

# **Constitutional Reform and Governance Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, in conjunction with the Cabinet Office, the Foreign and Commonwealth Office, the Home Office and HM Treasury, are published separately as HL Bill 40 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Bach has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Constitutional Reform and Governance Bill are compatible with the Convention rights.

# Constitutional Reform and Governance Bill

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Make provision relating to the civil service of the State; to make provision in relation to section 3 of the Act of Settlement and other provision in relation to nationality restrictions connected with employment or the holding of office in a civil capacity under the Crown; to make provision relating to the ratification of treaties; to make provision for a referendum on the voting system for parliamentary elections, and about referendums generally; to make provision relating to the counting of votes in parliamentary elections; to make provision about the accounts to be prepared by the Electoral Commission; to amend the Parliamentary Standards Act 2009 and the European Parliament (Pay and Pensions) Act 1979 and to make provision relating to pensions for members of the House of Commons, Ministers and other office holders; to amend section 2 of the House of Lords Act 1999 and make provision relating to the removal, suspension and resignation of members of the House of Lords; to make provision for treating members of the House of Commons and members of the House of Lords as resident, ordinarily resident and domiciled in the United Kingdom for taxation purposes; to repeal sections 132 to 138 of the Serious Organised Crime and Police Act 2005 and to amend Part 2 of the Public Order Act 1986; to make provision relating to time limits for human rights claims against devolved administrations; to make provision relating to judges and similar office holders; to make provision relating to the Comptroller and Auditor General and to establish a body corporate called the National Audit Office; to amend Schedule 5 to the Government of Wales Act 2006 in relation to the Auditor General for Wales; to amend the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales; to amend the Public Records Act 1958 and the Freedom of Information Act 2000.

**B**E 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:—

## PART 1

### THE CIVIL SERVICE ETC

#### CHAPTER 1

##### STATUTORY BASIS FOR MANAGEMENT OF THE CIVIL SERVICE

##### *Application* 5

#### 1 Application of Chapter

- (1) Subject to subsections (2) and (3), this Chapter applies to the civil service of the State.
- (2) This Chapter does not apply to the following parts of the civil service of the State— 10
  - (a) the Secret Intelligence Service;
  - (b) the Security Service;
  - (c) the Government Communications Headquarters;
  - (d) the Northern Ireland Civil Service;
  - (e) the Northern Ireland Court Service. 15
- (3) Further, this Chapter—
  - (a) does not apply in relation to the making, outside the United Kingdom, of selections of persons who are not members of the civil service of the State for appointment to that service for the purpose only of duties to be carried out wholly outside the United Kingdom; 20
  - (b) does not apply in relation to the appointment of a person to the civil service of the State who was selected for the appointment as mentioned in paragraph (a);
  - (c) does not apply to the civil service of the State so far as it consists of persons— 25
    - (i) who were appointed to the civil service of the State as mentioned in paragraph (b), and
    - (ii) all of whose duties are carried out wholly outside the United Kingdom.
- (4) In this Chapter references to the civil service— 30
  - (a) are to the civil service of the State excluding the parts mentioned in subsections (2) and (3)(c);
  - (b) are to be read subject to subsection (3)(a) and (b);
 and references to civil servants are to be read accordingly.

*Civil Service Commission*

**2 Establishment of the Civil Service Commission**

- (1) There is to be a body corporate called the Civil Service Commission (“the Commission”).
- (2) Schedule 1 (which is about the Commission) has effect. 5
- (3) The Commission has the role in relation to selections for appointments to the civil service set out in sections 11 to 14.
- (4) See also –
  - (a) section 9 (which sets out the Commission’s role in dealing with conduct that conflicts with civil service codes of conduct); 10
  - (b) section 17 (under which the Commission may be given additional functions).

*Power to manage the civil service*

**3 Management of the civil service**

- (1) The Minister for the Civil Service has the power to manage the civil service (excluding the diplomatic service). 15
- (2) The Secretary of State has the power to manage the diplomatic service.
- (3) The powers in subsections (1) and (2) include (among other things) power to make appointments.
- (4) But they do not cover national security vetting (and, accordingly, subsections (1) and (2) do not affect any power relating to national security vetting). 20
- (5) The agreement of the Minister for the Civil Service is required for any exercise of the power in subsection (2) in relation to –
  - (a) remuneration of civil servants (including compensation payable on leaving the civil service), or 25
  - (b) the conditions on which a civil servant may retire.

**4 Other statutory management powers**

- (1) All statutory management powers in effect when section 3 comes into force continue to have effect.
- (2) But those and all other statutory management powers are exercisable subject to section 3. 30
- (3) “Statutory management power” means a power in relation to the management of any part of the civil service conferred by an Act (whenever passed) or an instrument under an Act (whenever made).
- (4) “Act” includes – 35
  - (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;but excludes this Part of this Act.

- (5) Subsection (2) does not apply to a statutory management power conferred by the Superannuation Act 1965 (c. 74) or the Superannuation Act 1972 (c. 11) or an instrument under any of those Acts.

### *Codes of conduct*

- 5 Civil service code** 5
- (1) The Minister for the Civil Service must publish a code of conduct for the civil service (excluding the diplomatic service).
- (2) For this purpose, the Minister may publish separate codes of conduct covering civil servants who serve the Scottish Executive or the Welsh Assembly Government. 10
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be).
- (4) In this Chapter “civil service code” means a code of conduct published under this section as it is in force for the time being. 15
- (5) The Minister for the Civil Service must lay any civil service code before Parliament.
- (6) The First Minister for Scotland must lay before the Scottish Parliament any civil service code under subsection (2) that covers civil servants who serve the Scottish Executive. 20
- (7) The First Minister for Wales must lay before the National Assembly for Wales any civil service code under subsection (2) that covers civil servants who serve the Welsh Assembly Government.
- (8) A civil service code forms part of the terms and conditions of service of any civil servant covered by the code. 25
- 6 Diplomatic service code**
- (1) The Secretary of State must publish a code of conduct for the diplomatic service.
- (2) In this Chapter “diplomatic service code” means the code of conduct published under this section as it is in force for the time being. 30
- (3) The Secretary of State must lay the diplomatic service code before Parliament.
- (4) The diplomatic service code forms part of the terms and conditions of service of any civil servant covered by the code.
- 7 Minimum requirements for civil service and diplomatic service codes**
- (1) This section sets out the provision that must be included in a civil service code or the diplomatic service code in relation to the civil servants covered by the code. 35  
(The code may include other provision as well.)
- (2) The code must require civil servants who serve an administration mentioned in subsection (3) to carry out their duties for the assistance of the 40

administration as it is duly constituted for the time being, whatever its political complexion.

- (3) The administrations are –
- (a) Her Majesty’s Government in the United Kingdom;
  - (b) the Scottish Executive; 5
  - (c) the Welsh Assembly Government.
- (4) The code must require civil servants to carry out their duties –
- (a) with integrity and honesty, and
  - (b) with objectivity and impartiality.
- (5) But the code need not require special advisers (see section 15) to carry out their duties with objectivity or impartiality. 10

## 8 Special advisers code

- (1) The Minister for the Civil Service must publish a code of conduct for special advisers (see section 15).
- (2) For this purpose, the Minister may publish separate codes of conduct covering special advisers who serve the Scottish Executive or the Welsh Assembly Government. 15
- (3) Before publishing a code (or any revision of a code) under subsection (2), the Minister must consult the First Minister for Scotland or the First Minister for Wales (as the case may be). 20
- (4) In this Chapter “special advisers code” means a code of conduct published under this section as it is in force for the time being.
- (5) Subject to subsection (6), a special advisers code must provide that a special adviser may not –
- (a) authorise the expenditure of public funds; 25
  - (b) exercise any power in relation to the management of any part of the civil service of the State;
  - (c) otherwise exercise any power conferred by or under this or any other Act or any power under Her Majesty’s prerogative.
- (6) A special advisers code may permit a special adviser to exercise any power within subsection (5)(b) in relation to another special adviser. 30
- (7) In subsection (5)(c) “Act” includes –
- (a) an Act of the Scottish Parliament;
  - (b) an Act or Measure of the National Assembly for Wales;
  - (c) Northern Ireland legislation. 35
- (8) The Minister for the Civil Service must lay any special advisers code before Parliament.
- (9) The First Minister for Scotland must lay before the Scottish Parliament any special advisers code under subsection (2) that covers special advisers who serve the Scottish Executive. 40
- (10) The First Minister for Wales must lay before the National Assembly for Wales any special advisers code under subsection (2) that covers special advisers who serve the Welsh Assembly Government.

- (11) A special advisers code forms part of the terms and conditions of service of any special adviser covered by the code.

## 9 Conduct that conflicts with a code of conduct: complaints by civil servants

- (1) This section applies in relation to any civil service code and the diplomatic service code; and “code” is to be read accordingly. 5
- (2) Subsection (3) applies if a civil servant (“P”) covered by a code has reason to believe—
- (a) that P is being, or has been, required to act in a way that conflicts with the code, or
- (b) that another civil servant covered by the code is acting, or has acted, in a way that conflicts with the code. 10
- (3) P may complain to the Commission about the matter.
- (4) A code may include provision about the steps that must be taken by a civil servant before making a complaint (and P must take the steps accordingly).
- (5) The Commission— 15
- (a) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
- (b) after considering a complaint, may make recommendations about how the matter should be resolved.
- (6) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires— 20
- (a) civil service management authorities;
- (b) the complainant;
- (c) any civil servant whose conduct is covered by the complaint. 25
- (7) The revision of a code does not affect the application of this section in relation to anything occurring before the revision.

### *Appointment*

## 10 Selections for appointments to the civil service

- (1) This section applies to the selection of persons who are not civil servants for appointment to the civil service. 30
- (2) A person’s selection must be on merit on the basis of fair and open competition.
- (3) The following selections are excepted from this requirement—
- (a) a person’s selection for an appointment to the diplomatic service either as head of mission or in connection with the person’s appointment (or selection for appointment) as Governor of an overseas territory; 35
- (b) selection for an appointment as special adviser (see section 15);
- (c) a selection excepted by the recruitment principles (see sections 11 and 12(1)(b)).
- (4) In determining for the purposes of subsection (1) whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on subsection (3). 40

- (5) But, in relation to persons selected in reliance on subsection (3)(c), the recruitment principles may disapply subsection (4) in specified cases.

## 11 Recruitment principles

- (1) The Commission must publish a set of principles to be applied for the purposes of the requirement in section 10(2). 5
- (2) Before publishing the set of principles (or any revision of it), the Commission must consult the Minister for the Civil Service.
- (3) In this Chapter “recruitment principles” means the set of principles published under this section as it is in force for the time being.
- (4) Civil service management authorities must comply with the recruitment principles. 10

## 12 Approvals for selections and exceptions

- (1) The recruitment principles may include provision –
- (a) requiring the Commission’s approval to be obtained for a selection which is subject to the requirement in section 10(2); 15
  - (b) excepting a selection from that requirement for the purposes of section 10(3)(c).
- (2) The Commission may participate in the process for a selection for which its approval is required by provision within subsection (1)(a).
- (3) It is up to the Commission to decide how it will participate. 20
- (4) Provision within subsection (1)(b) may be included only if the Commission is satisfied –
- (a) that the provision is justified by the needs of the civil service, or
  - (b) that the provision is needed to enable the civil service to participate in a government employment initiative that major employers in the United Kingdom (or a part of the United Kingdom) have been asked to participate in. 25
- (5) Provision within subsection (1)(a) or (b) may be made in any way, including (for example) by reference to –
- (a) particular appointments or descriptions of appointments; 30
  - (b) the circumstances in which a selection is made;
  - (c) the circumstances of the person to be selected;
  - (d) the purpose of the requirement to obtain approval or the purpose of the exception.
- (6) Provision within subsection (1)(b) may also (for example) – 35
- (a) deal with the way in which selections made in reliance on section 10(3)(c) are to be made;
  - (b) specify terms and conditions that must be included in the terms and conditions of an appointment resulting from a selection made in reliance on section 10(3)(c). 40
- (7) Provision within subsection (1)(a) or (b) may confer discretions on the Commission or civil service management authorities.

### 13 Complaints about competitions

- (1) Subsection (2) applies if a person has reason to believe that a selection for an appointment has been made in contravention of the requirement in section 10(2).
- (2) The person may complain to the Commission about the matter. 5
- (3) The Commission –
- (a) may determine steps that must be taken by a person before making a complaint (and those steps must be taken accordingly);
  - (b) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission; 10
  - (c) after considering a complaint, may make recommendations about how the matter should be resolved.
- (4) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires – 15
- (a) civil service management authorities;
  - (b) the complainant.

### 14 Monitoring by the Commission

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish – 20
- (a) that the principle of selection on merit on the basis of fair and open competition is being upheld in accordance with the requirement in section 10(2) and the recruitment principles, and
  - (b) that the requirement in section 10(2) and the recruitment principles are not being undermined in any way (apart from non-compliance). 25
- (2) For this purpose, civil service management authorities must provide the Commission with any information it reasonably requires.

#### *Special advisers*

### 15 Definition of “special adviser”

- (1) In this Chapter “special adviser” means a person (“P”) who holds a position in the civil service serving an administration mentioned below and whose appointment to that position meets the applicable requirements set out below. 30

#### *Her Majesty’s Government in the United Kingdom*

The requirements are –

- (a) P is appointed to assist a Minister of the Crown after being selected for the appointment by that Minister personally; 35
- (b) the appointment is approved by the Prime Minister;
- (c) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service; 40
- (d) those terms and conditions provide for the appointment to end not later than –

- (i) when the person who selected P ceases to hold the ministerial office in relation to which P was appointed to assist that person, or
- (ii) if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment. 5

#### *Scottish Executive*

The requirements are –

- (a) P is appointed to assist the Scottish Ministers (or one or more of the ministers mentioned in section 44(1)(a) and (b) of the Scotland Act 1998 (c. 46)) after being selected for the appointment by the First Minister for Scotland personally; 10
- (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
- (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister. 15

The reference above to the Scottish Ministers excludes the Lord Advocate and the Solicitor General for Scotland.

#### *Welsh Assembly Government*

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The requirements are –

- (a) P is appointed to assist the Welsh Ministers (or one or more of the ministers mentioned in section 45(1)(a) and (b) of the Government of Wales Act 2006 (c. 32)) after being selected for the appointment by the First Minister for Wales personally; 25
  - (b) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;
  - (c) those terms and conditions provide for the appointment to end not later than when the person who selected P ceases to hold office as First Minister. 30
- (2) In subsection (1), in relation to an appointment for which the selection is made personally by a person designated under section 45(4) of the Scotland Act 1998 or section 46(5) of the Government of Wales Act 2006, the reference to the person who selected P ceasing to hold office as First Minister for Scotland or Wales (as the case may be) is to be read as a reference to the designated person ceasing to be able to exercise the functions of the First Minister by virtue of the designation. 35

### **16 Annual reports about special advisers**

- (1) The Minister for the Civil Service must – 40
  - (a) prepare an annual report about special advisers serving Her Majesty's Government in the United Kingdom, and
  - (b) lay the report before Parliament.
- (2) The First Minister for Scotland must –
  - (a) prepare an annual report about special advisers serving the Scottish Executive, and
  - (b) lay the report before the Scottish Parliament. 45

- (3) The First Minister for Wales must –
- (a) prepare an annual report about special advisers serving the Welsh Assembly Government, and
  - (b) lay the report before the National Assembly for Wales.
- (4) A report under this section must contain information about the number and cost of the special advisers. 5

*Additional functions of the Commission*

**17 Agreements for the Commission to carry out additional functions**

- (1) The Minister for the Civil Service and the Commission may agree that the Commission is to carry out functions in relation to the civil service in addition to those given to it under the other provisions of this Chapter. 10
- (2) The Commission is to carry out those additional functions accordingly.
- (3) For the purposes of any additional function, civil service management authorities must provide the Commission with any information it reasonably requires. 15

*Final provisions*

**18 Definitions etc**

- (1) In this Chapter –
- “civil servant” is read as stated in section 1(4);
  - “civil service” is read as stated in section 1(4); 20
  - “civil service code” is defined in section 5(4);
  - “civil service management authority” means any person involved in the management of any part of the civil service;
  - “the Commission” is defined in section 2(1);
  - “diplomatic service” means Her Majesty’s diplomatic service; 25
  - “diplomatic service code” is defined in section 6(2);
  - “function” includes power or duty;
  - “information” means information recorded in any form;
  - “recruitment principles” is defined in section 11(3);
  - “special adviser” is defined in section 15; 30
  - “special advisers code” is defined in section 8(4).
- (2) Subsection (3) applies for the purposes of sections 9(6), 13(4), 14(2) and 17(3).
- (3) No person may be required to provide information which the person could not be compelled to provide in civil proceedings before the High Court or the Court of Session. 35

## CHAPTER 2

### CONSEQUENTIAL AND TRANSITIONAL PROVISION

#### 19 Consequential amendments and transitional provision

Schedule 2 (which contains amendments consequential on this Part and transitional provision) has effect.

