) text amended by 2004 c. 34 Sch. 15 para. 37(1)
- s. 18(1) text amended by 2004 c. 34 Sch. 15 para. 37(1)
- s. 18(1) text amended by 2004 c. 34 Sch. 15 para. 37(2)(c)
- s. 18(1) text amended by 2004 c. 34 Sch. 15 para. 37(2)(d)
- s. 18(1) text amended by 2004 c. 34 Sch. 16
- s. 18(1) text amended by 2004 c. 34 Sch. 16
- s. 18(1) text amended by 2005 c. 10 Sch. 6 para. 50(2)(a)
- s. 18(1) text amended by S.I. 2004/1823 art. 17(9)(a)(iii)
- s. 18(1)(a) repealed by 2005 c. 10 Sch. 6 para. 50(2)(b)
- s. 18(1)(a) text amended by S.I. 2004/1823 art. 17(9)(a)(i)
- s. 18(1)(c) text amended by 2004 c. 34 Sch. 15 para. 37(1)
- s. 18(1)(c) text amended by 2004 c. 34 Sch. 15 para. 37(2)(a)
- s. 18(1)(c) text amended by 2004 c. 34 Sch. 16
- s. 18(1)(c) text amended by 2009 c. 21 Sch. 5 para. 13
- s. 18(1)(d) text amended by S.I. 2004/1823 art. 17(9)(a)(ii)
- s. 18(1)(e) and word inserted by 2004 c. 34 Sch. 15 para. 37(2)(b)
- s. 18(1)(ba) substituted by 2005 c. 10 Sch. 6 para. 50(2)(c)
- s. 18(2) text amended by 2004 c. 34 Sch. 15 para. 37(3)
- s. 18(2) text amended by 2004 c. 34 Sch. 16
- s. 18(2) text amended by 2005 c. 10 Sch. 6 para. 50(3)(a)
- s. 18(2) text amended by 2005 c. 10 Sch. 6 para. 50(3)(b)
- s. 18(2) text amended by S.I. 2004/1823 art. 17(9)(b)
- s. 18A(1) text amended by 2005 c. 10 Sch. 6 para. 51
- s. 19 text amended by 2005 c. 10 Sch. 6 para. 52(2)
- s. 19 text amended by 2005 c. 10 Sch. 6 para. 52(3)
- s. 19 text amended by 2005 c. 10 Sch. 7
- s. 19 text amended by 2005 c. 10 Sch. 7
- s. 19 text amended by 2009 c. 21 s. 12(7)
- s. 19 text amended by S.I. 2004/1823 art. 17(10)
- s. 19 text amended by S.I. 2007/1889 art. 17
- Sch. 1 heading text amended by S.I. 2004/1823 art. 17(11)(a)
- Sch. 1 para. A1 repealed by 2005 c. 10 Sch. 6 para. 53(2)
- Sch. 1 para. A1 repealed by 2005 c. 10 Sch. 7
- Sch. 1 para. A1 text amended by S.I. 2004/1823 art. 17(11)(b)
- Sch. 1 para. 1 to Sch. 1 para. 1E substituted by S.I. 2006/1031 Sch. 8 para. 15(2)
- Sch. 1 para. 1 cross-heading text amended by 2005 c. 10 Sch. 6 para. 53(3)
- Sch. 1 para. 1(1) text amended by 2005 c. 10 Sch. 6 para. 53(4)

- Sch. 1 para. 1(2) text amended by 2005 c. 10 Sch. 6 para. 53(4)
- Sch. 1 para. 1(2)(b) text amended by S.I. 2004/1823 art. 17(11)(c)(i)
- Sch. 1 para. 1(2)(c) omitted by S.I. 2004/1823 art. 17(11)(c)(ii)
- Sch. 1 para. 2 heading text amended by S.I. 2004/1823 art. 17(11)(d)
- Sch. 1 para. 2(1) text amended by S.I. 2004/1823 art. 17(11)(e)
- Sch. 1 para. 2(1A) inserted by S.I. 2006/1031 Sch. 8 para. 15(3)(a)
- Sch. 1 para. 2(1B) inserted by S.I. 2006/1031 Sch. 8 para. 15(3)(a)
- Sch. 1 para. 2(2) text amended by S.I. 2006/1031 Sch. 8 para. 15(3)(b)
- Sch. 1 para. 2(3) substituted by S.I. 2006/1031 Sch. 8 para. 15(3)(c)
- Sch. 1 para. 3(1) text amended by 2005 c. 10 Sch. 6 para. 53(5)(a)
- Sch. 1 para. 3(2) text amended by 2005 c. 10 Sch. 6 para. 53(5)(b)
- Sch. 1 para. 3(2) text amended by S.I. 2004/1823 art. 17(11)(f)
- Sch. 1 para. 3A(1) text amended by 2005 c. 10 Sch. 6 para. 53(6)(a)
- Sch. 1 para. 3A(2) text amended by 2005 c. 10 Sch. 6 para. 53(6)(b)
- Sch. 1 para. 3A(2) text amended by S.I. 2004/1823 art. 17(11)(g)
- Sch. 1 para. 4 text amended by 2005 c. 10 Sch. 6 para. 53(7)
- Sch. 1 para. 4 text amended by S.I. 2004/1823 art. 17(11)(h)
- Sch. 1 para. 5 text amended by 2005 c. 10 Sch. 6 para. 53(7)
- Sch. 1 para. 6(1)(b) text amended by S.I. 2004/1823 art. 17(11)(i)(i)
- Sch. 1 para. 6(2) omitted by S.I. 2004/1823 art. 17(11)(i)(ii)
- Sch. 1 para. 7 text amended by 2005 c. 10 Sch. 6 para. 53(7)
- Sch. 1 para. 9(1) text amended by S.I. 2004/1823 art. 17(11)(j)
- Sch. 1 para. 11(1) text amended by 2005 c. 10 Sch. 6 para. 53(8)
- Sch. 1 para. 11(1A) inserted by S.I. 2007/1889 art. 14
- Sch. 1 para. 12 text amended by 2005 c. 10 Sch. 6 para. 53(9)
- Sch. 1 para. 12 text amended by S.I. 2004/1823 art. 17(11)(k)
- Sch. 1 para. 12A inserted by S.I. 2007/1889 art. 7
- Sch. 1 para. 12A text amended by 2007 c. 28 Sch. 12 para. 15(4)
- Sch. 1 para. 13(1) text amended by 2005 c. 10 Sch. 6 para. 53(10)(a)
- Sch. 1 para. 13(2) text amended by 2005 c. 10 Sch. 6 para. 53(10)(b)
- Sch. 1 para. 14 text amended by 2005 c. 10 Sch. 6 para. 53(11)
- Sch. 1 para. 14 text amended by S.I. 2004/1823 art. 17(11)(l)
- Sch. 1A repealed by 2005 c. 10 Sch. 6 para. 54
- Sch. 1A repealed by 2005 c. 10 Sch. 7
- Sch. 1A para. 5(3) text amended by S.I. 2004/1823 art. 17(12)(a)
- Sch. 1A para. 6(5)(c) text amended by S.I. 2004/1823 art. 17(12)(b)
- Sch. 1A para. 13(5) repealed by 2004 c. 23 Sch. 2 para. 16
- Sch. 1A para. 13(5) repealed by 2004 c. 23 Sch. 4
- Sch. 2 para. 3 repealed by 2009 c. 21 Sch. 6
- Sch. 2 para. 5 omitted by S.I. 2004/1823 art. 17(13)
- Sch. 2 para. 6 omitted by S.I. 2004/1823 art. 17(13)

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:


Whole provisions yet to be inserted into this Act (including any effects on those provisions):