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## CHAPTER 3

### NORTHERN IRELAND

#### 20 The Civil Service Commissioners for Northern Ireland

- (1) The Northern Ireland Act 1998 (c. 47) is amended as follows.
- (2) In paragraph 21 of Schedule 2 (excepted matters) after “1973” insert “(other than section 36(1)(c))”. 10
- (3) In paragraph 16 of Schedule 3 (reserved matters) after “Ireland” insert “and any matter with which section 36(1)(c) of the Northern Ireland Constitution Act 1973 solely or mainly deals”.
- (4) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25), at the appropriate place, insert “Civil Service Commissioner for Northern Ireland”. 15

## CHAPTER 4

### CROWN EMPLOYMENT: NATIONALITY

#### 21 Removal of existing nationality requirements 20

- (1) Section 3 of the Act of Settlement (1700 c. 2) (which, subject to exceptions, prevents persons born outside the United Kingdom from holding certain offices) does not prevent any person from being employed or holding office in a civil capacity under the Crown.
- (2) In the Aliens Restriction (Amendment) Act 1919 (c. 92), omit section 6 (which, subject to exceptions, prevents the appointment of aliens to posts in the Civil Service). 25

#### 22 Power to impose new nationality requirements

- (1) Rules may be made imposing requirements as to nationality which must be satisfied by a person employed or holding office in a civil capacity under the Crown in a reserved post. 30
- (2) A post is a reserved post if –
  - (a) it is a post in any of the security and intelligence services, or
  - (b) it is within subsection (3) or (4), and a Minister of the Crown has determined that it is necessary for requirements as to nationality to be satisfied in relation to the post. 35

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- (3) The posts within this subsection are –
- (a) posts in Her Majesty’s diplomatic service and posts in the Foreign and Commonwealth Office, and
  - (b) posts in the Defence Intelligence Staff.
- (4) The posts within this subsection are posts whose functions are concerned with – 5
- (a) access to intelligence information received directly or indirectly from any of the security and intelligence services,
  - (b) access to other information which, if disclosed without authority or otherwise misused, might damage the interests of national security, 10
  - (c) access to other information which, if disclosed without authority or otherwise misused, might be prejudicial to the interests of the United Kingdom or the safety of its citizens, or
  - (d) border control or decisions about immigration.
- (5) A determination under subsection (2)(b) may relate to a particular post or posts, or to posts falling within a description specified in the determination. 15
- (6) In this section “the security and intelligence services” means –
- (a) the Security Service,
  - (b) the Secret Intelligence Service, and
  - (c) the Government Communications Headquarters. 20
- (7) The rules may also –
- (a) impose requirements as to nationality which must be satisfied in the case of persons connected with a person who must satisfy requirements imposed under subsection (1), and
  - (b) provide that any requirement imposed under paragraph (a) may be treated as satisfied if a connected person has or had substantial ties with the United Kingdom. 25
- (8) For the purposes of this section the following are connected with a person –
- (a) any parent or deceased parent of the person,
  - (b) any spouse or civil partner of the person, 30
  - (c) any person living together with the person as if they were spouses or civil partners, or
  - (d) any parent of a person within paragraph (b) or (c).
- (9) The rules are to be made by a Minister of the Crown.
- (10) The rules may include provision – 35
- (a) exempting persons of a description specified in the rules (and persons connected with them) who were first employed, or first held office, in the post in question before a specified date, and
  - (b) allowing the granting of exemptions by the appropriate person.
- (11) In subsection (10)(b) “the appropriate person” means – 40
- (a) in the case of posts in the Security Service, the Director-General of the Security Service or a person nominated by the Director-General of the Security Service,
  - (b) in the case of posts in the Secret Intelligence Service, the Chief of the Secret Intelligence Service or a person nominated by the Chief of the Secret Intelligence Service, 45

- (c) in the case of posts in the Government Communications Headquarters, the Director of the Government Communications Headquarters or a person nominated by the Director of the Government Communications Headquarters, and
    - (d) otherwise, a Minister of the Crown. 5
  - (12) Section 75(5) of the Race Relations Act 1976 (c. 74) and Article 71(5) of the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)) apply in relation to rules under subsection (7) above as they apply in relation to rules under subsection (1) above (so far as they would not otherwise apply).
  - (13) In section 75(5)(b) of that Act and Article 71(5)(b) of that Order any reference to the implementation of rules includes (in particular) a reference to granting (or refusing to grant) exemptions under subsection (10)(b) above. 10
  - (14) The power of a Minister of the Crown to make rules under this section is exercisable by statutory instrument.
  - (15) A statutory instrument containing rules under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 15
  - (16) Nothing in this section affects –
    - (a) section 82 of the Police Reform Act 2002 (c. 30),
    - (b) section 41(3A) of the Police (Northern Ireland) Act 2000 (c. 32), or
    - (c) any power to impose a requirement which is not a requirement as to nationality even if the ability of a person to satisfy the requirement may be affected by the nationality of the person or any other person. 20
- 23 Repeals and revocations**
- Schedule 3 (which contains repeals and revocations relating to this Chapter) has effect. 25

## PART 2

### RATIFICATION OF TREATIES

#### **24 Treaties to be laid before Parliament before ratification**

- (1) Subject to what follows, a treaty is not to be ratified unless –
  - (a) a Minister of the Crown has laid before Parliament a copy of the treaty, 30
  - (b) the treaty has been published in a way that a Minister of the Crown thinks appropriate, and
  - (c) period A has expired without either House having resolved, within period A, that the treaty should not be ratified.
- (2) Period A is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (1)(a) is met. 35
- (3) Subsections (4) to (6) apply if the House of Commons resolved as mentioned in subsection (1)(c) (whether or not the House of Lords also did so).
- (4) The treaty may be ratified if –
  - (a) a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why, and 40

- 
- (b) period B has expired without the House of Commons having resolved, within period B, that the treaty should not be ratified.
- (5) Period B is the period of 21 sitting days beginning with the first sitting day after the date on which the requirement in subsection (4)(a) is met.
- (6) A statement may be laid under subsection (4)(a) in relation to the treaty on more than one occasion. 5
- (7) Subsection (8) applies if –
- (a) the House of Lords resolved as mentioned in subsection (1)(c), but
  - (b) the House of Commons did not.
- (8) The treaty may be ratified if a Minister of the Crown has laid before Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why. 10
- (9) “Sitting day” means a day on which both Houses of Parliament sit.
- 25 Extension of 21 sitting day period**
- (1) A Minister of the Crown may, in relation to a treaty, extend the period mentioned in section 24(1)(c) by 21 sitting days or less. 15
- (2) The Minister does that by laying before Parliament a statement –
- (a) indicating that the period is to be extended, and
  - (b) setting out the length of the extension.
- (3) The statement must be laid before the period would have expired without the extension. 20
- (4) The Minister must publish the statement in a way the Minister thinks appropriate.
- (5) The period may be extended more than once.
- 26 Section 24 not to apply in exceptional cases** 25
- (1) Section 24 does not apply to a treaty if a Minister of the Crown is of the opinion that, exceptionally, the treaty should be ratified without the requirements of that section having been met.
- (2) But a treaty may not be ratified by virtue of subsection (1) after either House has resolved, as mentioned in section 24(1)(c), that the treaty should not be ratified. 30
- (3) If a Minister determines that a treaty is to be ratified by virtue of subsection (1), the Minister must, either before or as soon as practicable after the treaty is ratified –
- (a) lay before Parliament a copy of the treaty, 35
  - (b) arrange for the treaty to be published in a way that the Minister thinks appropriate, and
  - (c) lay before Parliament a statement indicating that the Minister is of the opinion mentioned in subsection (1) and explaining why.

## 27 Section 24 not to apply to certain descriptions of treaties

- (1) Section 24 does not apply to –
  - (a) a treaty covered by section 12 of the European Parliamentary Elections Act 2002 (c. 24) (treaty providing for increase in European Parliament’s powers not to be ratified unless approved by Act of Parliament); 5
  - (b) a treaty covered by section 5 of the European Union (Amendment) Act 2008 (c. 7) (treaty amending founding Treaties not to be ratified unless approved by Act of Parliament).
- (2) Section 24 does not apply to a treaty in relation to which an Order in Council may be made under one or more of the following – 10
  - (a) section 158 of the Inheritance Tax Act 1984 (c. 51) (double taxation conventions);
  - (b) section 2 of the Taxation (International and Other Provisions) Act 2010 (c. ) (double taxation arrangements);
  - (c) section 173 of the Finance Act 2006 (c. 25) (international tax enforcement arrangements). 15
- (3) Section 24 does not apply to a treaty concluded (under authority given by the government of the United Kingdom) by the government of a British overseas territory, of any of the Channel Islands or of the Isle of Man.
- (4) Section 24 does not apply to a treaty a copy of which is presented to Parliament by command of Her Majesty before that section comes into force. 20

## 28 Meaning of “treaty” and “ratification”

- (1) In this Part “treaty” means a written agreement –
  - (a) between States or between States and international organisations, and
  - (b) binding under international law. 25
- (2) But “treaty” does not include a regulation, rule, measure, decision or similar instrument made under a treaty (other than one that amends or replaces the treaty (in whole or in part)).
- (3) In this Part a reference to ratification of a treaty is a reference to an act of a kind specified in subsection (4) which establishes as a matter of international law the United Kingdom’s consent to be bound by the treaty. 30
- (4) The acts are –
  - (a) deposit or delivery of an instrument of ratification, accession, approval or acceptance;
  - (b) deposit or delivery of a notification of completion of domestic procedures. 35

## PART 3

### REFERENDUM ON VOTING SYSTEMS

## 29 Referendum on voting systems

- (1) A referendum is to be held, no later than 31 October 2011, on the voting system for parliamentary elections. 40
- (2) The Secretary of State must –

- 
- (a) present to Parliament a Command Paper describing an alternative-vote system for consideration by voters in the referendum;
- (b) by order made by statutory instrument specify the question to be asked in the referendum (and any statement that is to precede the question) and fix the date of the poll. 5
- (3) The question specified under subsection (2)(b) must ask voters whether they would prefer the alternative-vote system described in the Command Paper to be used for parliamentary elections instead of the existing voting system (commonly referred to as “first past the post”).  
Any form of words to that effect may be used. 10
- (4) In this section “alternative-vote system” means a system under which, for each constituency –
- (a) one candidate is elected;
- (b) voters must indicate their first-choice candidate and may also rank any or all of the other candidates in order of preference; 15
- (c) votes are allocated to candidates in accordance with voters’ first choices and, if one candidate has more votes than the other candidates put together, that candidate is elected;
- (d) if not, the candidate with the fewest votes is eliminated and that candidate’s votes are dealt with as follows – 20
- (i) each vote cast by a voter who also ranked one or more of the remaining candidates is reallocated to that remaining candidate or (as the case may be) to the one that the voter ranked highest;
- (ii) any votes not reallocated play no further part in the counting;
- (e) if one candidate now has more votes than the other remaining candidates put together, that candidate is elected; 25
- (f) if not, the process mentioned in paragraph (d) is repeated as many times as necessary until one candidate has more votes than the other remaining candidates put together, and so is elected.
- (5) The reference in subsection (4)(d) to the candidate with the fewest votes, in a case where there are two or more candidates with fewer votes than the others but an equal number to each other, is a reference to the candidate eliminated in accordance with whatever provision is made for that case. 30
- (6) The reference in subsection (4)(f) to the candidate with more votes than the other remaining candidates put together, in a case where there are only two remaining candidates and they have an equal number of votes, is a reference to the candidate elected in accordance with whatever provision is made for that case. 35
- (7) A statutory instrument specifying the question to be asked in the referendum or fixing the date of the poll may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 40
- (8) Subsection (1) and sections 30 to 36 do not apply (and no further duty arises under subsection (2)(b)) if either House of Parliament, on a motion to approve a draft laid under subsection (7), decides not to approve it (unless the Secretary of State decides to lay the draft again under subsection (7), or to lay a revised draft under that subsection, and the re-laid or revised draft is approved by a resolution of each House). 45

### 30 Entitlement to vote

- (1) Those entitled to vote in the referendum under section 29 are –
  - (a) the persons who, on the date of the poll, would be entitled to vote as electors at a parliamentary election in any constituency, and
  - (b) the persons (not within paragraph (a)) who on that date would be entitled to vote as electors at an election to the European Parliament in any electoral region because of section 8(3) or (4) of the European Parliamentary Elections Act 2002 (c. 24) (peers). 5
- (2) Subsection (1) has effect subject to any provision that may be made, in an order under section 37, for disregarding alterations made in a register of electors after a specified date. 10

### 31 Referendum period

- (1) This section sets out what is the referendum period, for the purposes of Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41), for the referendum under section 29. 15
- (2) Subject to subsection (3), the referendum period –
  - (a) begins with the date of the making of the order under section 29 that fixes the date of the poll, and
  - (b) ends with the date of the poll.
- (3) If the order mentioned in subsection (2)(a) fixes a date that is more than 6 months after the day on which the order is made, the referendum period is the period of 6 months ending with the date of the poll. 20

### 32 Role of Electoral Commission

- (1) The Electoral Commission must take whatever steps they think appropriate to promote public awareness about the referendum under section 29 and how to vote in it. 25
- (2) The Electoral Commission may take whatever steps they think appropriate to provide, for persons entitled to vote in the referendum, information about each of the two voting systems referred to in section 29(3).

### 33 Regional Counting Officers 30

- (1) This section has effect, in addition to section 128 (Chief Counting Officers, and counting officers, for referendums) of the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”), in relation to the referendum under section 29.
- (2) The Chief Counting Officer for the referendum must appoint a Regional Counting Officer for each region in Great Britain. 35
- (3) For the purposes of this section the regions are as follows –
  - East Midlands;
  - Eastern;
  - London;
  - North East;
  - North West; 40

<p>South East; South West; West Midlands; Yorkshire and the Humber; Scotland; Wales.</p>	5
<p>The regions in England comprise the areas specified in the Table in Schedule 1 to the European Parliamentary Elections Act 2002 (c. 24) (ignoring the reference to Gibraltar) as it has effect for the time being.</p>	
<p>(4) Each Regional Counting Officer must, as respects the votes cast in the region for which the officer is appointed, certify –</p> <p style="margin-left: 2em;">(a) the total number of ballot papers counted, and</p> <p style="margin-left: 2em;">(b) the total number of votes cast in favour of each answer to the question asked in the referendum.</p>	10
<p>Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under paragraph (a) in relation to each form of ballot paper used.</p>	
<p>(5) The Chief Counting Officer may require a Regional Counting Officer to appoint counting officers for relevant areas (within the meaning of section 128 of the 2000 Act) in the region for which the Regional Counting Officer is appointed.</p>	15
<p>(6) To the extent that counting officers are appointed by virtue of subsection (5), the duty of the Chief Counting Officer under section 128(3) of the 2000 Act is discharged.</p>	20
<p>(7) A reference to a counting officer in sections 34 to 36 (except the reference in section 35(5)) includes a reference to a Regional Counting Officer.</p>	25
<p><b>34 Payments to counting officers</b></p>	
<p>(1) A counting officer is entitled to recover his or her charges in respect of services rendered, or expenses incurred, for or in connection with the referendum under section 29 if –</p> <p style="margin-left: 2em;">(a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the referendum, and</p> <p style="margin-left: 2em;">(b) the total of the officer’s charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, an order made by the Secretary of State by statutory instrument, with the consent of the Treasury, for the purposes of this subsection.</p>	30
<p>(2) An order under subsection (1) may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of a specified description.</p> <p>Subject to subsection (3), the counting officer may not recover more than that amount in respect of such services or expenses.</p>	35
<p>(3) In a particular case the Electoral Commission may, with the consent of the Treasury, authorise the payment of –</p> <p style="margin-left: 2em;">(a) more than the overall maximum recoverable amount, or</p>	40
<p style="margin-left: 2em;">(b) more than the overall maximum recoverable amount, or</p>	45

- (b) more than the specified maximum recoverable amount for any specified services or expenses,  
if the Commission are satisfied that the conditions in subsection (4) are met.
- (4) The conditions are—
- (a) that it was reasonable for the counting officer concerned to render the services or incur the expenses, and
  - (b) that the charges in question are reasonable.
- (5) The Electoral Commission must pay the amount of any charges recoverable in accordance with this section on an account being submitted to them.  
But if the Commission think fit they may, before payment, apply for the account to be taxed under section 35. 10
- (6) Where the superannuation contributions required to be paid by a local authority in respect of a person are increased by a fee paid under this section as part of a counting officer's charges at the referendum, then on an account being submitted to them the Electoral Commission must pay to the authority a sum equal to the increase. 15
- (7) On the counting officer's request for an advance on account of the officer's charges, the Electoral Commission may make an advance on such terms as they think fit.
- (8) The Electoral Commission may by regulations make provision as to the time when and the manner and form in which accounts are to be rendered to the Commission for the purposes of the payment of a counting officer's charges. 20
- (9) An order or regulations under this section may make different provision for different cases.
- (10) Any sums required by the Electoral Commission for making payments under this section are to be charged on and paid out of the Consolidated Fund. 25

### **35 Taxation of counting officer's account**

- (1) An application for a counting officer's account to be taxed must be made—
- (a) except where paragraph (b) applies, to a county court;
  - (b) where the counting officer is one who was appointed for an area in Scotland, to the Auditor of the Court of Session. 30
- A reference in this section to "the court" includes a reference to the Auditor mentioned in paragraph (b).
- (2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the counting officer. 35
- (3) Where an application is made for a counting officer's account to be taxed, the officer may apply to the court for it to examine any claim made by any person ("the claimant") against the officer in respect of matters charged in the account.
- (4) On an application under subsection (3), after the claimant has been given notice and an opportunity to be heard and to tender any evidence, the court may allow, disallow or reduce the claim, with or without costs. 40  
The court's determination of the claim is final for all purposes and as against all persons.

- (5) An application under subsection (1) for taxation of the account of the counting officer for Northern Ireland must be made to the county court that has jurisdiction at the place where the officer certified the number of ballot papers counted and votes cast.

### **36 Restriction on legal challenge to referendum result** 5

- (1) No court may entertain any proceedings for questioning the number of ballot papers counted or votes cast in the referendum under section 29 as certified by the Chief Counting Officer or a counting officer unless –
- (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the permitted period. 10
- (2) In subsection (1) “the permitted period” means the period of 6 weeks beginning with –
- (a) the date on which the Chief Counting Officer or counting officer gives a certificate as to the number of ballot papers counted and votes cast in the referendum, or 15
  - (b) if the Chief Counting Officer or counting officer gives more than one such certificate, the date on which the last is given.
- (3) In the application of this section to Scotland, subsection (1) has effect –
- (a) with the substitution in paragraph (a) of “a petition” for “a claim”;
  - (b) with the substitution in paragraph (b) of “the petition is lodged” for “the claim form is filed”. 20
- (4) In the application of this section to Northern Ireland, subsection (1) has effect –
- (a) with the substitution in paragraph (a) of “an application” for “a claim”;
  - (b) with the substitution in paragraph (b) of “the application for leave to apply for judicial review is lodged” for “the claim form is filed”. 25

### **37 Conduct etc of referendum**

- (1) The Secretary of State may by order make whatever provision he or she considers expedient –
- (a) for and in connection with the referendum under section 29;
  - (b) for and in connection with the combination of the poll at the referendum with the poll at an election or at another referendum (or both). 30
- (2) An order under this section may, in particular, apply or incorporate, with or without modification, any enactment or subordinate legislation (whenever passed or made) relating to referendums or elections. 35  
In this subsection “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (3) An order under this section –
- (a) may include provision creating criminal offences;
  - (b) may make supplementary, incidental, consequential, transitory, transitional or saving provision; 40
  - (c) may make different provision for different purposes (including different areas).

- (4) The power to make an order under this section is exercisable by statutory instrument.
- (5) The Secretary of State must consult the Electoral Commission before making an order under this section.
- (6) An order under this section may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament. 5

#### PART 4

##### PARLIAMENTARY STANDARDS ETC

##### *Amendments of the Parliamentary Standards Act 2009* 10

#### 38 Compliance Officer

- (1) For section 3(3) and (4) of the Parliamentary Standards Act 2009 (c. 13) (Commissioner for Parliamentary Investigations) substitute—
  - “(3) There is to be an officer known as the Compliance Officer for the Independent Parliamentary Standards Authority (“the Compliance Officer”). 15
  - (4) Schedule 2 (which makes provision about the Compliance Officer) has effect.”
- (2) For Schedule 2 to that Act substitute the Schedule set out in Schedule 4.

#### 39 Membership of Speaker’s Committee 20

- (1) Schedule 3 to the Parliamentary Standards Act 2009 (Speaker’s Committee for the Independent Parliamentary Standards Authority) is amended as follows.
- (2) In paragraph 1—
  - (a) omit “and” at the end of sub-paragraph (c), and
  - (b) after sub-paragraph (d) insert “, and 25
  - (e) three lay persons appointed by resolution of the House of Commons.”
- (3) For the heading of paragraph 2 substitute “Appointed members”.
- (4) After paragraph 2 insert—

“Lay members 30

  - 2A (1) In paragraph 1(e) “lay person” means a person who is not, and has never been, a member of either House of Parliament.
  - (2) A motion for a resolution under paragraph 1(e) may be made only with the agreement of the Speaker of the House of Commons.
  - (3) The person the subject of the motion must have been selected by the Speaker on merit on the basis of fair and open competition. 35

- 
- (4) An appointment under paragraph 1(e) is to be for a fixed term not exceeding five years.
- (5) A person who has been appointed under paragraph 1(e) may not be appointed under paragraph 1(e) again.
- (6) A person appointed under paragraph 1(e) ceases to be a member of the Committee if the person becomes a member of either House of Parliament. 5
- (7) A person appointed under paragraph 1(e) may resign from the Committee by giving notice to the Committee.
- (8) The Speaker of the House of Commons may require the IPSA to pay to members of the Committee appointed under paragraph 1(e) such remuneration and allowances as the Speaker may determine. 10
- (9) The IPSA must make the payment accordingly.”
- 40 Transparency etc**
- (1) The Parliamentary Standards Act 2009 (c. 13) is amended as follows. 15
- (2) After section 3 insert –
- “3A General duties of the IPSA**
- (1) In carrying out its functions the IPSA must have regard to the principle that it should act in a way which is efficient, cost-effective and transparent. 20
- (2) In carrying out its functions the IPSA must have regard to the principle that members of the House of Commons should be supported in efficiently, cost-effectively and transparently carrying out their Parliamentary functions.”
- (3) In section 5 (MPs’ allowances scheme) after subsection (5) insert – 25
- “(5A) When the scheme (or revision) is laid, the IPSA must publish in a way it considers appropriate –
- (a) the scheme (or revision), and
- (b) a statement of its reasons for adopting that scheme (or making that revision).” 30
- (4) In section 6 (dealing with claims under the MPs’ allowances scheme) after subsection (7) insert –
- “(8) The IPSA must publish such information as it considers appropriate in respect of –
- (a) each claim made under or by virtue of this section, and 35
- (b) each payment of an allowance by the IPSA under or by virtue of this section.
- (9) The IPSA must publish the information at times it considers appropriate and in a way it considers appropriate.
- (10) The IPSA must determine procedures to be followed by the IPSA in relation to publication of the information, and in doing so must consult – 40

- (a) the Speaker of the House of Commons,
  - (b) the Leader of the House of Commons,
  - (c) the House of Commons Committee on Standards and Privileges,
  - (d) the Compliance Officer, and
  - (e) any other person the IPSA considers appropriate.”
- 5

#### 41 MPs’ salaries

- (1) For section 4 of the Parliamentary Standards Act 2009 (c. 13) (MPs’ salaries) substitute—

##### “4 MPs’ salaries 10

- (1) Members of the House of Commons are to receive a salary for the relevant period.
- (2) The salaries are to be paid by the IPSA.
- (3) Salaries are to be paid on a monthly basis in arrears.
- (4) The amounts of the salaries are to be determined by the IPSA (see section 4A). 15
- (5) “Relevant period”, in relation to a person who is a member of the House of Commons, means the period beginning with the day after the day of the poll for the parliamentary election at which the member was elected and ending with— 20
  - (a) if the person is a member immediately before Parliament is dissolved, the day of the poll for the parliamentary general election which follows the dissolution;
  - (b) otherwise, the day on which the person ceases to be a member.
- (6) No payment of salary is to be made to a member before the member has made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation). 25
- (7) The duty of the IPSA to pay a salary to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons. 30

##### 4A Determination of MPs’ salaries

- (1) This section is about determinations under section 4(4).
- (2) A determination may provide for higher salaries to be payable to members while holding an office or position specified for the purposes of this subsection in a resolution of the House of Commons. 35
- (3) A determination by virtue of subsection (2) may make different provision for different offices or positions or different classes of member (and may include exceptions).
- (4) A determination may include a formula or other mechanism for adjusting salaries from time to time. 40
- (5) A determination (other than the first determination) may have retrospective effect.

- (6) The IPSA must review the current determination (and make a new determination as appropriate) –
- (a) in the first year of each Parliament;
  - (b) at any other time it considers appropriate.
- (7) In reviewing a determination (and before making the first determination) the IPSA must consult –
- (a) the Review Body on Senior Salaries,
  - (b) persons appearing to the IPSA to represent persons likely to be affected by the determination or the review,
  - (c) the Minister for the Civil Service,
  - (d) the Treasury, and
  - (e) any other person the IPSA considers appropriate.
- (8) After making a determination, the IPSA must publish in a way it considers appropriate –
- (a) the determination, and
  - (b) a statement of how it arrived at the determination.
- (9) If the IPSA reviews the current determination but decides not to make a new determination, it must publish in a way it considers appropriate a statement of how it arrived at that decision.
- (10) The IPSA may delegate to the Review Body on Senior Salaries its function of reviewing a determination (but not its function of deciding whether or not to make a new determination).”
- (2) The first determination under section 4(4) of the Parliamentary Standards Act 2009 (c. 13) does not have to come into effect before 1 April 2012; and section 4A(6)(a) of that Act does not apply in relation to a Parliament that begins before that date.
- (3) Until the first determination under section 4(4) of that Act comes into effect, the amounts of the salaries payable by the Independent Parliamentary Standards Authority under section 4 of that Act are to be determined in accordance with the relevant resolutions of the House of Commons.

#### 42 MPs’ allowances scheme

In section 5 of the Parliamentary Standards Act 2009 (MPs’ allowances scheme) after subsection (8) insert –

- “(8A) Any duty of the IPSA to pay an allowance to a member is subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons.”

#### 43 Allowances claims

- (1) Section 6 of the Parliamentary Standards Act 2009 (dealing with claims under the MPs’ allowances scheme) is amended as follows.
- (2) Omit subsections (4) and (5).
- (3) In subsection (6) for paragraph (b) substitute –
- “(b) provision for deducting amounts within subsection (6A) from allowances payable under the scheme or salaries

- payable under section 4;
- (c) provision about how such deductions, and deductions under paragraph 5 or 12 of Schedule 4, are to be made.”
- (4) After subsection (6) insert –
- “(6A) This subsection applies to amounts which a member (under section 9(8) or otherwise) has agreed to repay, in respect of amounts paid to the member under the MPs’ allowances scheme that should not have been allowed.” 5
- (5) After section 6 of that Act insert –
- “6A Review of IPSA’s determination” 10**
- (1) This section applies if –
- (a) the IPSA determines under section 6(3) that a claim is to be refused or that only part of the amount claimed is to be allowed, and
- (b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA’s reconsideration). 15
- (2) The Compliance Officer must – 20
- (a) consider whether the determination (or the altered determination) is the determination that should have been made, and
- (b) in light of that consideration, decide whether or not to confirm or alter it. 25
- (3) The Compliance Officer must give the IPSA a statement of any decision under subsection (2)(b), and may include a statement of the Compliance Officer’s findings about the way in which the IPSA has dealt with the claim.
- (4) The IPSA must make any payments or adjustments necessary to give effect to the Compliance Officer’s decision; but it must not do so until – 30
- (a) it is no longer possible for there to be a relevant appeal, and
- (b) all relevant appeals have been withdrawn or determined.
- (5) A relevant appeal is –
- (a) an appeal under subsection (6) brought before the end of the period mentioned in subsection (7), or 35
- (b) a further appeal in relation to the Compliance Officer’s decision which –
- (i) is brought before the end of the usual period for bringing such an appeal, and 40
- (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.
- (6) The member may appeal to the First-tier Tribunal against a decision of the Compliance Officer under subsection (2)(b).
- (7) The appeal must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the 45

	member (unless the Tribunal directs that it may be brought after the end of that period).	
	(8) The appeal is by way of a rehearing.	
	(9) On an appeal under subsection (6) the Tribunal may –	
	(a) allow the appeal in whole or in part, or	5
	(b) dismiss the appeal.	
	(10) If the Tribunal allows the appeal (in whole or in part) it may –	
	(a) order the IPSA to make any payments or adjustments necessary to give effect to that decision;	
	(b) make any other order it thinks fit.	10
	(11) If the Tribunal dismisses the appeal it may make any other order it thinks fit.	
	(12) The Compliance Officer must notify the IPSA of the Tribunal’s decision (and the result of any further appeal).”	
(6)	In section 7 of that Act (information and guidance about taxation) –	15
	(a) before subsection (1) insert –	
	“(A1) The IPSA must –	
	(a) prepare guidance for members of the House of Commons about making claims under the MPs’ allowances scheme;	20
	(b) review the guidance regularly and revise it as appropriate;	
	(c) publish the guidance in a way the IPSA considers appropriate;	
	(d) provide to any member on request such further advice about making claims as the IPSA considers appropriate.”, and	25
	(b) in the heading omit “about taxation”.	
<b>44</b>	<b>MPs’ code of conduct relating to financial interests</b>	
	Omit section 8 of the Parliamentary Standards Act 2009 (c. 13) (MPs’ code of conduct relating to financial interests) and the italic heading before it.	30
<b>45</b>	<b>Investigations</b>	
	For section 9 of the Parliamentary Standards Act 2009 (investigations) substitute –	
	<b>“9 Investigations</b>	35
	(1) The Compliance Officer may conduct an investigation if the Compliance Officer has reason to believe that a member of the House of Commons may have been paid an amount under the MPs’ allowances scheme that should not have been allowed.	
	(2) An investigation may be conducted –	40
	(a) on the Compliance Officer’s own initiative,	
	(b) at the request of the IPSA,	

- (c) at the request of the member, or
    - (d) in response to a complaint by an individual.
  - (3) For the purposes of the investigation the member and the IPSA –
    - (a) must provide the Compliance Officer with any information (including documents) the Compliance Officer reasonably requires, and 5
    - (b) must do so within such period as the Compliance Officer reasonably requires.
  - (4) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer, prepare a statement of the Compliance Officer’s provisional findings. 10
  - (5) The Compliance Officer must, after giving the member and the IPSA an opportunity to make representations to the Compliance Officer about the provisional findings, prepare a statement of the Compliance Officer’s findings (subject to subsection (7)). 15
  - (6) Provisional findings under subsection (4) and findings under subsection (5) may include –
    - (a) a finding that the member failed to comply with subsection (3),
    - (b) findings about the role of the IPSA in the matters under investigation, including findings that the member’s being paid an amount under the MPs’ allowances scheme that should not have been allowed was wholly or partly the IPSA’s fault. 20
  - (7) If subsection (8) applies, the Compliance Officer need not make a finding under subsection (5) as to whether the member was paid an amount under the MPs’ allowances scheme that should not have been allowed. 25
  - (8) This subsection applies if –
    - (a) the member accepts a provisional finding that the member was paid an amount under the MPs’ allowances scheme that should not have been allowed, 30
    - (b) such other conditions as may be specified by the IPSA are, in the Compliance Officer’s view, met in relation to the case, and
    - (c) the member agrees to repay to the IPSA, in such manner and within such period as the Compliance Officer considers reasonable, such amount as the Compliance Officer considers reasonable (and makes the repayment accordingly). 35
  - (9) Before specifying conditions under subsection (8)(b) the IPSA must consult the persons listed in section 9A(6).
  - (10) References in this section (and section 9A) to a member of the House of Commons include a former member of that House. 40
- 9A Procedures etc**
- (1) The IPSA must determine procedures to be followed by the Compliance Officer in relation to investigations under section 9.
  - (2) The procedures must in particular include provision about –
    - (a) complaints under section 9(2)(d), 45
    - (b) representations under section 9(4),

- (c) representations under section 9(5), and
  - (d) the circumstances in which the Compliance Officer must publish the documents listed in subsection (4).
- (3) Provision under subsection (2)(b) must include provision giving the member who is the subject of the investigation – 5
- (a) an opportunity to be heard in person, and
  - (b) an opportunity, where the Compliance Officer considers it appropriate, to call and examine witnesses.
- (4) The documents referred to in subsection (2)(d) are – 10
- (a) statements of provisional findings under section 9(4),
  - (b) statements of findings under section 9(5), and
  - (c) agreements under section 9(8).
- (5) The IPSA must also determine procedures to be followed by the Compliance Officer as to the circumstances in which the Compliance Officer must publish – 15
- (a) statements under section 6A(3), and
  - (b) penalty notices under paragraph 6 of Schedule 4.
- (6) Procedures under this section must be fair, and before determining procedures the IPSA must consult – 20
- (a) the Speaker of the House of Commons,
  - (b) the Leader of the House of Commons,
  - (c) the House of Commons Committee on Standards and Privileges,
  - (d) the Compliance Officer, and
  - (e) any other person the IPSA considers appropriate.” 25

#### 46 Enforcement

- (1) After section 9A of the Parliamentary Standards Act 2009 (c. 13) insert –

##### “9B Enforcement

- (1) Schedule 4 (which makes provision about the enforcement powers of the Compliance Officer) has effect. 30
- (2) The Compliance Officer may provide to the Parliamentary Commissioner for Standards any information connected with an investigation under section 9 or action taken under Schedule 4 which the Compliance Officer considers may be relevant to the work of the Parliamentary Commissioner for Standards.” 35
- (2) After Schedule 3 to that Act insert the Schedule set out in Schedule 5.

#### 47 Relationships with other bodies etc

After section 10 of the Parliamentary Standards Act 2009 insert –

##### “10A Relationships with other bodies etc

- (1) The IPSA and the Compliance Officer must prepare a joint statement setting out how the IPSA and the Compliance Officer will work with the following – 40

- 
- (a) the Parliamentary Commissioner for Standards,  
(b) the Director of Public Prosecutions,  
(c) the Commissioner of Police of the Metropolis, and  
(d) any other person the IPSA and the Compliance Officer consider appropriate. 5
- (2) Before preparing the statement the IPSA and the Compliance Officer must consult the persons listed in subsection (1).
- (3) Nothing in sections 9 to 9B (or Schedule 4) affects the disciplinary powers of the House of Commons.
- (4) The powers conferred by sections 9 to 9B (and Schedule 4) may be exercised in relation to the conduct of a member of the House of Commons even if— 10
- (a) the member is or has been the subject of criminal proceedings in relation to that conduct (whether or not convicted of an offence); 15
- (b) the House of Commons is exercising or has exercised any of its disciplinary powers in relation to that conduct.
- (5) References in subsection (4) to a member of the House of Commons include a former member of that House.”
- 48 Further functions of the IPSA and Commissioner** 20
- Omit section 11 of the Parliamentary Standards Act 2009 (c. 13) (further functions of the IPSA and Commissioner).
- 49 Expiry of provisions of the Parliamentary Standards Act 2009**
- Omit section 15 of the Parliamentary Standards Act 2009 (expiry of provisions of the Act). 25
- 50 Consequential amendments**
- Schedule 6 (which makes consequential amendments relating to sections 38 to 49) has effect.
- Other provision*
- 51 Resettlement grants for MEPs** 30
- (1) The European Parliament (Pay and Pensions) Act 1979 (c. 50) is amended as follows.
- (2) In section 3 (resettlement grants for persons ceasing to be MEPs) for subsections (1) to (3) substitute—
- “(1) The IPSA may make a scheme providing for allowances to be payable to persons to whom this section applies, in connection with their ceasing to be Representatives. 35
- (2) It may do so only if a scheme under section 5 of the Parliamentary Standards Act 2009 (MPs’ allowances scheme) makes provision for

- allowances to be payable in connection with persons ceasing to be Members on a dissolution of Parliament.
- (3) A scheme under this section must make provision which is as nearly equivalent to the provision made by the scheme under section 5 of that Act as the IPSA considers practicable. 5
- (3A) The IPSA must send to the Speaker of the House of Commons for laying before both Houses of Parliament –
- (a) any scheme made by it under this section, and
  - (b) a statement of the reasons for making the scheme.
- (3B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate. 10
- (3C) This section applies to a person who is a Representative immediately before the end of a five-year period, and either –
- (a) does not stand for election to the European Parliament at the general election of representatives to the European Parliament held in that period, or 15
  - (b) does so stand at that election (whether for the same or a different electoral region) and is not elected.
- (3D) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section.” 20
- (3) Omit section 3A (power to amend section 3).
- (4) In section 7(1)(b) (expenses and receipts) for “grant” substitute “allowance”.

## 52 Parliamentary and other pensions

Schedule 7 (which makes provision about pensions for members of the House of Commons, ministers and other office holders) has effect. 25

### PART 5

#### THE HOUSE OF LORDS

##### *Excepted hereditary peers*

## 53 Ending of by-elections for hereditary peers

- (1) For section 2(4) of the House of Lords Act 1999 (c. 34) substitute – 30
- “(4) The limit in subsection (2) is reduced by one whenever a person who counts towards that limit dies.”
- (2) Subsection (1) has no effect in relation to a death occurring before this section comes into force.

*Removal of members etc*

**54 Removal of members of the House of Lords etc**

- (1) This section applies to a person (“P”) who is an excepted hereditary peer or a life peer if any of the following events (“relevant events”) occurs –
- (a) a condition set out in Part 1 of Schedule 8 is met in relation to P, 5
  - (b) an expulsion resolution is passed in relation to P under section 55, or
  - (c) P resigns from the House of Lords under section 56.
- (The conditions set out in Part 1 of Schedule 8 cover serious criminal offences and bankruptcy restrictions orders etc.)
- (2) P shall not be a member of the House of Lords at any time after the relevant event occurs and, accordingly – 10
- (a) P shall not be entitled to receive writs of summons to attend the House, and
  - (b) any writ of summons previously issued to P has no further effect.
- (3) Part 2 of Schedule 8 supplements subsection (2). 15
- (4) Part 3 of Schedule 8 provides for the effect of subsection (2) to be reversed in certain circumstances.
- (5) In this Part –
- “excepted hereditary peer” means a person excepted from section 1 of the House of Lords Act 1999 (c. 34) by virtue of section 2 of that Act; 20
  - “life peer” means a person who is entitled to receive writs of summons to attend the House of Lords by virtue of a peerage under the Life Peerages Act 1958 (c. 21) or the Appellate Jurisdiction Act 1876 (c. 59);
  - “peerage” includes the dignity conferred by virtue of appointment as a Lord of Appeal in Ordinary. 25
- (6) In determining whether a person is entitled to receive writs of summons for the purposes of the definition of “life peer”, ignore –
- (a) section 2 of the Forfeiture Act 1870 (c. 23);
  - (b) sections 426A and 427 of the Insolvency Act 1986 (c. 45);
  - (c) regulation 4 of the European Parliament (House of Lords Disqualification) Regulations 2008 (S.I. 2008/1647); 30
  - (d) any suspension resolution passed in relation to the person under section 55.

**55 Expulsion and suspension of members of the House of Lords**

- (1) Standing Orders of the House of Lords may make provision under which the House may pass, in relation to a person who is an excepted hereditary peer or a life peer, an expulsion resolution or a suspension resolution. 35
- (2) An expulsion resolution is a resolution which states that, in the House’s opinion –
- (a) the House is in disrepute because of conduct of the person, 40
  - (b) that conduct warrants the loss of the person’s entitlement to receive writs of summons to attend the House, and
  - (c) accordingly, the person should lose that entitlement.

- 
- (3) A suspension resolution is a resolution which states that, in the House’s opinion –
- (a) the House is in disrepute because of conduct of the person,
  - (b) that conduct warrants the suspension of the person’s entitlement to receive writs of summons to attend the House, and 5
  - (c) accordingly, the person’s entitlement should be suspended for the period specified in the resolution.
- (4) A person in relation to whom a suspension resolution is passed shall not be a member of the House of Lords during the period of suspension specified in the resolution and, accordingly – 10
- (a) during that period the person shall not be entitled to receive writs of summons to attend the House, and
  - (b) any writ of summons previously issued to the person has no effect in relation to that period.
- (5) An expulsion resolution or a suspension resolution must specify – 15
- (a) the date or dates on which, or
  - (b) the period or periods during which, in the House’s opinion, the conduct occurred.
- (6) A date specified under subsection (5) must not be earlier than the start date and a period specified under subsection (5) must not start before the start date. 20
- (7) “The start date” means the date specified as such by Standing Orders which must not be earlier than the date on which this section comes into force.
- (8) An expulsion resolution or a suspension resolution may contain other provision in addition to that mentioned in the subsections above.
- 56 Resignation from House of Lords 25**
- (1) A person who is an excepted hereditary peer or a life peer may at any time resign from the House of Lords.
- (2) A peer resigns by giving notice of the peer’s resignation to the Clerk of the Parliaments.
- (3) The notice must be in writing signed by the resigning peer and by two persons as witnesses. 30
- (4) On receipt of the notice, the Clerk of the Parliaments must –
- (a) sign a certificate of receipt, and
  - (b) send a copy of it to the resigning peer and to the Lord Chancellor.
- (5) The resignation takes effect on signature of the certificate. 35
- 57 Disclaimer of peerage**
- (1) A person (“the former member”) to whom section 54 has applied may at any time disclaim the peerage by virtue of which the former member was entitled to receive writs of summons to attend the House of Lords (unless the effect of section 54(2) has been reversed under Part 3 of Schedule 8). 40
- (2) The former member disclaims the peerage by giving notice of the disclaimer to the Lord Chancellor.