- s. 18ZA inserted by S.I. 2007/1889 art. 6
- s. 18ZA(3) text amended by 2007 c. 28 Sch. 12 para. 15(3)(a)
- s. 18ZA(4) text amended by 2007 c. 28 Sch. 12 para. 15(3)(b)
- s. 18ZA(4) text amended by 2007 c. 28 Sch. 18 Pt. 14
- s. 18ZA(5) text amended by 2007 c. 28 Sch. 12 para. 15(3)(c)

Commencement Orders yet to be applied to the Health Service Commissioners Act 1993:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/288 art. 2 to S.I. 2004/288 art. 6 commences (2003 c. 43)
- S.I. 2004/480 art. 2 to S.I. 2004/480 art. 5 commences (2003 c. 43)
- S.I. 2004/759 art. 2 to S.I. 2004/759 art. 13 commences (2003 c. 43)
- S.I. 2004/866 art. 2 amendment to earlier commencing SI 2004/288
- S.I. 2004/1009 art. 2 amendment to earlier commencing SI 2004/288
- S.I. 2004/1019 art. 2 amendment to earlier commencing SI 2004/480
- S.I. 2004/3122 art. 2 commences (2000 c. 36)
- S.I. 2005/457 art. 2 commences (2003 c. 43)
- S.I. 2005/558 Sch. 1 commences (2004 c. 23)
- S.I. 2005/558 art. 2 commences (2004 c. 23)
- S.I. 2005/1814 art. 2 commences (2004 c. 34)
- S.I. 2005/2800 art. 3 to S.I. 2005/2800 art. 5 commences (2005 c. 10)
- S.I. 2005/2925 art. 2 commences (2003 c. 43)
- S.I. 2005/2925 art. 4 to S.I. 2005/2925 art. 11 commences (2003 c. 43)
- S.I. 2006/345 art. 8 amendment to earlier commencing SI 2004/480
- S.I. 2006/1407 Sch. 1 para. 12 commences (2002 c. 17)
- S.I. 2006/2817 art. 2 commences (2003 c. 43)
- S.I. 2008/917 art. 2 to S.I. 2008/917 art. 5 commences (2007 c. 28)
- S.I. 2008/1972 art. 2 commences (2006 c. 28)
- S.I. 2010/30 art. 2 to S.I. 2010/30 art. 4 commences (2009 c. 21)
- S.I. 2010/1863 art. 2 commences (2009 c. 21)

Status: This version of this Act contains provisions that no longer have effect. [Show Timeline of Changes](#) to view this provision at an earlier point in time. 

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Parliamentary Commissioner Act 1967. Any changes that have already been made by the team appear in the content and are referenced with annotations. 



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]

taken on behalf of the Crown, and for purposes connected therewith.

[22nd March 1967]

Annotations: 

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. 1](#)
- 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\(2\)](#)

Commencement Information

- I1 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 ^{F1}

[^{F2} (2A) A person appointed to be the Commissioner shall hold office until the end of the period for which he is appointed.

- (2B) That period must be not more than seven years.

- (2C) Subsection (2A) is subject to subsections (3) and (3A).]

[^{F3} (3) A person appointed to be the Commissioner may be—

- (a) relieved of office by Her Majesty at his own request, or
(b) removed from office by Her Majesty, on the ground of misbehaviour, in consequence of Addresses from both Houses of Parliament.]

[^{F4} (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.]

[^{F5} (3B) A person appointed to be the Commissioner is not eligible for re-appointment.]

- (4) ^{F6}
(5) ^{F7}

Annotations: 

Amendments (Textual)

- F1 Words in [s. 1\(2\)](#) omitted (1.10.2006 with application in accordance with [Sch. 8 para. 6](#) of the amending S.I.) by virtue of [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), [reg. 49\(1\)](#), [Sch. 8 para. 4\(2\)](#) (with [regs. 44-46](#))
- F2 [S. 1\(2A\)-\(2C\)](#) inserted (1.10.2006 with application in accordance with [Sch. 8 para. 6](#) of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), [reg. 49\(1\)](#), [Sch. 8 para. 4\(3\)](#) (with [regs. 44-46](#))
- F3 [S. 1\(3\)](#) substituted (1.10.2006 with application in accordance with [Sch. 8 para. 6](#) of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), [reg. 49\(1\)](#), [Sch. 8 para. 4\(4\)](#) (with [regs. 44-46](#))
- F4 [S. 1\(3A\)](#) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), [s. 2\(1\)\(b\)](#)
- F5 [S. 1\(3B\)](#) inserted (1.10.2006 with application in accordance with [Sch. 8 para. 6](#) of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), [reg. 49\(1\)](#), [Sch. 8 para. 4\(5\)](#) (with [regs. 44-46](#))
- F6 [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. 1](#)

2 Salary and pension.

[F8(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.]

(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; . . . F9

[F10(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.

Annotations: ?

Amendments (Textual)

F8 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)

F9 Words repealed (1.1.1975) by Parliamentary and other Pensions and Salaries Act 1976 (c. 48, SIF 89), s 6(4)(5), Sch.

F10 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.

[F11(1A) The Commissioner may appoint and pay a mediator or other appropriate person to assist him in the conduct of an investigation under this Act.]

(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 [F12, by any member of the staff so authorised [F13 of the Public Services Ombudsman for Wales] or by any officer so authorised of the Health Service Commissioner for England F14]

[F15(2A) For the purposes of conducting a joint investigation referred to in section 11ZAA of this Act, any function of the Commissioner under this Act may be performed by [F16 any person discharging or assisting in the discharge of a function of a Local Commissioner, but only if the person is] authorised for the purpose by the Commissioner.]

(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.

Annotations: ?

Amendments (Textual)

F11 S. 3(1A) inserted (1.8.2007) by The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 (S.I. 2007/1889), art. 12

F12 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

F13 Words in s. 3(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), ss. 39, 40, Sch. 6 para. 2; S.I. 2005/2800, art. 5(1) (with art. 5(2))

F14 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)

F15 S. 3(2A) inserted (1.8.2007) by The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 (S.I. 2007/1889), art. 3

F16 Words in s. 3(2A) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 245, Sch. 12 para. 13(2); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

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


[F17 Appointment of acting Commissioner.

3A

(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.

- [^{F18}(1A) A person appointed to act as the Commissioner (“an acting Commissioner”) may have held office as the Commissioner.
- (1B) A person appointed as an acting Commissioner is eligible for appointment as the Commissioner unless he has already held office as the Commissioner.]
- (2) A person appointed [^{F19}as an acting Commissioner] 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.
- [^{F20}(3) A person appointed as an acting Commissioner shall, while he holds office, be treated for all purposes, except for the purposes of section 1 and 2, and this section 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].

Annotations: 


Amendments (Textual)

- ^{F17} S. 3(3A) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 6(1)
- ^{F18} S. 3A(1A)(1B) inserted (1.10.2006 with application in accordance with Sch. 8 para. 6 of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 49(1), Sch. 8 para. 5(2) (with regs. 44-46)
- ^{F19} Words in s. 3A(2) substituted (1.10.2006 with application in accordance with Sch. 8 para. 6 of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 49(1), Sch. 8 para. 5(3) (with regs. 44-46)
- ^{F20} S. 3A(3) substituted (1.10.2006 with application in accordance with Sch. 8 para. 6 of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 49(1), Sch. 8 para. 5(4) (with regs. 44-46)

Investigation by the Commissioner

- [^{F21}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 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.
- [^{F22}(3A) No entry shall be made if the result of making it would be that the Parliamentary Commissioner could investigate action which can be investigated [^{F23}by the Public Services Ombudsman for Wales under the Public Services Ombudsman (Wales) Act 2005].]
- [^{F24}(3B) No entry shall be made in respect of—
- (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 ^{M1}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].