- (3) The notice must be in writing signed by the former member and by two persons as witnesses.
- (4) On receipt of the notice, the Lord Chancellor must—
  - (a) sign a certificate of receipt, and
  - (b) send a copy of it to the former member. 5
- (5) The disclaimer takes effect on signature of the certificate.
- (6) If the former member was an excepted hereditary peer, section 3(1), (3) and (4) of the Peerage Act 1963 (c. 48) applies in relation to the disclaimer as if the former member disclaimed the peerage under that Act by way of an instrument of disclaimer delivered on the day on which the disclaimer takes effect in accordance with subsection (5) above. 10
- (7) If the former member was a life peer, the disclaimer—
  - (a) divests the former member (and any spouse or children) of all right to or interest in the peerage and all titles, rights, offices, privileges and precedence attaching to it, and 15
  - (b) relieves the former member of all obligations and disabilities arising from it.
- (8) The Lord Chancellor must—
  - (a) keep a register containing the particulars of any disclaimer of a peerage under this section, and 20
  - (b) make arrangements under which the public may inspect the register.

## 58 Supplementary provision

- (1) The proceedings of the House of Lords are not to be called into question because of the participation of a person who should not be participating.
- (2) Nothing in this Part affects— 25
  - (a) a person’s membership of the House of Lords by virtue of being an archbishop or bishop, and
  - (b) accordingly, the person’s entitlement to receive writs of summons to attend the House by virtue of being an archbishop or bishop.

## PART 6 30

### TAX STATUS OF MPs AND MEMBERS OF THE HOUSE OF LORDS

## 59 Tax status of MPs and members of the House of Lords

- (1) Subsection (2) applies if a person is for any part of a tax year—
  - (a) a member of the House of Commons, or
  - (b) a member of the House of Lords. 35
- (2) The person is to be treated for the purposes of the taxes listed in subsection (3) as resident, ordinarily resident and domiciled in the United Kingdom for the whole of that tax year.
- (3) The taxes are—
  - (a) income tax, 40
  - (b) capital gains tax, and

- (c) inheritance tax.
- (4) For the purposes of this section a person –
- (a) becomes a member of the House of Commons when (having been elected to that House) the person makes and subscribes the oath required by the Parliamentary Oaths Act 1866 (c. 19) (or the corresponding affirmation), and 5
  - (b) ceases to be a member of that House when –
    - (i) the Parliament to which the person was elected is dissolved, or
    - (ii) the person’s seat is otherwise vacated.
- (5) For the purposes of this section and section 60 a person is a member of the House of Lords if the person is entitled to receive writs of summons to attend that House. 10
- (6) In relation to a member of the House of Lords, in subsection (1) the reference to any part of a tax year excludes any part of the year during which –
- (a) section 137(3) of the Constitutional Reform Act 2005 (c. 4) applies to the member, or 15
  - (b) the member is entitled to receive writs of summons to attend the House of Lords by virtue of being an archbishop or bishop.
- (7) This section applies in relation to the tax year 2010-11 and subsequent tax years. 20
- (8) But in applying this section to the tax year 2010-11 –
- (a) if the Parliament in which this Act is passed is dissolved in that tax year, ignore a person’s membership of the House of Commons in that Parliament, and
  - (b) in any event, ignore a person’s membership of the House of Lords at any time before the end of the period of 3 months beginning with the day on which section 60 comes into force. 25
- (9) In this section, in relation to inheritance tax –
- (a) “tax year” means a year beginning on 6 April and ending on the following 5 April, and 30
  - (b) “the tax year 2010-11” means the tax year beginning on 6 April 2010.
- (10) In determining for the purposes of this section and section 60 whether a person is entitled to receive writs of summons to attend the House of Lords, ignore –
- (a) section 2 of the Forfeiture Act 1870 (c. 23);
  - (b) sections 426A and 427 of the Insolvency Act 1986 (c. 45); 35
  - (c) any suspension resolution passed in relation to the person under section 55.

## 60 Tax status of members of the House of Lords: transitional provision

- (1) This section applies if, before the end of the period of 3 months beginning with the day on which this section comes into force, a member of the House of Lords (“M”) gives written notice to the Clerk of the Parliaments that M does not want section 59 to apply to M. 40
- (2) M shall not be a member of the House of Lords at any time after the notice is given and accordingly –

- (a) M shall not be entitled to receive writs of summons to attend the House, and
  - (b) any writ of summons previously issued to M has no further effect.
- (3) Section 57 (disclaimer) applies to M as if M were a person to whom section 54 has applied. 5
- (4) If M is a person excepted from section 1 of the House of Lords Act 1999 (c. 34) by virtue of section 2 of that Act—
- (a) M shall no longer be excepted from section 1 of the 1999 Act, and
  - (b) if M counted towards the limit under section 2(2) of the 1999 Act, that limit is reduced by one. 10
- (5) If M is not such a person, M ceases to be disqualified by virtue of M’s peerage (or dignity) for—
- (a) voting at elections to the House of Commons, or
  - (b) being, or being elected as, a member of that House.
- (6) In relation to M, any reference in section 1(3) or (4)(b) of the Representation of the People Act 1985 (c. 50) to a register of parliamentary electors is to be read as including—
- (a) any register of local government electors in Great Britain, and
  - (b) any register of local electors in Northern Ireland,
- which was required to be published on any date before the notice is given. 20
- (7) If, after the notice is given, a peerage under the Life Peerages Act 1958 (c. 21) is conferred on M, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage.
- (8) If, after the notice is given, M becomes the person who is to hold the office of Earl Marshal or perform the office of Lord Great Chamberlain, subsection (2) above does not stop M being entitled to receive writs of summons to attend the House of Lords by virtue of the peerage that led to M becoming the person who is to hold or perform the office in question. 25
- (9) A person to whom regulation 4 of the European Parliament (House of Lords Disqualification) Regulations 2008 (S.I. 2008/1647) applies is to be treated as a member of the House of Lords for the purposes of this section. 30

## PART 7

### PUBLIC ORDER

#### 61 Demonstrations etc in the vicinity of Parliament

- (1) Omit sections 132 to 138 of the Serious Organised Crime and Police Act 2005 (c. 15) (which regulate demonstrations in the vicinity of Parliament). 35
- (2) Schedule 9 (which inserts new powers into Part 2 of the Public Order Act 1986 (c. 64) etc) has effect.

## PART 8

### HUMAN RIGHTS CLAIMS AGAINST DEVOLVED ADMINISTRATIONS

#### **62 Time limit for human rights actions against Scottish Ministers etc**

- |  |    |
|--|----|
| (1) In section 100 of the Scotland Act 1998 (c. 46) the following (as inserted by the Convention Rights Proceedings (Amendment) (Scotland) Act 2009 (asp 11)) are omitted –  | 5  |
| (a) subsections (3A) to (3E);  |    |
| (b) in subsection (4), the words “Subject to subsection (3D),”.  |    |
| (2) The Convention Rights Proceedings (Amendment) (Scotland) Act 2009 is repealed.   | 10 |
| (3) Omit paragraph 4A of Schedule 4 to the Scotland Act 1998.  |    |
| (4) The Scotland Act 1998 (Modification of Schedule 4) Order 2009 (S.I. 2009/1380 (S.8)) is revoked.   |    |
| (5) Subsections (1) to (4) above do not apply to any proceedings brought before this section comes into force.   | 15 |
| (6) After subsection (3) of section 100 of the Scotland Act 1998 insert –  |    |
| “(3A) Subsection (3B) applies to any proceedings brought by virtue of this Act against the Scottish Ministers or a member of the Scottish Executive in a court or tribunal on the ground that an act of the Scottish Ministers or a member of the Scottish Executive is incompatible with the Convention rights. | 20 |
| (3B) Proceedings to which this subsection applies must be brought before the end of –  |    |
| (a) the period of one year beginning with the date on which the act complained of took place, or   | 25 |
| (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances,  |    |
| but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.   |    |
| (3C) Subsection (3B) does not apply to proceedings brought by the Lord Advocate, the Advocate General, the Attorney General, the Attorney General for Northern Ireland or the Advocate General for Northern Ireland.   | 30 |
| (3D) In subsections (3A) and (3B) “act” does not include the making of any legislation but it does include any other act or failure to act (including a failure to make legislation).  | 35 |
| (3E) In subsection (3B) “rule” has the same meaning as it has in section 7(5) of the Human Rights Act 1998.”   |    |
| (7) In subsection (4) of that section at the beginning insert “Subject to subsection (3D),”.   | 40 |
| (8) Subsections (6) and (7) above apply to any proceedings brought after this section comes into force (including proceedings in respect of an act taking place before this section comes into force).   |    |

**63 Time limit for human rights actions against Northern Ireland Ministers etc**

- (1) After section 71(2C) of the Northern Ireland Act 1998 (c. 47) (human rights) insert –
- “(2D) Section 24(1)(a) does not enable a person to bring any proceedings in a court or tribunal in respect of an act unless the proceedings are brought before the end of –
- (a) the period of one year beginning with the date on which the act took place, or
  - (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances,
- but that is subject to any rule imposing a stricter time limit in relation to the procedure in question. 5
- (2E) Subsection (2D) does not apply to –
- (a) proceedings brought on the ground that any subordinate legislation made, confirmed or approved by a Minister or a Northern Ireland department is incompatible with the Convention rights; 15
  - (b) proceedings brought by a person mentioned in subsection (2).
- (2F) In subsection (2D) “rule” has the same meaning as it has in section 7(5) of the Human Rights Act 1998.” 20
- (2) This section applies to any proceedings brought after this section comes into force (including proceedings in respect of an act taking place before this section comes into force).

**64 Time limit for human rights actions against Welsh Ministers etc**

- (1) Section 81 of the Government of Wales Act 2006 (c. 32) is amended as set out in subsections (2) and (3). 25
- (2) After subsection (3) insert –
- “(3A) Subsection (1) does not enable a person to bring any proceedings in a court or tribunal in respect of an act unless the proceedings are brought before the end of –
- (a) the period of one year beginning with the date on which the act took place, or
  - (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances,
- but that is subject to any rule imposing a stricter time limit in relation to the procedure in question. 30
- (3B) Subsection (3A) does not apply to –
- (a) proceedings brought on the ground that any subordinate legislation made, confirmed or approved by the Welsh Ministers is incompatible with the Convention rights; 40
  - (b) proceedings brought by a person mentioned in subsection (3).
- (3C) In subsection (3A) “rule” has the same meaning as it has in section 7(5) of the Human Rights Act 1998.”
- (3) In subsection (5) after “Ministers” insert “(and in subsection (3B)(a) the reference to the Welsh Ministers is to be read accordingly)”. 45

- (4) Subsections (3A) to (3C) of section 81 of the Government of Wales Act 2006 (c. 32) apply in relation to section 107(1) of the Government of Wales Act 1998 (c. 38) (so far as proceedings may be brought by virtue of it despite its repeal) as those subsections apply in relation to section 81(1) of the 2006 Act.
- (5) This section applies to any proceedings brought after this section comes into force (including proceedings in respect of an act taking place before this section comes into force). 5

## PART 9

### COURTS AND TRIBUNALS

- 65 Judicial appointments etc** 10
- Schedule 10 (which makes amendments relating to judicial appointments etc) has effect.
- 66 Salary protection for members of tribunals**
- (1) This section applies if, in accordance with the terms of a person's appointment, the person is to be paid a salary (as opposed to fees) under any of the following provisions. 15
- (2) The provisions are –
- (a) section 5(1)(a), (b) or (c) of the Employment Tribunals Act 1996 (c. 17);
  - (b) paragraph 10 of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (c. 15); 20
  - (c) paragraph 5(2) of Schedule 2 to that Act;
  - (d) paragraph 5(2) of Schedule 3 to that Act;
  - (e) paragraph 3(2), 5(10) or 6(6) of Schedule 4 to that Act.
- (3) The Secretary of State (with the consent of the Treasury as required) or the Lord Chancellor (as the case may be) – 25
- (a) must, under the provision in question, determine the amount of the salary to be paid to the person and pay it accordingly;
  - (b) may, under the provision in question, determine increases, but not reductions, in the salary.
- 67 Salary protection for office holders in Northern Ireland** 30
- (1) A person's salary determined under any of the following provisions may be increased, but not reduced, by further determinations.
- (2) The provisions are –
- (a) section 106(1) of the County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.)); 35
  - (b) section 12(1) of the Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.)) as it applies in relation to persons appointed under section 9(1) of that Act.
- (3) Subsection (5) applies if, in accordance with the terms of a person's appointment, the person is to be paid a salary (as opposed to fees) under any of the following provisions. 40

- (4) The provisions are—
- (a) section 2(1) of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)) as it applies in relation to the remuneration of coroners (but not deputy coroners);
  - (b) section 70 of the Judicature (Northern Ireland) Act 1978 (c. 23); 5
  - (c) paragraph 2 of Schedule 4 to the Child Support Act 1991 (c. 48) as it applies in relation to persons appointed under section 23(1) of that Act;
  - (d) paragraph 7 of Schedule 2 to the Social Security Administration (Northern Ireland) Act 1992 (c. 8) as it applies in relation to persons appointed under section 50(1) of that Act. 10
- (5) Under the provision in question the person’s salary—
- (a) must be determined and paid accordingly;
  - (b) may be increased, but not reduced, by further determinations.

## PART 10

### NATIONAL AUDIT 15

#### *The Comptroller and Auditor General*

#### **68 The office of the Comptroller and Auditor General**

- (1) The office of the Comptroller and Auditor General is to continue.
- (2) In Welsh the office is called Y Rheolwr ac Archwilydd Cyffredinol.
- (3) It is for Her Majesty by Letters Patent to appoint a person to the office. 20
- (4) Her Majesty’s power is exercisable on an address of the House of Commons.
- (5) It is for the Prime Minister to move the motion for the address.
- (6) To do so the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (7) The person appointed holds the office for ten years. 25
- (8) The person may not be appointed again.

#### **69 Status of the Comptroller and Auditor General etc**

- (1) The Comptroller and Auditor General continues by that name to be a corporation sole.
- (2) The Comptroller and Auditor General continues to be an officer of the House of Commons. 30  
(But section 4(4) of the House of Commons (Administration) Act 1978 (c. 36) does not apply in relation to the office of the Comptroller and Auditor General.)
- (3) The person who is the Comptroller and Auditor General must not be a member of the House of Lords. 35
- (4) The Comptroller and Auditor General is not to be regarded—
  - (a) as the servant or agent of the Crown, or

- (b) as enjoying any status, immunity or privilege of the Crown.
- (5) The person who is the Comptroller and Auditor General must not hold any other office or position for which the person is appointed or recommended by or on behalf of the Crown.
- (6) The Comptroller and Auditor General has complete discretion in the carrying out of the office's functions, including in determining whether to carry out an examination under Part 2 of the National Audit Act 1983 (c. 44) and as to the manner in which any such examination is carried out. 5
- (7) Subsection (6) is subject to any other statutory provision.
- (8) For provision that affects the carrying out of the Comptroller and Auditor General's functions, see (in particular) – 10
- (a) section 74 and Schedule 11, which provide for the establishment of a body corporate called the National Audit Office and for the Comptroller and Auditor General to be one of the body's nine members and its chief executive; 15
- (b) section 75 and Schedule 12, which deal with the interaction between the National Audit Office and the Comptroller and Auditor General and which (among other things) –
- (i) require the National Audit Office and the Comptroller and Auditor General to prepare a strategy for their functions and to give effect to that strategy; 20
- (ii) require the National Audit Office to provide resources for the Comptroller and Auditor General's functions;
- (iii) require the Comptroller and Auditor General to obtain the approval of the National Audit Office before providing certain services; 25
- (iv) require the National Audit Office to monitor the carrying out of the Comptroller and Auditor General's functions;
- (v) require the National Audit Office to provide advice to the Comptroller and Auditor General and the Comptroller and Auditor General to have regard to that advice; 30
- (vi) require the National Audit Office and the Comptroller and Auditor General to prepare a code of practice dealing with their relationship and to comply with it;
- (c) section 77, which places requirements on the Comptroller and Auditor General in relation to efficiency etc; 35
- (d) section 7A of the National Audit Act 1983, which requires the Comptroller and Auditor General to have regard to certain proposals made by the Committee of Public Accounts.
- 70 Provision of services 40**
- The Comptroller and Auditor General may provide services to any person in any place within or outside the United Kingdom under agreements or other arrangements entered into by the Comptroller and Auditor General.
- 71 Remuneration package of the Comptroller and Auditor General**
- (1) The person ("P") who is the Comptroller and Auditor General is to receive a remuneration package. 45

- (2) P's package may include –
  - (a) an annual salary, allowances, arrangements for a pension and other benefits;
  - (b) a formula or other mechanism for adjusting one or more elements of P's package from time to time. 5
- (3) In relation to arrangements for a pension, P's package may provide that the principal civil service pension scheme (as defined in section 2(10) of the Superannuation Act 1972 (c. 11)) is to apply to P's service as Comptroller and Auditor General as if it were service in employment in the civil service of the State (and the principal civil service pension scheme is to apply accordingly). 10
- (4) No element of P's package is to be performance based.
- (5) P's package is to be determined jointly by the Prime Minister and the person who chairs the Committee of Public Accounts before the start of P's appointment.
- (6) Amounts required for providing P's package are to be charged on and paid out of the Consolidated Fund. 15
- (7) The Treasury may, by statutory instrument, make regulations for purposes supplementary to this section so far as it relates to arrangements for pensions.
- (8) Regulations under subsection (7) may provide for a statutory provision not to apply, or to apply with modifications, in relation to arrangements for a pension included in a remuneration package, including, in the case of a remuneration package that makes provision within subsection (3), for the principal civil service pension scheme to apply with modifications. 20
- (9) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons. 25

## **72 Resignation or removal of the Comptroller and Auditor General**

- (1) The person who is the Comptroller and Auditor General may resign from office by giving written notice to the Prime Minister.
- (2) Her Majesty may remove from office the person who is the Comptroller and Auditor General on an address of both Houses of Parliament. 30

## **73 Employment etc of a former Comptroller and Auditor General**

- (1) This section applies to a person ("P") who was appointed to the office of the Comptroller and Auditor General under this Part but who no longer holds that office.
- (2) Before –
  - (a) taking up an office or position, or
  - (b) entering into an agreement or other arrangements,of a specified description, P must consult the specified person about the office, position, agreement or arrangements. 35
- (3) "Specified" means specified from time to time by the Commission. 40
- (4) Subsections (5) and (6) apply for the period of two years starting with the day after the day on which P ceased to be the Comptroller and Auditor General.

- (5) P must not –
- (a) hold an office or position for which P is appointed or recommended by or on behalf of the Crown, or
  - (b) be a member, director, officer or employee of a body or other person whose accounts are required by a statutory provision to be audited or examined by, or to be open to the inspection of, the Comptroller and Auditor General. 5
- (6) P must not, in any capacity, provide services to –
- (a) the Crown or any body or other person acting on behalf of the Crown;
  - (b) a body or other person whose accounts are required by a statutory provision to be audited or examined by, or to be open to the inspection of, the Comptroller and Auditor General. 10
- (7) But subsections (5) and (6) do not stop P from holding any of the following offices –
- (a) the Auditor General for Scotland; 15
  - (b) the Auditor General for Wales;
  - (c) the Comptroller and Auditor General for Northern Ireland.

*The National Audit Office*

**74 Incorporation of the National Audit Office**

- (1) There is to be a body corporate called the National Audit Office. 20
- (2) In Welsh it is called Y Swyddfa Archwilio Genedlaethol.
- (3) In this Part “NAO” means the National Audit Office.
- (4) Schedule 11 (which is about NAO) has effect.

**75 Interaction between NAO and the Comptroller and Auditor General**

Schedule 12 (which is about the interaction between NAO and the Comptroller and Auditor General) has effect. 25

**76 NAO’s expenditure**

- (1) NAO’s expenditure is to be paid out of money provided by Parliament.  
(But see sections 71(6) and 78(1) and paragraph 6(2) of Schedule 11.)
- (2) For each financial year, NAO and the Comptroller and Auditor General must jointly prepare an estimate of NAO’s use of resources. 30
- (3) This must cover (in particular) the resources required for the purposes of paragraph 2(1) of Schedule 12 (which requires NAO to provide resources for the Comptroller and Auditor General’s functions).
- (4) The chair of NAO and the Comptroller and Auditor General must jointly submit the estimate to the Commission. 35
- (5) The Commission must –
  - (a) review the estimate, and

- (b) lay it before the House of Commons with the modifications (if any) the Commission thinks appropriate.
- (6) In doing this the Commission must have regard to any advice given by the Committee of Public Accounts or the Treasury.

*Other matters* 5

**77 Efficiency etc**

- (1) NAO and the Comptroller and Auditor General must aim to do things efficiently and cost-effectively.
- (2) The Comptroller and Auditor General must, as the Comptroller and Auditor General thinks appropriate, have regard to the standards and principles that an expert professional provider of accounting or auditing services would be expected to apply. 10

**78 Indemnification**

- (1) There is to be charged on and paid out of the Consolidated Fund, any amount payable by an indemnified person in consequence of any liability for breach of duty (whether under a contract or otherwise) incurred by an indemnified person in relation to any audit, examination or inspection carried out as part of the Comptroller and Auditor General’s functions. 15
- (2) The liability must not be to another indemnified person.
- (3) The following are indemnified persons – 20
  - (a) the Comptroller and Auditor General;
  - (b) NAO;
  - (c) a past or present member of NAO;
  - (d) a past or present employee of NAO.

**79 Definitions** 25

- (1) In this Part –
  - “the Commission” means the Public Accounts Commission;
  - “function” includes power or duty;
  - “NAO” is defined in section 74(3);
  - “statutory provision” means a provision of an Act or subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978 (c. 30)) (whenever passed or made);
  - “use of resources” is to be read in accordance with section 27 of the Government Resources and Accounts Act 2000 (c. 20).30
- (2) For the purposes of this Part each of the following is a financial year – 35
  - (a) the period which begins with the appointed day and ends with the following 31 March;
  - (b) each successive period of 12 months.
- (3) In subsection (2)(a) “the appointed day” means the day appointed for the purposes of subsection (2)(a) by an order made by the Treasury by statutory instrument. 40

- (4) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Part as it applies for the purposes of that Act.

## 80 Transitional provision and consequential amendments

- (1) Schedule 13 (which contains transitional provision) has effect. 5
- (2) Schedule 14 (which contains amendments consequential on this Part) has effect.

## 81 Power to make Companies Act companies subject to audit of Comptroller and Auditor General

After section 25(10) of the Government Resources and Accounts Act 2000 (c. 20) insert— 10

“(11) Subsection (10)(c) does not apply to an order under subsection (6) if the only bodies covered by the order are bodies which are companies as defined in section 1(1) of the Companies Act 2006.

See sections 475 and 482 of that Act for provision about the interaction between Part 16 of that Act (audit) and orders under subsection (6). 15

- (12) An order to which subsection (10)(c) does not apply by virtue of subsection (11) is subject to annulment in pursuance of a resolution of either House of Parliament.”

## 82 Powers of National Assembly for Wales: Auditor General for Wales 20

- (1) Schedule 5 to the Government of Wales Act 2006 (c. 32) is amended as follows.
- (2) In Part 1, under Field 14, insert—

“*Matter 14.1*

- (1) The following aspects of the Auditor General’s terms of appointment— 25

- (a) the period of the appointment;
- (b) salary, allowances and superannuation benefits;
- (c) pensions and gratuities payable after a person has ceased to hold the office.

- (2) The number of times a person may be appointed to the office of Auditor General. 30

- (3) Restrictions on the other offices and positions which may be held by the person who is the Auditor General; activities of a person who has held the office of Auditor General (but no longer does).

- (4) Provision requiring the Auditor General— 35

- (a) to aim to do things efficiently and cost-effectively;
- (b) to have regard, as the Auditor General thinks appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to apply. 40

- 
- (5) The authorisation of persons to exercise functions of the Auditor General on the Auditor General’s behalf (including during a vacancy in the office).
- (6) The oversight or supervision of the Auditor General or of the exercise of the Auditor General’s functions. 5
- (7) The provision or use of resources for the purposes of the Auditor General’s functions including (in particular) –
- (a) the employment and use of staff;
  - (b) the procurement and use of services;
  - (c) the holding of documents or information; 10
  - (d) the keeping of records.
- (8) The charging of fees or other amounts in relation to functions of –
- (a) the Auditor General, or
  - (b) auditors appointed by the Auditor General under enactments. 15
- (9) The restatement of any law relating to the Auditor General.”
- (3) In Part 2, after paragraph 6, insert –
- “6A (1) This paragraph applies to a provision of an Assembly Measure which –
- (a) is a matter 14.1 provision; 20
  - (b) provides for the enforcement of a matter 14.1 provision or is otherwise appropriate for making a matter 14.1 provision effective;
  - (c) is otherwise incidental to, or consequential on, a matter 14.1 provision. 25
- “Matter 14.1 provision” means a provision which relates to matter 14.1.
- (2) The following provisions do not apply in relation to a provision to which this paragraph applies –
- (a) paragraph 3 so far as it applies in relation to sections 145, 145A and 146A(1) of the Government of Wales Act 1998; 30
  - (b) paragraph 6(1).
- (3) Subject to sub-paragraph (4), a provision to which this paragraph applies cannot –
- (a) modify or confer power by subordinate legislation to modify paragraph 3 of Schedule 8, or 35
  - (b) give or confer power by subordinate legislation to give any role to a committee of the Assembly.
- (4) Sub-paragraph (3) does not limit any role which may be given to a committee of the Assembly which meets the requirements in sub-paragraph (5) (whether established by virtue of a provision to which this paragraph applies or otherwise). 40
- (5) The requirements are –
- (a) none of the following may be a member of the committee – 45
    - (i) the First Minister or any person designated to exercise functions of the First Minister;

- (ii) a Welsh Minister appointed under section 48;
- (iii) the Counsel General or any person designated to exercise the functions of the Counsel General;
- (iv) a Deputy Welsh Minister;
- (b) the committee must not be chaired by an Assembly member who is a member of a political group with an executive role.” 5
- (4) In section 94(6)(a) of, and paragraph 6Z of Schedule 5 to, the Government of Wales Act 2006 (c. 32) for “paragraphs 1 to 6” substitute “paragraphs 1 to 6A”.

## PART 11

### TRANSPARENCY OF GOVERNMENT FINANCIAL REPORTING TO PARLIAMENT 10

#### **83 Inclusion in departmental estimates of resources used by designated bodies**

- (1) The Government Resources and Accounts Act 2000 (c. 20) is amended as follows.
- (2) After section 4 insert –

*“Departmental estimates”* 15

#### **4A Inclusion in departmental estimates of resources used by designated bodies**

- (1) An estimate for a government department for approval by the House of Commons in respect of a financial year must be prepared in accordance with directions issued by the Treasury. 20
- (2) The Treasury may direct that the estimate is to include information relating to resources expected to be used by any body that is a designated body in relation to the department.
- (3) For the purposes of this section a body is a “designated” body in relation to a government department if – 25
  - (a) it is designated in relation to the department by an order made by the Treasury, or
  - (b) it falls within a description of body designated in relation to the department by such an order.
- (4) A body, or a description of body, may be designated in relation to a government department for a particular financial year or generally. 30
- (5) Subsections (6) and (7) apply if the Treasury –
  - (a) expect the use of resources by a body in a financial year to involve payments out of a devolved Consolidated Fund to or for the benefit of the body, but 35
  - (b) do not expect the use of resources by the body in the year to involve payments out of the Consolidated Fund of the United Kingdom to or for the benefit of the body.
- (6) If an order is in force under which the body would (but for this subsection) be a designated body for the year in relation to a government department – 40

- (a) the Treasury must notify the department that the conditions in subsection (5) are met in the case of the body for the year, and
  - (b) the body is to be treated as if it were not designated for the year in relation to the department.
- (7) If no such order is in force, the Treasury may not make one. 5
- (8) Before designating a body, or a description of body, the Treasury must, where they think it appropriate, consult –
  - (a) the Scottish Ministers,
  - (b) the Department of Finance and Personnel for Northern Ireland, or
  - (c) the Welsh Ministers. 10
- (9) In determining for any purpose whether a body has a particular relationship with a government department (for example, whether it is controlled by, or otherwise dependent on, the department), the following must be disregarded –
  - (a) the fact that an estimate for the department in respect of a financial year includes information relating to the body, and
  - (b) the fact that the department’s resource accounts for a financial year prepared under section 5 include information relating to the body. 15
- (10) An order under subsection (3) is to be made by statutory instrument.
- (11) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section “a devolved Consolidated Fund” means –
  - (a) the Scottish Consolidated Fund,
  - (b) the Consolidated Fund of Northern Ireland, or
  - (c) the Welsh Consolidated Fund.” 25
- (3) In section 5(1) (resource accounts: preparation), for paragraphs (a) and (b) substitute –
  - “(a) resources acquired, held or disposed of during the year by –
    - (i) the department, or
    - (ii) any body that is a designated body under section 4A in relation to the department for the year, and
  - (b) the use of resources during the year by the department or any such body.” 30
- (4) In section 6(1) (resource accounts: scrutiny by the Comptroller and Auditor General), for paragraph (d) substitute –
  - “(d) that –
    - (i) the financial transactions of the department, and
    - (ii) the financial transactions of any body that is a designated body under section 4A in relation to the department for the year in question,are in accordance with any relevant authority.” 35
- (4) In section 6(1) (resource accounts: scrutiny by the Comptroller and Auditor General), for paragraph (d) substitute –
  - “(d) that –
    - (i) the financial transactions of the department, and
    - (ii) the financial transactions of any body that is a designated body under section 4A in relation to the department for the year in question,are in accordance with any relevant authority.” 40

## 84 Corresponding provision in relation to Wales

- (1) Part 5 of the Government of Wales Act 2006 (c. 32) (finance) is amended as follows.
- (2) After section 126 insert—
  - “126A Inclusion in Budget motions of resources used by designated bodies** 5
  - (1) A Budget motion for a financial year may include information relating to resources expected to be used by any body that is a designated body in relation to a relevant person.
  - (2) For the purposes of this section a body is a “designated” body in relation to a relevant person if— 10
    - (a) it is designated in relation to the relevant person by an order made by the Welsh Ministers, or
    - (b) it falls within a description of body designated in relation to the relevant person by such an order.
  - (3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally. 15
  - (4) If the Welsh Ministers expect the use of resources by a body in a financial year to involve payments out of a relevant Consolidated Fund to or for the benefit of the body, they may not make an order under which the body would be a designated body for the year unless the Treasury have consented to the making of the order. 20
  - (5) “A relevant Consolidated Fund” means— 25
    - (a) the Consolidated Fund of the United Kingdom,
    - (b) the Scottish Consolidated Fund, or
    - (c) the Consolidated Fund of Northern Ireland.
  - (6) The Welsh Ministers must, where they think it appropriate, consult the Treasury before designating a body or a description of body.
  - (7) In determining for any purpose whether a body has a particular relationship with a relevant person (for example, whether it is controlled by, or otherwise dependent on, the person), the following must be disregarded— 30
    - (a) the fact that the provisions of a Budget motion relating to the relevant person in respect of a financial year include information relating to the body, and
    - (b) the fact that the relevant person’s accounts for a financial year prepared under this or any other Act include information relating to the body. 35
  - (8) An order under subsection (2) is to be made by statutory instrument.
  - (9) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of the National Assembly for Wales. 40
  - (10) But subsection (9) does not apply if a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (3) Schedule 8 (Auditor General for Wales) is amended as follows. 45

- (4) In paragraph 13 (accounts of Auditor General), after sub-paragraph (1) insert –  
“(1A) The directions which the Treasury may give under sub-paragraph (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Auditor General.”
- (5) In paragraph 15 (audit of accounts of Auditor General) – 5  
(a) in sub-paragraph (5)(b) –  
(i) for “the Auditor General”, in the first place, substitute “a relevant person”; and  
(ii) for “the Auditor General”, in the second place, substitute “the relevant person”; and 10  
(b) after sub-paragraph (5) insert –  
“(5A) In sub-paragraph (5)(b) “relevant person” means –  
(a) the Auditor General, or  
(b) any person to whose financial affairs and transactions the accounts are to relate by virtue of paragraph 13(1A).” 15
- (6) In paragraph 17(8) (access of Auditor General to documents), after paragraph (b) insert –  
“(ba) in a case within that paragraph relating to any accounts which the Public Services Ombudsman for Wales is directed to prepare under paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, the Ombudsman and any person to whose financial affairs and transactions the accounts are to relate by virtue of sub-paragraph (1A) of that paragraph,”. 20  
25
- (7) In paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (c. 10) (accounts), after sub-paragraph (1) insert –  
“(1A) The directions which the Treasury may give under sub-paragraph (1)(b) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Ombudsman.” 30

## PART 12

### PUBLIC RECORDS AND FREEDOM OF INFORMATION

#### 85 Transfer of records to Public Record Office

- (1) In section 3 of the Public Records Act 1958 (c. 51) (selection and preservation of public records) – 35  
(a) in subsection (4) (transfer to Public Record Office or to other appointed place of deposit of public records selected for permanent preservation), for “thirty years” substitute “20 years”, and  
(b) after that subsection insert –  
“(4A) Until the end of the period of 10 years beginning with the commencement of section 85 of the Constitutional Reform and Governance Act 2010, subsection (4) has effect subject to any order made under subsection (2) of that section.” 40

- (2) The Lord Chancellor may by order make transitional, transitory or saving provision in connection with the coming into force of subsection (1)(a).
- (3) An order under subsection (2) may in particular –
- (a) provide for the time within which any records are to be transferred to the Public Record Office or other place of deposit referred to in section 3(4) of the Public Records Act 1958, and
  - (b) make different provision in relation to records of different descriptions.
- (4) An order under this section is to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

## 86 Freedom of information

Schedule 15 (which makes amendments of the Freedom of Information Act 2000 (c. 36)) has effect.

### PART 13

#### MISCELLANEOUS AND FINAL PROVISIONS

## 87 Section 3 of the Act of Settlement

- (1) For the avoidance of doubt, the repeal in section 18(7) of the Electoral Administration Act 2006 (c. 22) of the entry in Schedule 7 to the British Nationality Act 1981 (c. 61) (entry which modified certain disqualifications imposed by section 3 of the Act of Settlement (1700 c. 2)) applied only so far as the modification made by that entry related to –
- (a) membership of the House of Commons, or
  - (b) anything from which a person is disqualified by virtue of a disqualification from membership of that House.
- (2) Section 3 of the Act of Settlement has effect accordingly, and has done so since the coming into force of section 18 of the Electoral Administration Act 2006.

## 88 Referendums: person may not be “responsible person” for more than one permitted participant

- (1) Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (referendums) is amended as follows.
- (2) In section 105 (permitted participants), in subsection (1)(b)(i), after “(as defined by section 54(8))” insert “who is not the responsible person, in relation to the referendum, for another permitted participant”.
- (3) In section 106 (declarations and notifications for purposes of section 105), after subsection (4) insert –
- “(4A) A declaration made or notification given by a body in relation to a particular referendum does not comply with the requirement in subsection (2)(b) or (4)(b)(ii) (to state the name of the person who will be responsible for compliance) if the person whose name is stated –
- (a) is already the responsible person for a permitted participant in relation to the referendum,

- (b) is an individual who gives a notification under subsection (3) in relation to the referendum at the same time, or
- (c) is the person whose name is stated, in purported compliance with the requirement in subsection (2)(b) or (4)(b)(ii), in a notification given in relation to the referendum at the same time by another body. 5

In this subsection “the person”, in relation to a body other than a minor party, is to be read as “the person or officer”.

## 89 Referendums: expenses incurred by persons acting in concert

- (1) Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (referendums) is amended as follows. 10
- (2) In section 118 (special restrictions on referendum expenses by permitted participants), in subsection (4), after “for the purposes of this section,” insert “section 118A,”.
- (3) After that section insert – 15

### “118A Referendum expenses incurred by persons acting in concert

- (1) This section applies where –
  - (a) any referendum expenses are incurred by or on behalf of an individual or body during the referendum period for a referendum to which this Part applies, and 20
  - (b) the expenses are so incurred in pursuance of a plan or other arrangement whereby referendum expenses are to be incurred by or on behalf of –
    - (i) that individual or body, and
    - (ii) one or more other individuals or bodies, 25respectively with a view to, or otherwise in connection with, promoting or procuring one particular outcome in relation to any question asked in the referendum.
- (2) The expenses mentioned in subsection (1)(a) shall be treated for the purposes of – 30
  - (a) section 117,
  - (b) section 118 and Schedule 14, and
  - (c) sections 120 to 123,as having also been incurred, during the referendum period, by or on behalf of the other individual or body (or, as the case may be, each of the other individuals or bodies) mentioned in subsection (1)(b)(ii). 35
- (3) This section applies whether or not any of the individuals or bodies in question is a permitted participant.”

## 90 Parliamentary elections: counting of votes

- (1) Schedule 1 to the Representation of the People Act 1983 (c. 2) (parliamentary elections rules) is amended as follows. 40
- (2) In rule 44 (attendance at counting of votes) after paragraph (5) insert –
  - “(6) In making arrangements under this rule, the returning officer shall have regard to the duty imposed on him by rule 45(3A) below.”