Annotations: 

Amendments (Textual)

- F21 S. 4 substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 1(1)
- F22 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
- F23 Words in s. 4(3A) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), ss. 39, 40, Sch. 6 para. 3](#); S.I. 2005/2800, art. 5(1) (with art. 5(2))
- F24 S. 4(3B) substituted (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. 1 para. 39\(1\)\(2\)](#)

Marginal Citations

- M1 [1982 c. 10\(43:1\)](#).

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.

[F25 (1A) Subsection (1C) of this section applies if—

- (a) a written complaint is duly made to a member of the House of Commons by a member of the public who claims that a person has failed to perform a relevant duty owed by him to the member of the public, and
- (b) the complaint is referred to the Commissioner, with the consent of the person who made it, by a member of the House of Commons with a request to conduct an investigation into it.

(1B) For the purposes of subsection (1A) of this section a relevant duty is a duty imposed by any of these—

- (a) a code of practice issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims), or
- (b) sections 35 to 44 of that Act (duties of local probation boards in connection with victims of sexual or violent offences).

(1C) If this subsection applies, the Commissioner may investigate the complaint.]

- (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 to or have resorted to it.

[F29 (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 [F26 investigation under subsection (1) of this section] 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.

[F27 (4A) Without prejudice to subsection (2) of this section, the Commissioner shall not conduct an investigation pursuant to a complaint under subsection (1A) of this section in respect of—

- (a) action taken by or with the authority of the Secretary of State for the purposes of protecting the security of the State, including action so taken with respect to passports, or
- (b) any action or matter described in any of paragraphs 1 to 4 and 6A to 11 of Schedule 3 to this Act.

- (4B) Her Majesty may by Order in Council amend subsection (4A) of this section so as to exclude from paragraph (a) or (b) of that

subsection such actions or matters as may be described in the Order.

(4C) Any statutory instrument made by virtue of subsection (4B) of this section 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.

[F30 (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.]

[F31 (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 court or tribunal shall be taken to be administrative functions of the [F28 Ministry of Justice] or, in Northern Ireland, of the Northern Ireland Court Service.]

[F32 (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.]

[F33 (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.]

Annotations:

Amendments (Textual)

F25 S. 5(1A)-(1C) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 2(2); S.I. 2005/2848, art. 2

F26 Words in s. 5(3) substituted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 2(3); S.I. 2005/2848, art. 2

F27 S. 5(4A)-(4C) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 2(4); S.I. 2005/2848, art. 2

F28 Words in s. 5(6) substituted (22.8.2007) by [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 8, Sch. para. 4(2)

F29 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

F30 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)

F31 S. 5(6) added by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 110(1)

F32 S. 5(7)-(9) inserted (5.9.1994) by 1994 c. 14, ss. 1(1), 3(2)

F33 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(5B) modified (E.W.S.) (30.6.2006 for S. and 6.7.2006 for E.W.) by [Private Security Industry Act 2001 \(c. 12\)](#), s. 2A (as inserted by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 171, 178, Sch. 15 para. 3; S.S.I. 2006/381, art. 2)

C11 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

C12 S. 5(2)(a) extended by [Fair Employment \(Northern Ireland\) Act 1976 \(c. 25, SIF 43:1\)](#), s. 58(2)(a)

C13 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;

[F34 (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;
 - (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) [F35 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 M2 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.

[F36 (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 M3 Immigration Act 1971, has the right of abode in the United Kingdom.]

Annotations:

Amendments (Textual)

F34 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. 1 para. 39(4)

F35 Words inserted by Parliamentary Commissioner (Consular Complaints) Act 1981 (c. 11, SIF 89), s. 1.

F36 S. 6(5) inserted by Parliamentary Commissioner (Consular Complaints) Act 1981 (c. 11, SIF 89) s. 1.

Modifications etc. (not altering text)

C14 S. 6(3) modified by Parliamentary and Health Service Commissioners Act 1987 (c. 39, SIF 89), s. 10(4)

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 [F37 section 5(1) of] 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.

[F38 (1A) Where the Commissioner proposes to conduct an investigation pursuant to a complaint under section 5(1A) of this Act, he shall give the person to whom the complaint relates an opportunity to comment on any allegations contained in the complaint.]

(2) Every [F39 investigation under this Act] 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 [F40 or the person to whom the complaint relates], or any power or duty of [F41 that department, authority or person] 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 M4 Aliens Restriction Acts 1914 M5 and 1919 or under [F42 the M6 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.

Annotations: 

Amendments (Textual)

- F37 Words in s. 7(1) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 3(2); S.I. 2005/2848, art. 2
- F38 S. 7(1A) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 3(3); S.I. 2005/2848, art. 2
- F39 Words in s. 7(2) substituted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 3(4); S.I. 2005/2848, art. 2
- F40 Words in s. 7(4) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 3(5)(a); S.I. 2005/2848, art. 2
- F41 Words in s. 7(4) substituted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 3(5)(b); S.I. 2005/2848, art. 2
- F42 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), s. 17(2)(a)

Modifications etc. (not altering text)

- C15 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).

8 Evidence.

- (1) For the purposes of an investigation under [F43 section 5(1) of] 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.

[F44 (1A) For the purposes of an investigation pursuant to a complaint under section 5(1A) of this Act the Commissioner may require any 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 [F45 investigation under this Act] 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 [F46 civil] proceedings before the Court.

Annotations: 

Amendments (Textual)

- F43 Words in s. 8(1) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 4(2); S.I. 2005/2848, art. 2
- F44 S. 8(1A) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 4(3); S.I. 2005/2848, art. 2
- F45 Words in s. 8(2) inserted (18.10.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 47, 60, Sch. 7 para. 4(4); S.I. 2005/2848, art. 2
- F46 Word inserted (E.W.) by Civil Evidence Act 1968 (c. 64, SIF 47), s. 17(1)(b)

Modifications etc. (not altering text)


- C16 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.

- (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.


Annotations: 

Modifications etc. (not altering text)

C17 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 [^{F47} section 5(1) of] 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.
- [^{F48} (2A) In any case where the Commissioner conducts an investigation pursuant to a complaint under section 5(1A) of this Act, he shall also send a report of the results of the investigation to the person to whom the complaint relates.]
- (3) If, after conducting an investigation under [^{F49} section 5(1) of] 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.
- [^{F50} (3A) If, after conducting an investigation pursuant to a complaint under section 5(1A) of this Act, it appears to the Commissioner that—
- (a) the person to whom the complaint relates has failed to perform a relevant duty owed by him to the person aggrieved, and
 - (b) the failure has not been, or will not be, remedied,
- the Commissioner may, if he thinks fit, lay before each House of Parliament a special report upon the case.
- (3B) For the purposes of subsection (3A) of this section “relevant duty” has the meaning given by section 5(1B) of this Act.]
- (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) [^{F51} or (2A)] of this section of a report sent to that person in pursuance of that subsection.

Annotations: 

Amendments (Textual)

- ^{F47} Words in s. 10(2) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 5(2); S.I. 2005/2848, art. 2(b)
- ^{F48} S. 10(2A) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 5(3); S.I. 2005/2848, art. 2(b)
- ^{F49} Words in s. 10(3) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 5(4); S.I. 2005/2848, art. 2(b)
- ^{F50} S. 10(3A)(3B) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 5(5); S.I. 2005/2848, art. 2(b)
- ^{F51} Words in s. 10(5)(d) inserted (18.10.2005) by Domestic Violence, [Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 5(6); S.I. 2005/2848, art. 2(b)

11 Provision for secrecy of information.

- (1) ^{F52}
- (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;
 - [^{F53} (aa) for the purposes of [^{F54} a matter] which is being investigated by the Health Service Commissioner for England or a Local Commissioner (or both);

]

- (b) for the purposes of any proceedings for an offence under [F55 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.

[F56 (2A) Where the Commissioner also [F57 holds office as the Health Service Commissioner for England] and a person initiates a complaint to him [F57 in his capacity as the Health Service Commissioner for England] 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.

[F58 (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.]

Annotations: ?

Amendments (Textual)

- F52 S. 11(1) repealed by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(4), Sch. 2
- F53 S. 11(2)(aa) inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), art. 8
- F54 Words in s. 11(2)(aa) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 182, 245, Sch. 12 para. 13(3); [S.I. 2008/917](#), art. 2(1)(n) (with art. 6(5))
- F55 Words substituted by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(3), Sch. 1 para. 1
- F56 S. 11(2A) inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 4(1)
- F57 Words in s. 11(2A) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), ss. 39, 40, Sch. 6 para. 4; [S.I. 2005/2800](#), art. 5(1) (with 5(2))
- F58 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)

- C18 S. 11 applied with modifications (S.) by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), s. 95
- C19 S. 11(2) excluded (S.) by [Local Government \(Scotland\) Act 1975 \(c. 30, SIF 81:2\)](#), s. 31(5)
- C20 S. 11(2) excluded (prosp.) by [1974 c. 7, s. 34M\(7\)\(a\)](#) (as inserted by [Health Act 2009 \(c. 21\)](#), ss. 35, 40, Sch. 5 para. 2)
- C21 S. 11(2) excluded (prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), ss. 217(7), 269
- C22 S. 11(2A) extended (1.7.1999) by [S.I. 1999/1351](#), arts. 1, 17(1)(b); [S.I. 1998/3178](#), art. 3

[F59 11A Consultations between Parliamentary Commissioner and [F60 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 [F61 the Public Services Ombudsman for Wales, the Scottish Public Services Ombudsman or the Health Service Commissioner for England], he shall—
 - (a) unless he also holds [F62 the office concerned], consult about the complaint with him; and
 - (b) if he considers it necessary, inform the person initiating the complaint under [F63 the] [F64 Public Services Ombudsman (Wales) Act 2005 or the Health Service] [F65 Commissioners Act 1993 [F66, or the Scottish Public Services Ombudsman Act 2002].]
- (2) Where by virtue of subsection (1) above the Commissioner consults with the [F67 Public Services Ombudsman for Wales, the Scottish Public Services Ombudsman or the Health Service Commissioner for England] 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.

[F68 (2A) Where an authority to which this Act applies is also a listed authority to which the 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].

Annotations: 

Amendments (Textual)

- F59 S. 11A inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 4(2)
- F60 Words in s. 11A sidenote substituted (14.7.2005 for W. and otherwise prosp.) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270, Sch. 15 para. 1(2); S.I. 2005/1814, art. 2(f)
- F61 Words in s. 11A(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), ss. 39, 40, Sch. 6 para. 5(2)(a); S.I. 2005/2800, art. 5(1) (with art. 5(2))
- F62 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
- F63 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
- F64 Words in s. 11A(1)(b) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), ss. 39, 40, Sch. 6 para. 5(2)(b); S.I. 2005/2800, art. 5(1) (with art. 5(2))
- F65 Words in s. 11A(1)(b) substituted (5.2.1994) by [1993 c. 46](#), ss. 20, 22(4), Sch. 2 para. 1
- F66 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)
- F67 Words in s. 11A(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), ss. 39, 40, Sch. 6 para. 5(3); S.I. 2005/2800, art. 5(1) (with art. 5(2))
- F68 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)

- C23 S. 11A extended (1.7.1999) by [S.I. 1999/1351](#), arts. 1, 17(1)(c); [S.I. 1998/3178](#), art. 3

[F78 Collaborative working between the Parliamentary Commissioner and other Commissioners
11ZAA

- (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 —
- the Health Service Commissioner for England,
 - a Local Commissioner, or
 - 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 [F69 matters which are the subject of an investigation] by—
- the Health Service Commissioner for England,
 - a Local Commissioner, or
 - both,
- [F70 include] a matter within his jurisdiction, he may, subject to subsection (4) of this section, conduct an investigation [F71 of that matter] under this Act jointly with that Commissioner or those Commissioners.
- (4) The Commissioner may not investigate [F72 a matter] jointly with another person under subsection (3) of this section unless [F73 a complaint about the matter] has been made in accordance with section 5 of this Act.
- (5) If the Commissioner conducts an investigation F74 . . . 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—
- mention the name of any person, or
 - 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—
- mentioning the name of, or
 - containing particulars likely to identify,
- the Mayor of London or any member of the London Assembly.]

Annotations: 

Amendments (Textual)

- F69 Words in s. 11ZAA(3) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 182, 245, Sch. 12 para. 13(4)(a)(i); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

- F70 Word in s. 11ZAA(3) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 245, Sch. 12 para. 13(4)(a)(ii); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F71 Words in s. 11ZAA(3) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 245, Sch. 12 para. 13(4)(a)(iii); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F72 Words in s. 11ZAA(4) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 245, Sch. 12 para. 13(4)(b)(i); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F73 Words in s. 11ZAA(4) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 245, Sch. 12 para. 13(4)(b)(ii); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F74 Words in s. 11ZAA(5) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 182, 241, 245, Sch. 12 para. 13(4)(c), Sch. 18 Pt. 14; S.I. 2008/917, art. 2(1)(n)(v)(ii) (with art. 6(5))
- F78 S. 11ZAA inserted (1.8.2007) by The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 (S.I. 2007/1889), art. 2

[F75 Disclosure of information by Parliamentary Commissioner to Information Commissioner.
11AA

- (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
 - (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.]

Annotations: 

Amendments (Textual)

- F75 S. 11AA inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), Sch. 7 para. 2 (with ss. 56, 78)

[F76 The Criminal Injuries Compensation Scheme.
11B

- (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) F77
 - (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)
 - (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.]

Annotations: 

Amendments (Textual)

- F76 S. 11B inserted (8.11.1995) by 1995 c. 53, s. 10(1)
- F77 S. 11B(2)(b)(3)(b) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, Sch. 3 para. 24

Modifications etc. (not altering text)

- C24 S. 11B(3)(a) extended (1.7.1999) by S.I. 1999/1351, arts. 1, 17(1)(d); S.I. 1998/3178, art. 3

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;

[F79 “Local Commissioner” means a Local Commissioner under Part 3 of the Local Government Act 1974;]

“officer” includes employee;

[F80 “person aggrieved”—


(a) in relation to a complaint under section 5(1) of this Act, means the person who claims or is alleged to have sustained such injustice as is mentioned in section 5(1)(a) of this Act;

(b) in relation to a complaint under section 5(1A) of this Act, means the person to whom the duty referred to in section 5(1A)(a) of this Act is or is alleged to be owed;]

“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.

Annotations: 

Amendments (Textual)

F79 S. 12(1): definition inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), art. 16

F80 S. 12(1): definition substituted (18.10.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 47, 60, Sch. 7 para. 6; S.I. 2005/2848, art. 2(b)

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 [F81 or body] established by or with the authority of the Parliament of Northern Ireland; but this Act shall apply to any such department [F82 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 [F83 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]

Annotations: 

Amendments (Textual)

F81 Words inserted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 1(3)(a)(i)

F82 Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 1(3)(a)(ii)

F83 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)

C25 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 [F84 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.

Annotations: 

Amendments (Textual)

F84 Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 1(3)(b)

Modifications etc. (not altering text)

C26 1.4.1967 appointed under s. 14(2) by [S.I. 1967/485](#)

SCHEDULES

[F87 SCHEDULE 1

Section 2.

PENSIONS AND OTHER BENEFITS

Annotations: 

Amendments (Textual)

F87 [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)


C31 [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.