- (3) In rule 45 (the count) –
- (a) after paragraph (3) insert –
- “(3A) The returning officer shall take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within the period of four hours starting with the close of the poll.”;
- (b) after paragraph (7) insert –
- “(8) The Electoral Commission shall issue guidance to returning officers on the duty imposed by paragraph (3A) above.”
- (4) After rule 53 insert –
- “Counting of votes: statement by returning officer*
- 53ZA(1) In a contested election, if the counting of the votes given on the ballot papers did not begin within the period specified in rule 45(3A) above, the returning officer shall before the expiry of the period of 30 days starting with the day on which the poll closed –
- (a) prepare and publish a statement giving the information specified in paragraph (2) below, and
- (b) deliver it to the Electoral Commission.
- (2) The statement must –
- (a) specify the time at which the counting of the votes given on the ballot papers began,
- (b) describe the steps taken under rule 45(3A) above, and
- (c) explain why the counting of the votes given on the ballot papers did not start within the period specified in rule 45(3A) above.
- (3) Where a statement is delivered to the Electoral Commission under paragraph (1)(b) above, the Commission shall specify in any election report they produce that a statement has been delivered to them under that paragraph in respect of the constituency to which the statement relates.
- (4) In paragraph (3) above “election report” means a report under section 5(1) or (2A) of the Political Parties, Elections and Referendums Act 2000 in relation to the parliamentary election in question.”
- 91 Electoral Commission accounts in relation to specified matters**
- (1) Schedule 1 to the Political Parties, Elections and Referendums Act 2000 (c. 41) (the Electoral Commission) is amended as follows.
- (2) For sub-paragraph (2) of paragraph 17 substitute –
- “(2) The Commission –
- (a) shall prepare accounts for each financial year, and
- (b) if directed to do so by the Treasury, shall prepare accounts in relation to any matter specified in the direction.”
- (3) In sub-paragraph (3) of paragraph 17, for the words from the beginning to “sub-paragraph (2)” substitute “Accounts under sub-paragraph (2) shall be

- prepared in accordance with directions given to the Commission by the Treasury.  
Directions under this sub-paragraph may”.
- (4) In sub-paragraph (1) of paragraph 18 –
- (a) for “for any financial year” substitute “under paragraph 17”;
  - (b) for the words from “after” to the end substitute “as may be practicable after the end of the financial year to which the accounts relate or, in the case of accounts prepared in pursuance of a direction under paragraph 17(2)(b), the giving of the direction.”
- 92 Meaning of “Minister of the Crown”**
- In this Act “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26).
- 93 Financial provision**
- There is to be paid out of money provided by Parliament –
- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
  - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- 94 Power to make consequential provision**
- (1) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make such provision as the Minister or Ministers consider appropriate in consequence of any provision of this Act.
- (2) An order under subsection (1) may –
- (a) amend, repeal or revoke any existing statutory provision;
  - (b) include supplementary, incidental, transitional, transitory or saving provision.
- (3) “Existing statutory provision” means –
- (a) a provision of an Act passed on or before the last day of the Session in which this Act is passed;
  - (b) a provision of subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978 (c. 30)) made on or before that day.
- (4) An order under subsection (1) is to be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (1) which amends or repeals a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing an order under subsection (1) which does not amend or repeal a provision of an Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- 95 Extent, commencement, transitional provision and short title**
- (1) Part 7 of this Act extends to England and Wales only.

- (2) An amendment or repeal contained in any other Part of this Act has the same extent as the Act or instrument or relevant part of the Act or instrument to which the amendment or repeal relates (ignoring extent by virtue of an Order in Council).
- (3) This Act comes into force on such day as a Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order appoint; and different days may be appointed for different purposes. 5
- (4) Subsection (3) does not apply to the following provisions of this Act (which accordingly come into force on the day this Act is passed) – 10
- (a) sections 29 and 31;
  - (b) section 59;
  - (c) section 60 (and section 57, so far as applied by that section);
  - (d) the provisions of this Part other than section 91.
- (5) A Minister of the Crown, or two or more Ministers of the Crown acting jointly, may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act. 15
- (6) An order under subsection (3) or (5) is to be made by statutory instrument.
- (7) This Act may be cited as the Constitutional Reform and Governance Act 2010.

## SCHEDULES

### SCHEDULE 1

Section 2

#### THE CIVIL SERVICE COMMISSION

##### PART 1

#### THE COMMISSIONERS

5

##### *Membership of the Commission*

- 1 (1) The Commission is to consist of at least seven members.
- (2) One of those is to be the First Civil Service Commissioner appointed under paragraph 2.
- (3) The others are to be Civil Service Commissioners appointed under paragraph 3. 10

##### *Appointment of First Civil Service Commissioner*

- 2 (1) This paragraph is about the appointment of the First Civil Service Commissioner (“First Commissioner”).
- (2) The First Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service. 15
- (3) A person’s selection for recommendation must be on merit on the basis of fair and open competition.
- (4) Before selecting a person, the Minister must consult –
  - (a) the First Ministers for Scotland and Wales, and
  - (b) the relevant opposition leaders (see sub-paragraph (8)).20
- (5) The terms on which the First Commissioner holds office are determined by the Minister for the Civil Service.
- (6) The period of the appointment is to be no more than five years.
- (7) A person cannot be appointed as First Commissioner more than once. 25
- (8) The relevant opposition leaders are the registered leaders of the registered parties in opposition to Her Majesty’s Government in the United Kingdom which had the highest and second highest national vote at the previous parliamentary general election.
- (9) In sub-paragraph (8) – 30

“registered leader”, in relation to a party, means the person registered as that party’s leader in accordance with section 24 of the Political Parties, Elections and Referendums Act 2000 (c. 41);

“registered party” means a party registered in a register of political parties maintained by the Electoral Commission in accordance with section 23 of that Act.

5

#### *Appointment of Civil Service Commissioners*

3 (1) This paragraph is about the appointment of Civil Service Commissioners (“Commissioners”).

(2) A Commissioner is appointed by Her Majesty on the recommendation of the Minister for the Civil Service.

10

(3) A person’s selection for recommendation must be on merit on the basis of fair and open competition.

(4) A person must not be selected without the agreement of the First Commissioner.

15

(5) The terms on which a Commissioner holds office are determined by the Minister.

(6) The period of the appointment is to be no more than five years.

(7) The Minister must not make a determination under sub-paragraph (5) without the agreement of the First Commissioner.

20

(8) A person cannot be appointed as a Commissioner more than once.

(9) A person cannot be a Commissioner and the First Commissioner at the same time.

(10) But, if the office of First Commissioner is vacant, the Minister may authorise a Commissioner to carry out the functions of First Commissioner until the vacancy is filled.

25

(11) Sub-paragraphs (12) and (13) apply in relation to the appointment as Commissioner of a person holding another public office (including an office under the Crown) if the Minister and the First Commissioner are both satisfied that the functions of the other public office are concerned with matters similar to matters with which the Commission’s functions are concerned.

30

(12) The Minister and the First Commissioner may agree to disapply sub-paragraph (3) or (6).

(13) The terms determined under sub-paragraph (5) may –

35

(a) provide for the person to cease to hold office as Commissioner if the person ceases to hold the other public office;

(b) restrict the functions that the person may carry out as Commissioner.

#### *Payment of remuneration and allowances etc*

4 (1) The terms mentioned in paragraph 2(5) or 3(5) may provide for the Commission –

40

(a) to pay remuneration and allowances to the person appointed;

(b) to make provision for a pension in relation to that person.

(2) The Commission must make the payments or provision accordingly.

*Resignation or removal from office*

- 5 (1) This paragraph is about resignation or removal from the office of First Commissioner or Commissioner. 5
- (2) A person may resign from office by giving written notice to the Minister for the Civil Service.
- (3) Her Majesty may, on the recommendation of the Minister, remove a person from office if a condition in sub-paragraph (4) is met.
- (4) The conditions are that – 10
- (a) the person is absent from three successive meetings of the Commission without the Commission’s approval;
  - (b) the person is convicted of an offence (see sub-paragraph (5));
  - (c) the person becomes bankrupt (see sub-paragraph (6));
  - (d) the person is unfit or unable to carry out the functions of the office. 15
- (5) For the purpose of determining if a person is convicted of an offence – 20
- (a) it does not matter where the person is convicted;
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (6) A person becomes bankrupt if –
- (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person’s estate is sequestrated.

*Compensation for loss of office of First Commissioner or Commission* 25

- 6 The Minister for the Civil Service may direct the Commission to pay compensation if –
- (a) a person ceases to hold office as First Commissioner or Commissioner, and
  - (b) the Minister is satisfied that, because of the circumstances in which the person ceased to hold office, compensation should be paid to the person. 30

PART 2

THE COMMISSION

*Status of the Commission and its property* 35

- 7 (1) The Commission (including its members and employees) is not to be regarded –
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.

- (2) The Commission’s property is not to be regarded as property of, or held on behalf of, the Crown.

*Powers*

- 8 (1) The Commission may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions. 5
- (2) But the Commission may not borrow money except with the agreement of the Minister for the Civil Service.
- (3) Nothing in this Schedule which specifies powers of the Commission limits the generality of sub-paragraph (1).

*Committees* 10

- 9 (1) The Commission may establish committees.
- (2) A committee of the Commission may establish sub-committees.
- (3) Members of a committee or sub-committee may include persons who are not members of the Commission.

*Procedure and proceedings* 15

- 10 (1) The Commission may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) The validity of proceedings of the Commission or a committee or sub-committee is not affected by – 20
- (a) a vacancy among the members, or
- (b) a defect in the appointment of a member.

*Staff*

- 11 The Commission may employ staff.

*Pensions*

- 12 (1) Employment by the Commission is included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) may apply. 25
- (2) The offices of First Commissioner and Commissioner are included among the offices to which such a scheme may apply.
- (3) Accordingly, in Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply) – 30
- (a) at the end of the list of “Royal Commissions and other Commissions” insert “Civil Service Commission”,
- (b) in the list of “Offices” insert, at the appropriate place, “Civil Service Commissioner”, and 35
- (c) in that list the reference to the First Civil Service Commissioner is to be read as a reference to the office of the First Civil Service Commissioner established by this Schedule.

(4) The Commission must pay the Minister for the Civil Service the sums determined by the Minister in relation to any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c. 11).

(5) The payments must be made at the times directed by the Minister. 5

*Arrangements for assistance*

13 (1) The Commission may make arrangements with other persons for the provision of assistance to the Commission.

(2) In particular, arrangements may be made with the Minister for the Civil Service for civil servants to provide assistance. 10

(3) Arrangements may provide for the making of payments by the Commission.

*Delegation*

14 (1) The Commission may delegate functions to –

- (a) any of its members;
- (b) any of its committees; 15
- (c) any of its employees;
- (d) a person with whom arrangements are made under paragraph 13 or a person (including a civil servant) assisting the Commission under such arrangements.

(2) A committee may delegate functions (including functions delegated to it) to a sub-committee. 20

*Financial provisions*

15 (1) The Minister for the Civil Service must pay to the Commission the sums determined by the Minister as appropriate for, or in connection with, the carrying out of the Commission's functions. 25

(2) When making a payment, the Minister may impose conditions –  
(a) about how some or all of the money is to be used;  
(b) requiring the Commission to follow specified procedures in relation to its costs and expenditure.

(3) Before making a determination under sub-paragraph (1) or imposing a condition under sub-paragraph (2), the Minister must consult the Commission. 30

*Accounts*

16 (1) The Commission must keep proper accounts and proper records in relation to them. 35

(2) The Commission must prepare a statement of accounts for each financial year (see paragraph 18).

(3) The statement must give a true and fair view of –  
(a) the state of the Commission's affairs at the end of the financial year, and 40

- (b) the Commission’s income and expenditure and cash flows in the financial year.
- (4) The statement must be in compliance with any directions given by the Minister for the Civil Service with the Treasury’s approval as to—
  - (a) the information to be contained in the statement, 5
  - (b) the manner in which the information is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared.
- (5) The Commission must send the statement to the Minister at such time as the Minister may direct. 10
- (6) The Minister must then send the statement to the Comptroller and Auditor General.
- (7) The Comptroller and Auditor General must—
  - (a) examine, certify and report on the statement, and
  - (b) lay copies of the statement and the report before Parliament (unless it has been arranged for the Minister to do so). 15

### *Reports*

- 17 (1) The Commission—
  - (a) must, as soon as practicable after the end of each financial year (see paragraph 18), prepare a report about the carrying out of its functions during the year, and 20
  - (b) may, in exceptional cases, prepare a report at any other time about any matter relating to the carrying out of its functions.
- (2) As soon as practicable after preparing a report under sub-paragraph (1), the Commission must give a copy of the report to the Minister for the Civil Service and to the First Ministers for Scotland and Wales. 25
- (3) The Commission must then publish the report in the way the Commission thinks appropriate.
- (4) The Minister for the Civil Service must lay a copy of the report before Parliament (unless it has been arranged for the Comptroller and Auditor General to do so). 30
- (5) The First Minister for Scotland must lay a copy of the report before the Scottish Parliament.
- (6) The First Minister for Wales must lay a copy of the report before the National Assembly for Wales. 35

### *Meaning of “financial year”*

- 18 For the purposes of paragraphs 16 and 17, each of the following is a “financial year”—
  - (a) the period which begins when section 2 of this Act comes into force and ends with the following 31 March; 40
  - (b) each successive period of 12 months.

*Documentary evidence*

- 19 (1) The application of the Commission’s seal is to be authenticated by the signature of any of the following –
- (a) a member of the Commission;
  - (b) if the Commission’s staff includes a chief executive, the chief executive; 5
  - (c) any person authorised (whether generally or specifically) for the purpose by anyone within sub-paragraph (a) or (b).
- (2) A document purporting to be duly executed under the Commission’s seal or signed on its behalf – 10
- (a) is to be received in evidence, and
  - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.
- (3) This paragraph does not extend to Scotland.

SCHEDULE 2

Section 19 15

CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION RELATING TO PART 1

PART 1

CONSEQUENTIAL AMENDMENTS TO ACTS OF PARLIAMENT

*Parliamentary Commissioner Act 1967 (c. 13)*

- 1 In Schedule 2, in the note about the Cabinet Office, omit “and Head of the Home Civil Service”. 20

*Superannuation Act 1972 (c. 11)*

- 2 In section 2(10) for “home civil service or the diplomatic service” substitute “civil service of the State”.

*House of Commons Disqualification Act 1975 (c. 24)* 25

- 3 In Schedule 1 –
- (a) in Part 2, at the appropriate place, insert “The Civil Service Commission”;
  - (b) in Part 3 omit “Civil Service Commissioner”.

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)* 30

- 4 In Part 2 of Schedule 1, at the appropriate place, insert “The Civil Service Commission”.

*House of Commons (Administration) Act 1978 (c. 36)*

- 5 (1) Amend section 2 as follows.

(2) In subsections (2) and (3) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.

(3) After subsection (4) insert –

“(5) “The statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

5

*Civil Service (Management Functions) Act 1992 (c. 61)*

6 (1) Amend section 1 as follows.

(2) For subsections (1) and (2) substitute –

10

“(1) This section applies to the functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 (management of the civil service, excluding the diplomatic service).

(2) The Minister for the Civil Service may, to such extent and subject to such conditions as the Minister thinks fit, delegate a function to which this section applies to any other servant of the Crown.”

15

(3) Omit subsection (5).

(4) For the italic cross-heading before section 1 substitute “*Civil service (excluding the diplomatic service)*”.

20

7 In section 2(1)(a) for “Her Majesty’s Home Civil Service” substitute “the civil service (excluding the diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010”.

*Government of Wales Act 1998 (c. 38)*

8 In paragraph 3(1) and (2) of Schedule 6 for “Her Majesty’s Home Civil Service” substitute “the civil service of the State”.

25

*Scotland Act 1998 (c. 46)*

9 (1) Amend section 51 as follows.

(2) In subsection (2) for “Home Civil Service” substitute “civil service of the State”.

30

(3) For subsection (3) substitute –

“(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting –

(a) subsection (1), and

(b) any other enactment about the appointment of persons mentioned in subsection (2).”

35

(4) For subsection (4) substitute –

“(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil

Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Scottish Ministers etc.”

(5) Omit subsection (9).

*Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)*

- 10 (1) Amend section 24 as follows. 5
- (2) In subsection (3)(c)(iii) for “Her Majesty’s Home Civil Service” substitute “the statutory home civil service”.
- (3) After subsection (7) insert –
- “(8) In this section “the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).” 10

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 11 (1) Amend section 81 as follows.
- (2) In subsection (7) for “home civil service or diplomatic service” substitute “statutory civil service (or any part of it)”. 15
- (3) After subsection (7) insert –
- “(8) In subsection (7) “the statutory civil service” means –
- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but 20
- (b) also includes the Government Communications Headquarters.”

*Freedom of Information Act 2000 (c. 36)*

- 12 In Part 6 of Schedule 1 for “The Civil Service Commissioners” substitute “The Civil Service Commission”. 25

*Tax Credits Act 2002 (c. 21)*

- 13 (1) Amend section 52 as follows.
- (2) In subsection (7) for “Her Majesty’s Home Civil Service” substitute “the statutory home civil service”. 30
- (3) After subsection (7) insert –
- “(8) In subsection (7) “the statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).” 35

*Extradition Act 2003 (c. 41)*

- 14 (1) Amend section 101 as follows.

(2) In subsection (5) for “home civil service or diplomatic service” substitute “statutory civil service (or any part of it)”.

(3) After subsection (5) insert –

“(6) In subsection (5) “the statutory civil service” means the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

5

*Government of Wales Act 2006 (c. 32)*

15 (1) Amend section 52 as follows.

(2) In subsections (2) and (9) for “Home Civil Service” substitute “civil service of the State”.

10

(3) For subsection (3) substitute –

“(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting –

(a) subsection (1), and

(b) any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government.”

15

(4) For subsection (4) substitute –

“(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.”

20

(5) Omit subsection (10).

*Police and Justice Act 2006 (c. 48)*

16 In paragraph 7(4)(c) of Schedule 1 for “Her Majesty’s Home Civil Service” substitute “the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

25

*Parliament (Joint Departments) Act 2007 (c. 16)*

17 (1) Amend section 3 as follows.

(2) In subsection (2) for “Home Civil Service” (wherever appearing) substitute “statutory home civil service”.

30

(3) After subsection (3) insert –

“(4) “The statutory home civil service” means the civil service (excluding Her Majesty’s diplomatic service) within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act).”

35

*Crossrail Act 2008 (c. 18)*

18 (1) Amend Schedule 12 as follows.

(2) In paragraphs 13(3) and 16(2)(a) and (b) for “Her Majesty’s Home Civil Service” substitute “any part of the statutory home civil service”.

(3) In paragraph 20(2), after the definition of “enactment”, insert –  
“the statutory home civil service” means the civil service  
(excluding Her Majesty’s diplomatic service) within the  
meaning of Chapter 1 of Part 1 of the Constitutional Reform  
and Governance Act 2010 (see section 1(4) of that Act);”.

5

## PART 2

### CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

#### *Civil Service Orders in Council* 10

19 The following are revoked –

- (a) the Civil Service Order in Council 1995;
- (b) the Civil Service (Amendment) Order in Council 1995;
- (c) the Civil Service (Amendment) Order in Council 1996;
- (d) the Civil Service (Amendment) Order in Council 1997; 15
- (e) the Civil Service (Amendment) Order in Council 1998;
- (f) the Civil Service (Amendment) Order in Council 1999;
- (g) the Civil Service (Amendment) Order in Council 2000;
- (h) the Civil Service (Amendment) Order in Council 2001;
- (i) the Civil Service (Amendment) Order in Council 2002; 20
- (j) the Civil Service (Amendment) Order in Council 2004;
- (k) the Civil Service (Amendment) Order in Council 2005;
- (l) the Civil Service (Amendment) Order in Council 2007;
- (m) the Civil Service (Amendment) (No. 2) Order in Council 2007;
- (n) the Civil Service (Amendment) (No. 3) Order in Council 2007; 25
- (o) the Civil Service (Amendment) Order in Council 2008;
- (p) the Civil Service (Amendment) (No. 2) Order in Council 2008.

#### *Diplomatic Service Orders in Council*

20 The following are revoked –

- (a) the Diplomatic Service Order in Council 1991; 30
- (b) the Diplomatic Service (Amendment) Order in Council 1994;
- (c) the Diplomatic Service (Amendment) (No. 2) Order in Council 1994;
- (d) the Diplomatic Service (Amendment) Order in Council 1995;
- (e) the Diplomatic Service (Amendment) Order in Council 2004;
- (f) the Diplomatic Service (Amendment) Order in Council 2009. 35

#### *Servants of the Crown (Parliamentary, European Assembly and Northern Ireland Assembly Candidature) Order 1987*

21 This is revoked.

#### *Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311)*

22 (1) Amend Schedule 1 as follows. 40

(2) For “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”.