Annotations: 

Modifications etc. (not altering text)

C27 [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
- (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.

Annotations: 

Modifications etc. (not altering text)

C28 [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);
 - (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.

Annotations: 

Modifications etc. (not altering text)

C29 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.

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.

Annotations: 

Modifications etc. (not altering text)

C30 [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;


“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) [[F85](#) section 1 of the Pension Schemes Act 1993], or
- (b) [[F86](#) 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.]

Annotations: 

Amendments (Textual)

[F85](#) [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](#)

[F86](#) [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](#)

[[F175](#) SCHEDULE 2

Section 4

DEPARTMENTS ETC SUBJECT TO INVESTIGATION

Annotations: 

Amendments (Textual)

[F175](#) [Sch. 2](#) substituted (13.2.2009) by [The Parliamentary Commissioner Order 2008 \(S.I. 2008/3115\), art. 2, Sch.](#)

X1 Administration of Radioactive Substances Advisory Committee.

Advisory Board on the Registration of Homeopathic Products.

Advisory Committee on Advertising.

Advisory Committee on Animal Feedingstuffs.

Advisory Committee on Antimicrobial Resistance and Healthcare Associated Infections.

Advisory Committee on Borderline Substances.

Advisory Committee on Carbon Abatement.
Advisory Committee on Clinical Excellence Awards.
Advisory Committee on Consumer Engagement.
Advisory Committee on Dangerous Pathogens.
Advisory Committee on the Government Art Collection.
Advisory Committee on Hazardous Substances.
Advisory Committee on Historic Wreck Sites.
Advisory Committee on Microbiological Safety of Food.
Advisory Committee on National Historic Ships.
Advisory Committee on Novel Foods and Processes.
Advisory Committee on Organic Standards.
Advisory Committee on Pesticides.
Advisory Committee on Releases to the Environment.
Advisory Committee on the Safety of Blood, Tissues and Organs.
Advisory, Conciliation and Arbitration Service.
Advisory Council on Historical Manuscripts.
Advisory Council on Libraries.
Advisory Council on the Misuse of Drugs.
Advisory Council on National Records and Archives.
Advisory Council on Public Records.
Advisory Group on Hepatitis.
Advisory Group on Medical Countermeasures.
Advisory Panel on Beacon Councils.
Advisory Panel on Public Sector Information.
Advisory Panel on Standards for the Planning Inspectorate.
Agricultural dwelling house advisory committees.
Agricultural Wages Board for England and Wales.
Agricultural wages committees.
Agriculture and Horticulture Development Board.
Air Quality Expert Group.
Alcohol Education and Research Council.
Animal Welfare Advisory Committee.
Animals Procedures Committee.
Appeal Officer for Community Interest Companies.
Arts and Humanities Research Council.
Arts Council of England.
[F⁸⁸ Authorised Conveyancing Practitioners Board.]
Better Regulation Commission.
Big Lottery Fund.
Biotechnology and Biological Sciences Research Council.
[F⁸⁹ Board of the Pension Protection Fund.]
Board of Trade.
Boundary Commission for England.
Boundary Commission for Northern Ireland.
Boundary Commission for Scotland.
Boundary Commission for Wales.
British Council.
British Educational Communications and Technology Agency.
British Film Institute.
British Hallmarking Council.
British Library Board.
British Museum.
British Pharmacopoeia Commission.
British Tourist Authority.
[F⁹⁰ Building Regulations Advisory Committee for England.]

Cabinet Office.
Capacity Builders.
Capital for Enterprise Limited.
Care Quality Commission.
Central Advisory Committee on Pensions and Compensation.
Central Bureau for Educational Visits and Exchanges.
Central Office of Information.
The Certification Officer.
Charity Commission.
The Chief Inspector of Criminal Justice for Northern Ireland.
Child Maintenance and Enforcement Commission.
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 Equality and Human Rights.
[^{F91} Commission for Healthcare Audit and Inspection.]
Commission for Integrated Transport.
[^{F92} Commission for the New Towns.]
Commission for Rural Communities.
Commission for Social Care Inspection.
Commissioner for Victims and Witnesses.
Committee on the Biological Safety of Blood and Tissues for Transplantation.
Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment.
Commission on Human Medicines.
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 Radioactive Waste Management.
Committee on the Safety of Devices.
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.
Competition Service.
Construction Industry Training Board.
Consumer Council for Water.
Correctional Services Accreditation Panel.
Council for Science and Technology.
Crown Estate Office.
Culture East Midlands.
Culture North East.
Culture North West.
Culture South East.
Culture South West.
Culture West Midlands.
Cycling England.
Darwin Advisory Committee.
Defence Nuclear Safety Committee.
Defence Scientific Advisory Council.
DEFRA Science Advisory Council.
[^{F93} Department for Business, Enterprise and Regulatory Reform]
^{F94} Department for Business, Innovation and Skills.

[]

Department for Children, Schools and Families.
Department for Communities and Local Government.
Department for Culture, Media and Sport.
Department for Energy and Climate Change.
Department for Environment, Food and Rural Affairs.
[^{F95} Department for Innovation, Universities and Skills]
Department for International Development.
Department for Transport.
Department for Work and Pensions.
Department of Health.
Design Council.
Disabled Persons Transport Advisory Committee.
Economic and Social Research Council.
Electoral Commission.
Engineering Construction Industry Training Board.
Engineering and Physical Sciences Research Council.
England Implementation Group for the Animal Health and Welfare Strategy for Great Britain.
English Sports Council.
English Tourist Board.
Environment Agency.
The Ethics Group: National DNA Database.
Ethnic Minority Business Forum.
Expert Advisory Group on AIDS.
Expert Panel on Air Quality Standards.
Export Credits Guarantee Department.
The Director of Fair Access to Higher Education.
Farm Animal Welfare Council.
Film Industry Training Board for England and Wales.
Firebuy Limited.
Fleet Air Arm Museum.
Food from Britain.
Food Standards Agency.
Football Licensing Authority.
Foreign and Commonwealth Office.
Forestry Commission.
Fuel Poverty Advisory Group.
Futurebuilders Advisory Panel.
Gambling Commission.
Gangmasters Licensing Authority.
Gas and Electricity Markets Authority.
Geffrye Museum.
Gene Therapy Advisory Committee.
General Advisory Committee on Science.
General Social Care Council.
Genetics and Insurance Committee.
Government Actuary's Department.
Government Equalities Office.
The Great Britain-China Centre.
Health and Safety Executive.
Health Protection Agency.
Her Majesty's Revenue and Customs.
Her Majesty's Stationery Office.
Her Majesty's Treasury.
Herbal Medicines Advisory Committee.

Higher Education Funding Council for England.
Historic Buildings and Monuments Commission for England.
Historic Royal Palaces.
Home Office.
Homes and Communities Agency.
The Horniman Public Museum and Public Park Trust.
[F⁹⁶ Horserace Betting Levy Board.]
[F⁹⁷ Housing Corporation.]
Human Fertilisation and Embryology Authority.
Human Genetics Commission.
Human Tissue Authority.
The Immigration Services Commissioner.
Imperial War Museum.
Independent Advisory Group on Sexual Health and HIV.
Independent Barring Board.
Independent Living Fund (2006).
Independent Reconfiguration Panel.
The Independent Regulator of NHS Foundation Trusts.
Independent Review Panel for Advertising.
Independent Review Panel on the Classification of Borderline Products.
Independent Scientific Group on Cattle TB.
Industrial Development Advisory Board.
The Information Commissioner.
[F⁹⁸ Infrastructure Planning Commission.]
The International Rail Regulator.
Investors in People UK.
Joint Committee on Vaccination and Immunisation.
Joint Nature Conservation Committee.
Land Registry.
Law Commission.
Learning and Skills Council for England.
Leasehold Advisory Service.
Legal Deposit Advisory Panel.
Legal Services Commission.
[F⁹⁹ 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.
Local Better Regulation Office.
[F¹⁰⁰ Local Government Boundary Commission for England]
Low Pay Commission.
[F¹⁰¹ The Marine Management Organisation.]
Marshall Aid Commemoration Commission.
Medical Research Council.
Medical Workforce Standing Advisory Committee.
Ministry of Defence.
Ministry of Justice.
Museum of Science and Industry in Manchester.
Museums, Libraries and Archives Council.
National Army Museum.
[F¹⁰² National Biological Standards Board (UK)]
National Clinical Audit Advisory Group.
National Community Forum.

National Consumer Council.
National Employer Advisory Board.
National Endowment for Science, Technology and the Arts.
National Forest Company.
National Gallery.
National Heritage Memorial Fund.
National Housing and Planning Advice Unit.
The National Information Governance Board for Health and Social Care.
National Joint Registry Steering Committee.
National Lottery Commission.
National Maritime Museum.
National Museum of Science and Industry.
National Museums and Galleries on Merseyside.
National Policing Improvement Agency.
National Portrait Gallery.
National Specialist Commissioning Advisory Group.
Natural England.
Natural Environment Research Council.
Natural History Museum.
Northern Ireland Court Service.
Northern Ireland Human Rights Commission.
Northern Ireland Law Commission.
Northern Ireland Legal Services Commission.
Northern Ireland Office.
Northern Ireland Police Fund.
Northern Ireland Policing Board.
Nuclear Decommissioning Authority.
Nuclear Liabilities Fund.
Nuclear Research Advisory Council.
Nutrition Forum.
Office for Standards in Education, Children's Services and Skills.
Office for Tenants and Social Landlords.
Office of the Children's Commissioner.
Office of Communications.
Office of Fair Trading.
Office of Public Sector Information.
[F¹⁰³ Office of Qualifications and Examinations Regulation.]
Office of Rail Regulation.
Office of the Regulator of Community Interest Companies.
Office of the Renewable Fuels Agency.
Office of the Secretary of State for Scotland.
[F¹⁰⁴ Official receiver]
The Official Solicitor to the Supreme Court.
Oil and Pipelines Agency.
Olympic Delivery Authority.
Olympic Lottery Distributor.
Ordnance Survey.
Parades Commission for Northern Ireland.
Parole Board.
Partnerships for Schools.
The Pensions Regulator.
Personal Accounts Delivery Authority.
Pesticide Residues Committee.
Postal Services Commission.
Postgraduate Medical Education and Training Board.

Probation Board for Northern Ireland.
[F¹⁰⁵ Probation trusts.]
The Registrar of Public Lending Right.
Public Record Office.
[F¹⁰⁶ Qualifications and Curriculum Development Agency]
The Quality Improvement Agency.
Rail Passengers' Council.
Railway Heritage Committee.
Regional development agencies (other than the London Development Agency).
Regional industrial development boards.
Remploy Ltd.
Renewables Advisory Board.
Residuary Bodies.
Reviewing Committee on the Export of Works of Art.
Royal Air Force Museum.
Royal Armouries Museum.
Royal Botanic Gardens, Kew.
Royal Commission on Environmental Pollution.
Royal Commission on Historical Manuscripts.
Royal Marines Museum.
Royal Mint.
Royal Naval Museum.
Royal Navy Submarine Museum.
Royal Ulster Constabulary George Cross Foundation.
The School Food Trust.
Science and Technology Facilities Council.
Scientific Advisory Committee on Nutrition.
Sea Fish Industry Authority.
Security Industry Authority.
[F¹⁰⁷ Sentencing Council for England and Wales.]
[F¹⁰⁸ Sentencing Advisory Panel.]
[F¹⁰⁹ Sentencing Guidelines Council.]
The Serious Organised Crime Agency.
Sir John Soane's Museum.
SITPRO Ltd.
Social Fund Commissioner.
Social Science Research Committee.
Spongiform Encephalopathy Advisory Committee.
Standards Board for England.
Standing Dental Advisory Committee.
Statistics Board.
Strategic Advisory Board for Intellectual Property Policy.
Sustainable Development Commission.
Tate Gallery.
Technology Strategy Board.
The Theatres Trust.
Training and Development Agency for Schools.
Treasure Valuation Committee.
The Treasury Solicitor.
UK Chemical Weapons Convention National Authority Advisory Committee.
UK Commission for Employment and Skills.
UK Film Council.
UK National Authority Advisory Group.
Union Modernisation Fund Supervisory Board.
United Kingdom Atomic Energy Authority.

United Kingdom Sports Council.
 United Kingdom Xenotransplantation Interim Regulatory Authority.
 Unlinked Anonymous Surveys Steering Group.
 Unrelated Live Transplant Regulatory Authority.
 Urban development corporations established for urban development areas wholly in England.
 [F¹¹⁰ Urban Regeneration Agency.]
 Valuation Tribunal Service.
 Veterinary Products Committee.
 Veterinary Residues Committee.
 Victims Advisory Panel.
 Victoria and Albert Museum.
 Wales Office.
 Wallace Collection.
 War pensions committees.
 Water Services Regulation Authority.
 Westminster Foundation for Democracy.
 Women's National Commission.
 Working Ventures UK.
 Yorkshire Culture.
 [F¹¹¹ The Young People's Learning Agency for England.]
 Youth Justice Board for England and Wales.
 Zoos Forum.

Annotations: 

Editorial Information

- X1 This version of Sch 2 contains only those entries in force on 31.3.2009 as they stood at that date and entries inserted after that date. For information about entries repealed on or before that date and other amendment history, please refer to the earlier version.

Amendments (Textual)