(3) After paragraph 12(2)(d) insert –

“(da) after the definition of “the Deputy Chairman” insert –  
 ““the designated permanent secretary” means the  
 permanent secretary in the civil service of the State  
 designated by the Minister for the Civil Service for the  
 purposes of this Part;””.

5

23 In Schedules 3 and 4 for “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”.

10

*Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242)*

24 In article 2(2) for “Home Civil Service” substitute “civil service of the State”.

### PART 3

TRANSITIONAL PROVISION RELATING TO THE CIVIL SERVICE COMMISSION 15

#### *Definitions*

25 (1) This paragraph applies for the purposes of this Part of this Schedule.

(2) A person is a “member of the old commission” if the person is one of Her Majesty’s Civil Service Commissioners for the purposes of the 1995 Order or the 1991 Order.

20

(3) References to “the old commission” are to be read accordingly.

(4) A person is “head of the old commission” if the person is the First Civil Service Commissioner in relation to the old commission.

(5) “Commission” has the same meaning as in Chapter 1 of this Part of this Act.

(6) “First Commissioner” and “Commissioner” have the same meanings as in Schedule 1 to this Act.

25

(7) “The 1995 Order” and “the 1991 Order” mean, respectively, the Civil Service Order in Council 1995 and the Diplomatic Service Order in Council 1991.

#### *Head of the old commission to become First Commissioner*

26 (1) The person who is head of the old commission immediately before section 2 of this Act comes into force becomes the First Commissioner on that section coming into force.

30

(2) Sub-paragraphs (3) and (4) below apply instead of paragraph 2(5) and (6) of Schedule 1 to this Act.

(3) The person holds office as the First Commissioner for a period equal to the remaining part of the period for which the person was appointed as head of the old commission.

35

(4) The other terms on which the person holds office as the First Commissioner are –

- (a) the same terms as those on which the person held office as head of the old commission, or
  - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (5) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly. 5
- (6) The person's becoming First Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 2(7) of Schedule 1 to this Act. 10

*Restriction on period of office if First Commissioner is former head of the old commission*

- 27 (1) This paragraph applies if the person who is the First Commissioner is a former head of the old commission.
- (2) The period for which the person is to hold office (apart from this sub-paragraph) is reduced so far as necessary to ensure compliance with the five year rule. 15
- (3) The five year rule is that the total of the following must not exceed five years –
- (a) the period or periods for which the person holds office as the First Commissioner, and 20
  - (b) the period or periods for which the person is head of the old commission.

*Members of the old commission to become Commissioners*

- 28 (1) The persons who are members of the old commission immediately before section 2 comes into force become Commissioners on that section coming into force. 25
- (2) Sub-paragraph (1) does not apply to the person who is the head of the old commission.
- (3) Sub-paragraphs (4) and (5) below apply instead of paragraph 3(5) and (6) of Schedule 1 to this Act. 30
- (4) A person holds office as Commissioner for a period equal to the remaining part of the period for which the person was appointed as a member of the old commission.
- (5) The other terms on which the person holds office as Commissioner are –
- (a) the same terms as those on which the person held office as a member of the old commission, or 35
  - (b) if the person agrees, the terms determined by the Minister for the Civil Service.
- (6) If those terms provide for the payment of remuneration or allowances or make provision for a pension, the Commission must make the payments or provision accordingly. 40
- (7) The person's becoming Commissioner as a result of this paragraph is not an appointment for the purposes of paragraph 3(8) of Schedule 1 to this Act.

*Restriction on period of office for former member of old commission*

- 29 (1) This paragraph applies if a person who is a Commissioner is a former member of the old commission.
- (2) The period for which the person is to hold office (apart from this subparagraph) is reduced so far as necessary to ensure compliance with the five year rule. 5
- (3) The five year rule is that the total of the following must not exceed five years –
- (a) the period or periods for which the person holds office as Commissioner, and 10
- (b) the period or periods for which the person is a member of the old commission.
- (4) Sub-paragraph (3)(a) and (b) does not include any period for which the person is also Her Majesty's Commissioner for Public Appointments.
- (5) Sub-paragraph (3)(b) does not include any period for which the person is also head of the old commission. 15

*Audits of recruitment policies and practices*

- 30 (1) This paragraph applies in relation to an audit under article 4(3) of the 1995 Order or the 1991 Order that is started, but not completed, before the coming into force of section 2 of this Act. 20
- (2) So far as the audit is within the Commission's function under section 14 of this Act, the Commission may continue and complete the audit.

*Requirements to publish recruitment information*

- 31 Any requirement under article 4(4) of the 1995 Order or the 1991 Order imposed before the coming into force of section 2 of this Act must be complied with notwithstanding the revocation of the Order by Part 2 of this Schedule. 25

*Appeals by civil servants*

- 32 (1) This paragraph applies in relation to an appeal under article 4(5) of the 1995 Order or the 1991 Order that is made, but not determined, before the coming into force of section 2 of this Act. 30
- (2) The Commission may continue with and determine the appeal and paragraphs (a) to (c) of article 4(5) of the 1995 Order or the 1991 Order (as the case may be) continue to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be). 35
- 33 (1) This paragraph applies in relation to a matter occurring before the coming into force of section 2 of this Act which could have been made the subject of an appeal under article 4(5) of the 1995 Order or the 1991 Order immediately before the coming into force of that section. 40

- (2) The Commission may hear and determine an appeal in relation to the matter and article 4(5) of the 1995 Order or the 1991 Order (as the case may be) is to apply accordingly.
- (3) For this purpose it does not matter if Chapter 1 of this Part of this Act does not apply to the appellant or any party mentioned in article 4(5)(b) of the 1995 Order or the 1991 Order (as the case may be). 5

*First annual report*

- 34 (1) This paragraph applies to the first report that the Commission is required to prepare under paragraph 17(1)(a) of Schedule 1 to this Act.
- (2) The report must, for the relevant period, include the information required by – 10
  - (a) article 8(1)(a) to (c) of the 1995 Order;
  - (b) article 4A(1)(a) to (c) of the 1991 Order.
- (3) For this purpose it does not matter if any of that information relates to a part of the civil service of the State to which Chapter 1 of this Part of this Act does not apply. 15
- (4) “The relevant period” means the period –
  - (a) beginning with –
    - (i) for the purposes of sub-paragraph (2)(a), the end of the period covered by the last report published under article 8(1) of the 1995 Order; 20
    - (ii) for the purposes of sub-paragraph (2)(b), the end of the period covered by the last report published under article 4A(1) of the 1991 Order;
  - (b) ending when section 2 of this Act comes into force. 25

*Transfer of property, rights and liabilities*

- 35 (1) The Minister for the Civil Service may make a scheme –
  - (a) specifying property, rights and liabilities of the Crown (or held on behalf of the Crown) that are relevant to the old commission’s functions, and 30
  - (b) transferring the specified property, rights and liabilities to the Commission;and the transfer has effect in accordance with the terms of the scheme.
- (2) The scheme may operate in relation to property, rights and liabilities –
  - (a) whether or not they would otherwise be capable of being transferred, 35
  - (b) without any instrument or other formality being required, and
  - (c) irrespective of any kind of requirement for consent that would otherwise apply.
- (3) The scheme may include supplementary, incidental, transitional, transitory or saving provision, including (in particular) provision – 40
  - (a) for the continuing effect of things done by, or on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);

- (b) for the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the Crown (or a person acting on behalf of the Crown);
- (c) for references to the Crown or a person who acts on behalf of the Crown in any agreement (whether written or not) or instrument or other document to be treated as or as including references to the Commission; 5
- (d) for shared ownership, use or access.

*Information previously held by old commission*

- 36 (1) The Minister for the Civil Service must make arrangements for the Commission to be provided with any information – 10
- (a) which was held by (or on behalf of) the old commission for the purposes of the old commission’s functions, and
  - (b) which the Commission reasonably requires for the purposes of its functions. 15
- (2) For the purposes of the Data Protection Act 1998 (c. 29) and the Freedom of Information Act 2000 (c. 36), any requests made to the old commission relating to information provided to the Commission under sub-paragraph (1) are to be dealt with by the Commission (so far as they were not dealt with by the old commission). 20

*Preparatory work*

- 37 (1) During the preparatory period the old commission may carry out, in the name and on behalf of the Commission, any functions given to the Commission by Schedule 1 to this Act.
- (2) “The preparatory period” is the period that – 25
- (a) starts when this Act is passed, and
  - (b) ends when section 2 of this Act comes into force.

PART 4

OTHER TRANSITIONAL PROVISION

*Application of section 16(1) of the Interpretation Act 1978 (c. 30)* 30

- 38 (1) In this Part of this Schedule “old management functions” means functions that cease to be exercisable on the coming into force of section 3 of this Act.
- (2) Section 16(1) of the Interpretation Act 1978 applies in relation to an old management function ceasing to be exercisable as if – 35
- (a) the function had been conferred by an Act, and
  - (b) that Act were repealed by section 3 of this Act.
- (3) So far as not covered by sub-paragraph (2), section 16(1) of the 1978 Act applies in relation to the revocation of an Order in Council by Part 2 of this Schedule as if it were the repeal of an Act.

*Power to manage the civil service* 40

- 39 (1) Anything done under old management functions by –

- (a) a Minister of the Crown, or  
(b) any other servant of the Crown under a delegation under section 1 of the Civil Service (Management Functions) Act 1992 (c. 61),  
is treated as done under subsection (1) or (2) of section 3 of this Act (as the case may be) so far as necessary or appropriate for continuing its effect after the coming into force of section 3. 5
- (2) Civil servants who, immediately before section 3 comes into force, held their positions in the civil service under or subject to old management functions, continue to hold their positions but under or subject to subsection (1) or (2) of that section (as the case may be). 10
- (3) The powers in subsections (1) and (2) of section 3 may (in particular) be used to deal with transitional matters.
- (4) Section 1 of this Act applies for the purposes of this paragraph as it applies for the purposes of Chapter 1 of this Part of this Act.
- 40 (1) So far as – 15
- (a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or  
(b) a relevant transferred function is not an old management function, the subject matter of the Order or function reverts to Her Majesty and may be dealt with (including delegated) by Her accordingly. 20
- (2) Civil servants who, immediately before this paragraph comes into force, held their positions in the civil service of the State under or subject to –
- (a) an Order in Council revoked by Part 2 of this Schedule so far as it was not made under old management functions, or  
(b) a relevant transferred function so far as it is not an old management function, 25
- continue to hold their positions but on the basis mentioned in sub-paragraph (1).
- (3) “Relevant transferred function” means a function which –
- (a) has been delegated by Her Majesty in relation to the management of the civil service of the State (excluding the Northern Ireland Civil Service), and 30
- (b) has been the subject of a transfer of functions Order (as that term was defined in section 1(5) of the Civil Service (Management Functions) Act 1992 before its repeal by Part 1 of this Schedule). 35

*Selection on merit etc*

- 41 (1) In determining for the purposes of section 10(1) of this Act whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on an exception made by the old commission (within the meaning of Part 3 of this Schedule) from a requirement for selection for the appointment to be on merit on the basis of fair and open competition. 40
- (2) But the recruitment principles (within the meaning of Chapter 1 of this Part of this Act) may disapply sub-paragraph (1) in specified cases.
- 42 For the purpose of determining whether a selection for an appointment complies with the requirement in section 10(2) of this Act in a case in which the selection process began before section 10(2) comes into force, account 45

must be taken of anything done under or in relation to the selection process before section 10(2) comes into force.

*Special advisers*

- 43 (1) This paragraph applies to a person who, immediately before the coming into force of this paragraph, holds a position in the civil service of the State for which the person was selected for appointment in reliance on article 3(2), (4) or (5) of the Civil Service Order in Council 1995. 5
- (2) For the purposes of Chapter 1 of this Part of this Act the person is treated as a special adviser so long as the person remains in that position on the same terms and conditions. 10

SCHEDULE 3

Section 23

CROWN EMPLOYMENT: REPEALS AND REVOCATIONS

<i>Title and reference</i>	<i>Extent of repeal or revocation</i>	
Aliens Restriction (Amendment) Act 1919 (c. 92)	Section 6.	15
Aliens' Employment Act 1955 (4 & 5 Eliz. 2 c. 18)	The whole Act.	
European Communities (Employment in the Civil Service) Order 1991 (S.I. 1991/1221)	The whole Order.	20
European Communities (Employment in the Civil Service) Order 2007 (S.I. 2007/617)	The whole Order.	25

SCHEDULE 4

Section 38

PARLIAMENTARY STANDARDS ACT 2009: SUBSTITUTED SCHEDULE 2

“SCHEDULE 2

Section 3

COMPLIANCE OFFICER

*Appointment of Compliance Officer* 30

- 1 (1) The Compliance Officer is to be appointed by the IPSA.
- (2) The person to be appointed must be selected by the IPSA on merit on the basis of fair and open competition.

*Terms and conditions: general*

- 2 (1) Subject to the provisions of this Schedule, the Compliance Officer holds office in accordance with the terms and conditions of the Compliance Officer's appointment.
- (2) Those terms and conditions are to be determined by the IPSA. 5

*Term of office*

- 3 (1) The Compliance Officer is to be appointed for a fixed term not exceeding five years.
- (2) A person who has been appointed as the Compliance Officer may not be appointed again. 10

*Resignation and removal from office*

- 4 (1) A person may resign from the office of Compliance Officer by giving written notice to the IPSA.
- (2) The IPSA may remove a person from the office of Compliance Officer if the person – 15
- (a) is convicted of an offence (see sub-paragraph (3)),
  - (b) becomes bankrupt (see sub-paragraph (4)), or
  - (c) is unfit or unable to carry out the functions of the office.
- (3) For the purposes of determining if the person is convicted of an offence – 20
- (a) it does not matter where the person is convicted, and
  - (b) an act punishable under the law of a territory outside the United Kingdom constitutes an offence for the purposes of this paragraph (however it is described in that law).
- (4) A person becomes bankrupt if – 25
- (a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the person, or
  - (b) in Scotland, the person's estate is sequestrated.

*Remuneration*

- 5 (1) The terms and conditions on which a person is appointed as the Compliance Officer may provide for the IPSA – 30
- (a) to pay remuneration and allowances to the person;
  - (b) to make provision for a pension in relation to that person.
- (2) The IPSA must make the payment or provision accordingly.

*Status*

- 6 (1) The Compliance Officer is not to be regarded – 35
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Compliance Officer's property is not to be regarded as property of, or property held on behalf of, the Crown.

*Funding*

- 7 (1) The IPSA must provide the Compliance Officer with adequate resources for the Compliance Officer’s functions.
- (2) In particular, the IPSA is responsible for providing staff to assist in the carrying out of those functions. 5

*Annual report*

- 8 (1) As soon as practicable after the end of each financial year, the Compliance Officer must –
- (a) prepare a report about the performance of the Compliance Officer’s functions during that financial year, and 10
- (b) send the report to the IPSA.
- (2) The IPSA must send the report to the Speaker of the House of Commons, who must lay it before each House of Parliament.
- (3) When the Speaker lays the report, the Compliance Officer must publish it in such manner as the Compliance Officer considers appropriate. 15
- (4) “Financial year” means –
- (a) the period beginning with the day on which a Compliance Officer is first appointed and ending with the next following 31 March, and
- (b) each successive period of 12 months.

*Vacancy in office of Compliance Officer* 20

- 9 (1) This paragraph applies if the office of Compliance Officer is vacant.
- (2) The IPSA may authorise a member of the IPSA’s staff provided under paragraph 7(2) to carry out the functions of the Compliance Officer during the vacancy.
- (3) In relation to a vacancy of more than six months, the functions of the Compliance Officer may not be carried out by virtue of sub-paragraph (2) after the first six months. 25

*Disqualification*

- 10 (1) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert – 30
- “Compliance Officer for the Independent Parliamentary Standards Authority.”
- (2) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert – 35
- “Compliance Officer for the Independent Parliamentary Standards Authority.”

*Freedom of information*

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities) at the appropriate place

insert –

“Compliance Officer for the Independent Parliamentary Standards Authority.”

*Public records*

- 12 In Schedule 1 to the Public Records Act 1958 (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert – 5  
“Compliance Officer for the Independent Parliamentary Standards Authority.””

SCHEDULE 5

Section 46

PARLIAMENTARY STANDARDS ACT 2009: NEW SCHEDULE 4 10

“SCHEDULE 4

Section 9B

ENFORCEMENT

PART 1

RECOVERY OF OVERPAYMENTS

*Power to give repayment direction* 15

- 1 (1) This paragraph applies where the Compliance Officer –  
(a) has conducted an investigation in respect of a member of the House of Commons under section 9, and  
(b) has made findings under section 9(5) that the member was paid an amount under the MPs’ allowances scheme (the “overpayment”) that – 20  
(i) should not have been allowed, and  
(ii) has not been repaid.
- (2) The Compliance Officer –  
(a) if sub-paragraph (3) applies, may give the member a direction under this paragraph (a “repayment direction”), and 25  
(b) otherwise, must give the member a repayment direction.
- (3) This sub-paragraph applies if the Compliance Officer has made findings under section 9(5) that the member’s being paid an amount under the MPs’ allowances scheme that should not have been allowed was wholly or partly the IPSA’s fault. 30
- (4) A repayment direction must require the member to pay to the IPSA –  
(a) if sub-paragraph (3) applies, such amount (not exceeding the amount of the overpayment) as the Compliance Officer considers reasonable, and 35  
(b) otherwise, the amount of the overpayment.

- (5) The repayment direction must specify the period (the “repayment period”) before the end of which that amount is to be paid.
- (6) A repayment direction may also require the member to do one or both of the following before the end of the repayment period –
- (a) pay to the IPSA interest on the amount mentioned in sub-paragraph (4), at the rate and in relation to the period specified in the direction; 5
  - (b) pay to the IPSA an amount reasonably representing the costs incurred by the IPSA in relation to the overpayment, including the costs of the Compliance Officer in conducting the investigation. 10
- (7) The Compliance Officer must send a copy of the repayment direction to the IPSA.
- (8) References in this Part of this Schedule to a member of the House of Commons include a former member of that House. 15
- (9) In this Schedule “overpayment”, “repayment direction” and “repayment period” have the meaning given by this paragraph (but in relation to the repayment period, see further paragraph 4(3)).

*Guidance etc* 20

- 2 (1) The IPSA must prepare guidance about the circumstances in which the Compliance Officer should include in a repayment direction a requirement under paragraph 1(6)(a) or (b).
- (2) The guidance must include guidance about whether the Compliance Officer should include such a requirement if paragraph 1(3) applies. 25
- (3) The amount mentioned in paragraph 1(6)(b) is to be calculated by the Compliance Officer in accordance with a scheme prepared by the IPSA for that purpose.
- (4) Before preparing guidance under sub-paragraph (1) or a scheme under sub-paragraph (3) the IPSA must consult the persons listed in section 9A(6). 30

*Appeal against repayment direction*

- 3 (1) A member who has been given a repayment direction under paragraph 1 may appeal to the First-tier Tribunal against – 35
- (a) the Compliance Officer’s findings under section 9(5);
  - (b) if paragraph 1(3) applies, the Compliance Officer’s decision to give the member a repayment direction;
  - (c) if paragraph 1(3) applies, the amount the member is required to repay because of paragraph 1(4)(a); 40
  - (d) a requirement contained in the repayment direction because of paragraph 1(6).
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the

repayment direction is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).