- F88 Sch. 2: entry repealed (31.3.2009) by [Legal Services Act 2007](#) (c. 29), ss. 210, 211, Sch. 23; S.I. 2009/503, art. 2(f)
- F89 Sch. 2: entry inserted (24.8.2009) by [The Parliamentary Commissioner Order 2009](#) (S.I. 2009/1754), art. 2(a)
- F90 Sch. 2: entry substituted (31.12.2011) by [The Welsh Ministers \(Transfer of Functions\) \(No. 2\) Order 2009](#) (S.I. 2009/3019), art. 10
- F91 Sch. 2: entry repealed (1.4.2009) by [Health and Social Care Act 2008](#) (c. 14), ss. 95, 166, 170, Sch. 5 para. 56(a), Sch. 15 Pt. 1; S.I. 2009/462, art. 2(1), Sch. 1 paras. 30, 32, 36 (subject to art. 2(2))
- F92 Sch. 2: entry repealed (1.4.2009) by [Housing and Regeneration Act 2008](#) (c. 17), ss. 56, 321(1), 325, Sch. 8 para. 4(c), Sch. 16; S.I. 2009/803, arts. 3(3), 10
- F93 Sch. 2: entry omitted (13.11.2009) by virtue of [The Secretary of State for Business, Innovation and Skills Order 2009](#) (S.I. 2009/2748), art. 8, Sch. para. 1
- F94 Sch. 2: entry inserted (24.8.2009) by [The Parliamentary Commissioner Order 2009](#) (S.I. 2009/1754), art. 2(a)
- F95 Sch. 2: entry omitted (13.11.2009) by virtue of [The Secretary of State for Business, Innovation and Skills Order 2009](#) (S.I. 2009/2748), art. 8, Sch. para. 1
- F96 Sch. 2: entry repealed (prosp.) by [Horserace Betting and Olympic Lottery Act 2004](#) (c. 25), ss. 17, 40, Sch. 4 para. 5
- F97 Sch. 2: entry repealed (1.4.2009) by [Housing and Regeneration Act 2008](#) (c. 17), ss. 277, 321(1), 325, Sch. 9 para. 2(3), Sch. 16; S.I. 2009/803, arts. 8, 10
- F98 Sch. 2: entry inserted (1.10.2009) by [Planning Act 2008](#) (c. 29), ss. 1, 241, Sch. 1 para. 24; S.I. 2009/2260, art. 2; S.I. 2009/2573, art. 2
- F99 Sch. 2: entry repealed (prosp.) by [Legal Services Act 2007](#) (c. 29), ss. 210, 211, Sch. 23
- F100 Sch. 2: entry inserted (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009](#) (c. 20), ss. 55, 148, 149, Sch. 1 para. 20; S.I. 2009/3318, art. 4(dd)
- F101 Sch. 2: entry inserted (12.1.2010) by [Marine and Coastal Access Act 2009](#) (c. 23), ss. 1, 324, Sch. 2 para. 2; S.I. 2009/3345, art. 2(2), Sch. para. 1
- F102 Sch. 2: entry repealed (1.4.2009) by [Health and Social Care Act 2008](#) (c. 14), ss. 166, 170, Sch. 15 Pt. 7; S.I. 2009/270, art. 2(2)
- F103 Sch. 2: entry inserted (prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 174, 192, 269, Sch. 12 para. 2(2)
- F104 Sch. 2: entry inserted (24.8.2009) by [The Parliamentary Commissioner Order 2009](#) (S.I. 2009/1754), art. 2(a)
- F105 Sch. 2: entry inserted (24.8.2009) by [The Parliamentary Commissioner Order 2009](#) (S.I. 2009/1754), art. 2(a)
- F106 Sch. 2: entry substituted (prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 174, 192, 269, Sch. 12 para. 2(3)
- F107 Sch. 2: entry inserted (prosp.) by [Coroners and Justice Act 2009](#) (c. 25), ss. 177, 182, Sch. 21 para. 79
- F108 Sch. 2: entry repealed (prosp.) by [Coroners and Justice Act 2009](#) (c. 25), ss. 178, 182, Sch. 23 Pt. 4
- F109 Sch. 2: entry repealed (prosp.) by [Coroners and Justice Act 2009](#) (c. 25), ss. 178, 182, Sch. 23 Pt. 4
- F110 Sch. 2: entry repealed (1.4.2009) by [Housing and Regeneration Act 2008](#) (c. 17), ss. 56, 321(1), 325, Sch. 8 para. 4(c), Sch. 16; S.I. 2009/803, arts. 3(3), 10
- F111 Sch. 2: entry inserted (prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 60, 269, Sch. 3 para. 20

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—

- (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.

[F121 Board of the Pension Protection Fund

In the case of the Board of the Pension Protection Fund, an investigation may be conducted only in respect of action in connection with its functions relating to the financial assistance scheme established by regulations under section 286(1) of the Pensions Act 2004 ^{F112}.]

Annotations: 


Amendments (Textual)

[F112 2004 c.35.](#)[F121 Sch. 2](#) Note inserted (24.8.2009) by [The Parliamentary Commissioner Order 2009 \(S.I. 2009/1754\)](#), [art. 2\(b\)](#)*Cabinet Office*

The reference to the Cabinet Office does not include any of the Secretariats (including the intelligence and security functions carried out by the Chairman of the Joint Intelligence Committee and the Prime Minister's Security Adviser respectively) or the office of the Secretary of the Cabinet and Head of the Home Civil Service. The reference to the Cabinet Office includes the Lord President of the Council's Office, 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


F113

Annotations: 

Amendments (Textual)

[F113 Sch. 2](#) Note repealed (1.4.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 56, 321\(1\), 325](#), [Sch. 8 para. 4\(d\)](#), [Sch. 16](#); [S.I. 2009/803](#), [arts. 3\(3\), 10](#)*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 ^{F114}; 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 2006 ^{F115}).

Annotations: 

Amendments (Textual)


[F114 1991 c.57.](#)[F115 2006 c.32.](#)*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 2006).

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 ^{F116}, or
- (b) any other enactment relating to the regulation of insurance companies within the meaning of that Act.


Annotations: 

Amendments (Textual)

[F116 1982 c.50.](#) Repealed by [S.I. 2001/3649](#).*Health Protection Agency*

In the case of the Health Protection Agency 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 ^{F117}).

Annotations: 

Amendments (Textual)

[F117 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; but it does not include National Savings and Investments.

Homes and Communities Agency

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

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.

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.

Ministry of Justice

The reference to the Ministry of Justice includes the Public Trustee but does not include the Privy Council Office or the Office of the Judicial Committee of the Privy Council.

Serious Organised Crime Agency

In the case of the Serious Organised Crime Agency, an investigation may be conducted only in respect of the exercise of functions vested in it by virtue of a notice served on the Commissioners for Her Majesty's Revenue and Customs under section 317(2), 321(2) or 322(2) of the Proceeds of Crime Act 2002 ^{F118} (Revenue functions).


Annotations: 

Amendments (Textual)

[F118 2002 c.29.](#) Section 317(2) amended by the [Commissioners for Revenue and Customs Act 2005 \(c.11\)](#), sections 50(1), (7).

Statistics Board

In the case of the Statistics Board, no investigation is to be conducted in relation to any action taken by or on behalf of the Board in the exercise of any of its functions where the function is being exercised only in relation to Scottish devolved statistics (within the meaning of section 66 of the Statistics and Registration Service Act 2007) ^{F119}.

Annotations: 

Amendments (Textual)

[F119 2007 c.18](#)

Treasury Solicitor

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

Urban development corporations

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

F120]

Annotations: 

Amendments (Textual)

[F120 Sch. 2 Note repealed \(1.4.2009\)](#) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 56, 321(1), 325, Sch. 8 para. 4(d), Sch. 16; [S.I. 2009/803](#), arts. 3(3), 10

[F177 X3 F178 SCHEDULE 2

DEPARTMENTS ETC. SUBJECT TO INVESTIGATION]

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SCHEDULE 2
DEPARTMENTS ETC. SUBJECT TO INVESTIGATION

Section 4

F451 SCHEDULE 2
DEPARTMENTS ETC. SUBJECT TO INVESTIGATION

Section 4

F389 SCHEDULE 2
DEPARTMENTS ETC. SUBJECT TO INVESTIGATION

Section 4

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.

[F122 (1) 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 other than,

- (a) 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;
- (b) action which is taken by an officer within a control zone or a supplementary control zone; or
- (c) action which is taken by a British sea-fishery officer.

(2) In this paragraph—

- (a) “control zone” has the meaning given collectively by Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993, Schedule 1 to the Channel Tunnel (Miscellaneous Provisions) Order 1994 and regulation 2 of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003;
- (b) “supplementary control zone” has the meaning given by Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993;
- (c) “British sea-fishery officer” has the meaning given by section 7 of the Sea Fisheries Act 1968.]

Annotations: 

Amendments (Textual)

F122 Sch. 3 para. 2 substituted (20.1.2006) by [The Parliamentary Commissioner \(No. 2\) Order 2005 \(S.I. 2005/3430\)](#), art. 3

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.

[F123 Action taken by the Secretary of State under the Extradition Act 2003.]

4

Annotations: 


Amendments (Textual)

F123 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)

C32 [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.

Annotations: 

Modifications etc. (not altering text)

C33 [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 [F124 service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006) (anywhere)] or the ^{M7} Air Force Act 1955, or of proceedings before any international court or tribunal.

Annotations: 

Amendments (Textual)

F124 Words in [Sch. 3 para. 6](#) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 48\(a\)](#); S.I. 2009/812, art. 3; S.I. 2009/1167, art. 4


Modifications etc. (not altering text)

C34 [Sch. 3 para. 6](#) modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 205, [Sch. 1 para. 9](#)

Marginal Citations

M7 [1955 c. 19\(7:1\)](#).

[F125 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.]


Annotations: 

Amendments (Textual)

F125 [Sch. 3 para. 6A](#) inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 110(2)

[F126 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.]

Annotations: 

Amendments (Textual)

F126 [Sch. 3 para. 6B](#) inserted (5.9.1994) by [1994 c. 14, ss. 1\(2\), 3\(2\)](#)

Modifications etc. (not altering text)

C35 [Sch. 3 para. 6B\(2\)](#) extended (13.5.1999) by [S.I. 1999/1351, art. 9\(6\)\(b\)](#)


6C F127

Annotations: 

Amendments (Textual)

F127 [Sch. 3 para. 6C](#) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 25](#)

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 F128 . . . the High Court of Justiciary or the [F129 Court Martial Appeal Court].

Annotations: 

Amendments (Textual)

F128 [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](#).

F129 Words in [Sch. 3 para. 7](#) substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 48\(b\)](#); S.I. 2009/812, art. 3; S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

C36 [Sch. 3 para. 7](#) extended (13.5.1999) by [S.I. 1999/1351, art. 9\(6\)\(a\)](#)

C37 [Sch. 3 para. 7](#) continued (28.2.1999) by [S.I. 1999/652, art. 3\(2\)](#)

8 [F130 Action taken on behalf of F131 . . . the Secretary of State by [F132 a Strategic Health Authority,] [F133 . . . , a Primary Care Trust, [F134 or] a Special Health Authority]. . . .

[F135 (2) For the purposes of this paragraph, action taken by a [F136 Strategic Health Authority,] F137 . . . , 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.]

Annotations: 

Amendments (Textual)

F130 [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\(5\)\)](#)

F131 Words in [Sch. 3 para. 8\(1\)](#) omitted (13.2.2009) by virtue of [The Parliamentary Commissioner Order 2008 \(S.I. 2008/3115\)](#), art. 3(1)

F132 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\(4\)\)](#)

F133 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\(5\)\)](#)

F134 Word in [Sch. 3 para. 8\(1\)](#) inserted (13.2.2009) by [The Parliamentary Commissioner Order 2008 \(S.I. 2008/3115\)](#), art. 3(2)

F135 [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\(5\)\)](#)


F136 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\(4\)\)](#)

F137 Words in [Sch. 3 para. 8\(2\)](#) omitted (13.2.2009) by virtue of [The Parliamentary Commissioner Order 2008 \(S.I. 2008/3115\)](#), art. 4

Modifications etc. (not altering text)

C38 [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.

Annotations: 

Modifications etc. (not altering text)

C39 [Sch. 3 para. 9](#) extended (13.5.1999) by [S.I. 1999/1351, art. 9\(6\)\(c\)](#)

- 10 [F138 (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 [F139 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.
- [F140 (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 ^{M8}Overseas Development and Co-operation Act 1980 [F141 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.]

Annotations: 

Amendments (Textual)

F138 Number inserted by [S.I. 1983/1707, art. 2\(a\)](#)

F139 Words substituted by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39 SIF 89\), s. 1\(3\)\(c\)](#)

F140 Para. 10(2) inserted by [S.I. 1983/1707, art. 21\(b\)](#)

F141 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](#)


Modifications etc. (not altering text)

C40 [Sch. 3 para. 10](#) extended (13.5.1999) by [S.I. 1999/1351, art. 9\(6\)\(c\)](#)

Marginal Citations

M8 [1980 c. 63\(88\)](#).

- 11 The grant of honours, awards or privileges within the gift of the Crown, including the grant of Royal Charters.
- [F142 (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.
- 12 (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.]

Annotations: 

Amendments (Textual)

F142 [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](#)

[F176 X2] SCHEDULE 4

Section 5

RELEVANT TRIBUNALS FOR THE PURPOSES OF SECTION 5(7)

Annotations: 

Editorial Information

X2 This version of Sch. 4 contains only those entries in force on 3.11.2008 as they stood at that date and entries inserted after that date. For information about entries repealed on or before that date and other amendment history, please refer to the earlier version.

Amendments (Textual)

F176 Sch. 4 substituted (30.1.2008) by [The Parliamentary Commissioner Order 2007 \(S.I. 2007/3470\)](#), art. 3, Sch. 2

Adjudicators appointed under article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002 F143 .

Agricultural Land Tribunals constituted under section 73 of the Agriculture Act 1947 F144 .

Appeal tribunals constituted under Chapter 1 of Part 1 of the Social Security Act 1998 F145 .

The appeal tribunal established for Scotland under section 29 of the Betting, Gaming and Lotteries Act 1963 F146 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 F147 .

[F148 Care Standards Tribunal constituted under section 9 of the Protection of Children Act 1999 F149 .]

Central Arbitration Committee constituted under section 259 of the Trade Union and Labour Relations (Consolidation) Act 1992 F150 .

Commons Commissioners constituted under section 17 of the Commons Registration Act 1965 F151 .

Competition Appeal Tribunal constituted under section 12 of the Enterprise Act 2002 F152 .

Copyright Tribunal constituted under section 145 of the Copyright, Designs and Patents Act 1988 F153 .

Employment tribunals (England and Wales) and employment tribunals (Scotland) established under regulation 5 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 F154 .

Employment Appeal Tribunal continued in existence under section 20 of the Employment Tribunals Act 1996 F155 .

Foreign Compensation Commission constituted under section 1 of the Foreign Compensation Act 1950 F156 .

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

Information Tribunal constituted under section 6 of the Data Protection Act 1998 F157 .

Insolvency Practitioners Tribunal referred to in section 396 of the Insolvency Act 1986 F158 .

[F159 Mental Health Review Tribunals constituted under section 65 of, and Schedule 2 to, the Mental Health Act 1983 F160 .]

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 F161 .

Ombudsman for the Board of the Pension Protection Fund appointed under section 209 of the Pensions Act 2004 F162 .

Pensions Ombudsman established under section 145 of the Pension Schemes Act 1993 F163 .

Persons hearing consumer credit licensing appeals appointed under regulation 24 of the Consumer Credit Licensing (Appeals) Regulations 1998 F164 .

[F165 Persons hearing estate agents' appeals appointed under regulation 19 of the Estate Agents (Appeals) Regulations 1981 F166 .]

Plant Varieties and Seeds Tribunal (referred to in section 42 of the Plant Varieties Act 1997 F167).

Reference committees constituted under section 27 of the Forestry Act 1967 F168 .

Rent assessment committees constituted under section 65 of, and Schedule 10 to, the Rent Act 1977 F169 (including when exercising the jurisdiction of residential property tribunals as provided for in section 229 of the Housing Act 2004 F170) and also known as leasehold valuation tribunals for the purpose of determinations pursuant to section 21(1), (2) and (3) of the Leasehold Reform Act 1967 F171 and continued as rent tribunals for the purpose of references pursuant to the provisions in Part V of the Rent Act 1977.

[F148 Special Educational Needs and Disability Tribunal constituted under section 333 of the Education Act 1996 F172 .]

Traffic commissioners appointed under section 4 of the Public Passenger Vehicles Act 1981 F173 .

Valuation tribunals continued in existence under regulation 3 of the Valuation and Community Charge Tribunals Regulations 1989 F174 .]

X8 SCHEDULE 4

Section 5(8)

RELEVANT TRIBUNALS FOR THE PURPOSES OF SECTION 5(7)

[F387 F388 X6 Schedule 4

RELEVANT TRIBUNALS FOR PURPOSES OF SECTION 5(7)]