- (3) An appeal under this paragraph is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may –
  - (a) allow the appeal in whole or in part, or 5
  - (b) dismiss the appeal.
- (5) If the Tribunal allows the appeal (in whole or in part) it may –
  - (a) revoke the repayment direction;
  - (b) revoke or vary any requirement contained in the repayment direction; 10
  - (c) make any other order it thinks fit.
- (6) If the Tribunal dismisses the appeal it may make any other order it thinks fit.
- (7) The Compliance Officer must notify the IPSA of the Tribunal’s decision (and the result of any further appeal). 15

*Extension of repayment period*

- 4 (1) The member may at any time before the end of the repayment period make an application to the Compliance Officer for the Compliance Officer to extend (or further extend) the repayment period. 20
- (2) The Compliance Officer must notify the IPSA of any decision by the Compliance Officer to extend (or further extend) the repayment period.
- (3) If the Compliance Officer extends (or further extends) the repayment period, references in this Schedule to the repayment period are to that period as extended (or further extended) by the Compliance Officer. 25
- (4) The member may appeal to the First-tier Tribunal against the Compliance Officer’s decision on an application under this paragraph. 30
- (5) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which notice of the decision is sent to the member (unless the Tribunal directs that it may be brought after the end of that period).
- (6) The appeal is by way of a rehearing. 35
- (7) The Tribunal may –
  - (a) allow the appeal in whole or in part, or
  - (b) dismiss the appeal.
- (8) If the Tribunal allows the appeal (in whole or in part) it may –
  - (a) revoke or vary the Compliance Officer’s decision; 40
  - (b) make any other order it thinks fit.
- (9) If the Tribunal dismisses the appeal it may make any other order it thinks fit.

- (10) The Compliance Officer must notify the IPSA of the Tribunal’s decision (and the result of any further appeal).

*Enforcement of repayment direction*

- 5 (1) This paragraph applies to any amount which a member is required by a repayment direction to pay to the IPSA, but only when— 5
- (a) it is no longer possible for there to be a relevant appeal, and
- (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is— 10
- (a) an appeal under paragraph 3 brought before the end of the period mentioned in paragraph 3(2), or
- (b) a further appeal in relation to the repayment direction which— 15
- (i) is brought before the end of the usual period for bringing such an appeal, and
- (ii) is an appeal against the determination of an appeal which was itself a relevant appeal.
- (3) The IPSA may recover the amount by making deductions from— 20
- (a) any salary payable to the member under section 4;
- (b) any allowances payable to the member under the MPs’ allowances scheme.
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the Compliance Officer, as if it were payable under an order of that court. 25
- (5) In Scotland the amount is recoverable as if the repayment direction were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

PART 2 30

PENALTIES

*Power to impose penalties*

- 6 (1) If sub-paragraph (3) or (4) applies to a member of the House of Commons, the Compliance Officer may by notice (a “penalty notice”) impose a penalty on the member. 35
- (2) A “penalty” means a sum of money payable by the member to the IPSA.
- (3) This sub-paragraph applies if the Compliance Officer has made a finding under section 9(5) that the member has without reasonable excuse failed to comply with a requirement under section 9(3) (provision of information to Compliance Officer). 40

- 
- (4) This sub-paragraph applies if the Compliance Officer is satisfied that the member has without reasonable excuse failed to comply with any requirement contained in a repayment direction.
- (5) The Compliance Officer must send a copy of the penalty notice to the IPSA. 5
- (6) References in this Part of this Schedule to a member of the House of Commons include a former member of that House.
- (7) In this Schedule “penalty notice” and “penalty” have the meanings given by this paragraph.
- Amount of penalty* 10
- 7 (1) The penalty notice must state the amount of the penalty.
- (2) The amount of the penalty must not exceed £1,000.
- (3) The amount in sub-paragraph (2) may be increased (or further increased) by an order made by a Minister of the Crown.
- (4) An order under sub-paragraph (3) is to be made by statutory instrument. 15
- (5) A statutory instrument containing an order under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- Information to be contained in notice* 20
- 8 (1) The penalty notice must (as well as stating the amount of the penalty) include information as to –
- (a) the reasons for imposing the penalty,
- (b) the period before the end of which the penalty is to be paid,
- (c) how the penalty may be paid, 25
- (d) the procedure and time limit for appealing,
- (e) the effect of paragraph 12, and
- (f) any other matter specified by the IPSA.
- (2) Before specifying a matter the IPSA must consult the persons listed in section 9A(6). 30
- Guidance etc*
- 9 (1) The IPSA must prepare guidance about –
- (a) the circumstances in which the Compliance Officer should impose a penalty under paragraph 6, and
- (b) how the Compliance Officer should determine the amount of the penalty. 35
- (2) Before preparing the guidance the IPSA must consult the persons listed in section 9A(6).

*Review of penalty*

- 10 (1) The Compliance Officer may at any time review a decision to impose a penalty on a member under paragraph 6.
- (2) Following the review the Compliance Officer may cancel the penalty or reduce the amount of the penalty. 5
- (3) If the Compliance Office does either of those things, the Compliance Officer must notify the IPSA.
- (4) If the penalty (or part of the penalty) has already been paid the IPSA must repay the member accordingly.

*Appeal against penalty*

10

- 11 (1) A member on whom a penalty has been imposed under paragraph 6 may appeal to the First-tier Tribunal.
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the penalty notice is sent to the member (unless the Tribunal directs that it may be brought after the end of that period). 15
- (3) The appeal is by way of a rehearing.
- (4) On an appeal under this paragraph the Tribunal may –
- (a) allow the appeal and cancel the penalty,
  - (b) allow the appeal and reduce the penalty, or 20
  - (c) dismiss the appeal.
- (5) The Compliance Officer must notify the IPSA of the Tribunal's decision (and the result of any further appeal).

*Enforcement of penalty*

- 12 (1) This paragraph applies to the amount of a penalty imposed on a member under paragraph 6, but only when – 25
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been withdrawn or determined.
- (2) A relevant appeal is –
- (a) an appeal under paragraph 11 brought before the end of the period mentioned in paragraph 11(2), or 30
  - (b) a further appeal in relation to the penalty notice which –
    - (i) is brought before the end of the usual period for bringing such an appeal, and
    - (ii) is an appeal against the determination of an appeal 35
- which was itself a relevant appeal.
- (3) The IPSA may recover the amount by making deductions from –
- (a) any salary payable to the member under section 4;
  - (b) any allowances payable to the member under the MPs' allowances scheme. 40
- (4) In England and Wales and Northern Ireland the amount is recoverable, if a county court so orders on the application of the

Compliance Officer, as if it were payable under an order of that court.

- (5) In Scotland the amount is recoverable as if the penalty notice were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland. 5

*Payment of penalty into Consolidated Fund*

- 13 The IPSA must pay into the Consolidated Fund –  
(a) the amount of any penalty paid to the IPSA, and  
(b) where the IPSA makes a deduction under paragraph 12(3), an amount corresponding to the amount of the deduction.” 10

SCHEDULE 6

Section 50

PARLIAMENTARY STANDARDS: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF THE PARLIAMENTARY STANDARDS ACT 2009 15

- 1 The Parliamentary Standards Act 2009 (c. 13) is amended as follows.
- 2 In section 2(2) (effect of Act on House of Lords) –  
(a) omit paragraph (a),  
(b) omit “and” at the end of paragraph (b),  
(c) in paragraph (c) for “paragraphs 4(2) and 8(1)” substitute “paragraph 8(2)”, and  
(d) after that paragraph insert “, and  
(d) paragraph 7(5) of Schedule 4.” 20
- 3 In section 5(8) (allowances) for the words from “and” to the end substitute “and in relation to any such allowances, references in this Act to a member of the House of Commons include a former member of that House.” 25
- 4 (1) Section 12 (interpretation) is amended as follows.  
(2) In subsection (1) –  
(a) for ““the Commissioner”” substitute ““the Compliance Officer””,  
and  
(b) omit the definition of “the MPs’ code of conduct relating to financial interests”. 30
- (3) In subsection (2) –  
(a) after “committee” (in each place) insert “or officer”, and  
(b) in paragraph (a) for “its” substitute “the”. 35
- 5 (1) Section 13 (transitional provision) is amended as follows.  
(2) Omit subsection (2)(b) and (c).

(3) In subsection (4) and (6)(c) for “Commissioner” substitute “Compliance Officer”.

6 In section 14 (commencement) omit subsection (2)(d).

7 (1) Schedule 1 (the IPSA) is amended as follows.

(2) Omit paragraph 10 and the heading above it. 5

(3) In paragraph 18(1) –

(a) for paragraph (a) substitute –

“(a) section 4 (MPs’ salaries), so far as relating to the payment (but not the determination) of salaries,”

(b) in paragraph (c), after “claims” insert “(except as mentioned in sub-paragraph (2) below)”, and 10

(c) omit the words following paragraph (c).

(4) In paragraph 18(2) –

(a) before paragraph (a) insert –

“(za) sections 4 and 4A (MPs’ salaries) (except as mentioned in sub-paragraph (1) above),” 15

(b) after paragraph (a) insert –

“(aa) section 6(10) (determining procedures for publication of allowances claims),”

(c) omit paragraph (b) (and the “and” following it), and 20

(d) for paragraph (c) substitute –

“(c) section 9(8)(b) and (9) (determining conditions),

(d) section 9A (determining procedures for investigations etc),

(e) paragraphs 1, 2(2), 4(2) and 9(2) of Schedule 2 (appointment and removal of Compliance Officer etc), and 25

(f) paragraphs 2, 8 and 9 of Schedule 4 (scheme, guidance etc for Compliance Officer).”

(5) In paragraph 22(8) for “Any repayments” substitute “Any payments received by the IPSA as a result of a repayment direction under Schedule 4, and any repayments otherwise”. 30

## PART 2

### AMENDMENTS OF OTHER ACTS

*European Parliament (Pay and Pensions) Act 1979 (c. 50)* 35

8 (1) In section 1(2) (salaries of MEPs) for paragraphs (a) and (b) substitute “the same as that of the salary payable for that period, under section 4 of the Parliamentary Standards Act 2009, to a Member who does not hold an office or position specified in a resolution of the House of Commons for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions).” 40

(2) Omit section 5 (salary to be used for calculating pension benefits).

- (3) In section 8(1) (interpretation) omit the definition of ““a Member’s ordinary salary” and “a Member’s pensionable salary””.

*Parliamentary and other Pensions Act 1987 (c. 45)*

- 9 In section 5(2) (interpretation) for the words from “such resolutions” to the end substitute— 5
- “(a) section 4 of the Parliamentary Standards Act 2009, or
  - (b) in relation to a time before that section was in force, the resolutions of the House of Commons then in force relating to the remuneration of its members.”

*Ministerial and other Pensions and Salaries Act 1991 (c. 5)* 10

- 10 In section 4 (grants to persons ceasing to hold ministerial and other offices)—
- (a) omit subsection (3),
  - (b) after that subsection insert— 15
- “(3A) The annual amount of the salary paid to a person in respect of the office of Chairman of Ways and Means or Deputy Chairman of Ways and Means is the difference between—
- (a) the annual amount of the salary payable under section 4 of the Parliamentary Standards Act 2009 to a person holding that office, and 20
  - (b) the annual amount of the salary payable under that section to a member of the House of Commons who does not hold an office or position specified in a resolution of that House for the purposes of section 4A(2) of that Act (higher salaries for holders of specified offices or positions).”, and 25
- (c) omit subsection (7).

*Scotland Act 1998 (c. 46)*

- 11 (1) Section 82 (limits on salaries of MSPs) is amended as follows.
- (2) In subsection (1)— 30
- (a) before paragraph (a) insert—
- “(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),”, and
- (b) in paragraph (a) for “either House of Parliament” substitute “the House of Lords”. 35
- (3) In subsection (2)(b) for “(1)(a)” substitute “(1)(za), (a)”.

*Government of Wales Act 2006 (c. 32)*

- 12 (1) Section 21 (limits on salaries of Assembly members) is amended as follows.
- (2) In subsection (1)— 40

- (a) before paragraph (a) insert –  
     “(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),” and
- (b) in paragraph (a) for “either House of Parliament” substitute “the House of Lords”.
- (3) In subsection (2)(b) for “(1)(a)” substitute “(1)(za), (a)”.

## SCHEDULE 7

Section 52

### PARLIAMENTARY AND OTHER PENSIONS

#### PART 1

10

### PARLIAMENTARY AND OTHER PENSIONS

#### **The Parliamentary Contributory Pension Fund etc**

##### *Continuance of Fund*

- 1 There is to continue to be a fund known as the Parliamentary Contributory Pension Fund (“the Fund”).

##### *Number and composition of trustees*

- 2 (1) The following are to be the trustees of the Fund –
- (a) one person appointed by the IPSA after consulting the Minister for the Civil Service and the persons who are already trustees of the Fund,
- (b) one person appointed by the Minister for the Civil Service after consulting the IPSA and the persons who are already trustees of the Fund, and
- (c) 8 persons nominated and selected in accordance with arrangements under paragraph 3 (“member-nominated trustees”).
- (2) Paragraphs 49 and 50 make transitional provision about the trustees of the Fund.

##### *Member-nominated trustees*

- 3 (1) The trustees of the Fund must make arrangements for the nomination and selection of member-nominated trustees.
- (2) The arrangements must provide for the member-nominated trustees to be –
- (a) nominated as the result of a process in which all the members of a scheme under paragraph 12 and all the members of a scheme under paragraph 16 are eligible to participate, and
- (b) selected as the result of a process in which some or all those persons are eligible to participate.
- (3) The arrangements must –

- (a) include provision for the nomination and selection process to take place within a reasonable period of any vacancy arising,
  - (b) include provision, where a vacancy is not filled because insufficient nominations are received, for the nomination and selection process to be repeated at reasonable intervals until the vacancy is filled, and 5
  - (c) include provision that, where the IPSA or the Minister for the Civil Service so requires, a person who is not a member of a scheme under paragraph 12 and is not a member of a scheme under paragraph 16 must have the approval of the IPSA or the Minister for the Civil Service to qualify for selection as a member-nominated trustee. 10
- (4) The arrangements may include provision that where the number of nominations received is equal to or less than the number of vacancies, the nominees are to be treated as selected (subject to sub-paragraph (3)(c)).

*Remuneration*

- 4 (1) The IPSA may with the consent of the Treasury provide for remuneration and allowances to be payable to the trustees of the Fund. 15
- (2) Any such remuneration and allowances are to be paid from the assets of the Fund.

*Resignation and removal of trustees*

- 5 (1) A person appointed as a trustee of the Fund by the IPSA under paragraph 2(1)(a) – 20
- (a) may resign by giving written notice to the IPSA, and
  - (b) may be removed by the IPSA after consulting the Minister for the Civil Service and all the other trustees of the Fund.
- (2) A person appointed as a trustee of the Fund by the Minister for the Civil Service under paragraph 2(1)(b) – 25
- (a) may resign by giving written notice to the Minister for the Civil Service, and
  - (b) may be removed by the Minister for the Civil Service after consulting the IPSA and all the other trustees of the Fund. 30
- (3) A person who is a member-nominated trustee –
- (a) may resign by giving written notice to the other trustees of the Fund, and
  - (b) may be removed by all the other trustees of the Fund acting together.

*Proceedings*

- 6 (1) Subject to any provisions contained in a scheme under paragraph 8 because of paragraph 8(1)(c), the trustees of the Fund may determine their own procedure. 35
- (2) The validity of any proceedings of the trustees of the Fund is not affected by – 40
- (a) a vacancy among the trustees, or
  - (b) a defect in the appointment of a trustee.

*Powers of trustees*

- 7 (1) The trustees of the Fund may invest the assets of the Fund, whether at the time in a state of investment or not, in any investment whatever and may also from time to time vary any such investments.
- (2) The trustees of the Fund may settle or compromise any claim or dispute relating to the Fund, but –
- (a) so far as the claim or dispute relates to a scheme under paragraph 8 or 12, they may do so only with the consent of the IPSA, and
- (b) so far as the claim or dispute relates to a scheme under paragraph 16, they may do so only with the consent of the Minister for the Civil Service.
- (3) The IPSA must consult the Minister for the Civil Service before giving its consent to the settlement or compromise of a claim or dispute relating to a scheme under paragraph 8.
- (4) Section 35(1) to (4) of the Pensions Act 1995 (c. 26) (pension scheme trustees must prepare statement of investment principles) applies to the trustees of the Fund despite any provision in regulations under section 35 of that Act which would (apart from this sub-paragraph) prevent it applying.
- (5) Any provision in regulations under that section which would require the trustees of the Fund to consult the employer applies as if it required them to consult the IPSA and the Minister for the Civil Service.

*Administration scheme*

- 8 (1) The IPSA may make a scheme containing provision about –
- (a) the administration of the Fund,
- (b) the management of the Fund’s assets,
- (c) the indemnification of the trustees (and former trustees) of the Fund,
- (d) the proceedings of the trustees of the Fund, and
- (e) the application of the Fund’s assets in connection with the matters in paragraphs (a) to (d).
- (2) A scheme under this paragraph may in particular –
- (a) include any or all of the provisions specified in paragraphs 31 to 33,
- (b) make different provision in relation to different cases, circumstances or persons,
- (c) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate.
- (3) In sub-paragraph (2)(c) the reference to subordinate legislation does not include a scheme under this paragraph.
- (4) No provision of a scheme under this paragraph is to be construed as restricting the powers of the trustees under paragraph 7(1).

*Procedure for administration scheme*

- 9 (1) The IPSA may make a scheme under paragraph 8 only with the consent of the trustees of the Fund.

- (2) Before making a scheme under paragraph 8 the IPSA must consult –
  - (a) the Treasury,
  - (b) the Minister for the Civil Service,
  - (c) persons the IPSA considers to represent those likely to be affected by the scheme, and
  - (d) any other person the IPSA considers appropriate.5
- (3) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons –
  - (a) any scheme made by it under paragraph 8, and
  - (b) a statement of the reasons for making the scheme.10
- (4) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.

*Exchequer contribution to Fund*

- 10 (1) In respect of each financial year an Exchequer contribution is to be paid into the Fund out of money provided by Parliament. 15
- (2) Subject to any provision made by the IPSA under paragraph 11, the amount of the contribution for any financial year is to be calculated in accordance with recommendations for that year contained in a report made by the Government Actuary under this paragraph.
- (3) The Government Actuary must make a report under this paragraph as soon as practicable after the beginning of –
  - (a) the period of three years beginning with the relevant date, and
  - (b) each succeeding period of three years.20
- (4) The “relevant date” means the date immediately following the end of the three year period which is current for the purposes of section 3 of the Parliamentary and other Pensions Act 1987 (c. 45) when this paragraph comes into force. 25
- (5) The report is to be made to –
  - (a) the trustees of the Fund,
  - (b) the IPSA,
  - (c) the Minister for the Civil Service, and
  - (d) the Treasury.30
- (6) The report must –
  - (a) report on the general financial position of the Fund at the beginning of the period of three years in which the report is made, and
  - (b) make a recommendation as to the rate at which (subject to any subsequent report under this paragraph) Exchequer contributions should be paid into the Fund in respect of any financial year beginning after the report is made.35
- (7) The rate is to be expressed by reference to such matters as the Government Actuary considers appropriate. 40
- (8) A copy of every report made by the Government Actuary under this paragraph is to be laid before the House of Commons.

*Power to determine Exchequer contribution*

- 11 (1) The IPSA may, with the relevant consents, make provision for determining the Exchequer contribution in respect of any financial year.
- (2) The “relevant consents” means –
- (a) if the result of making the provision is that the amount of the Exchequer contribution in respect of any financial year is less than it otherwise would be, the consent of the Treasury, the Minister for the Civil Service and the trustees of the Fund, and 5
  - (b) otherwise, the consent of the Treasury and the Minister for the Civil service. 10
- (3) The “Exchequer contribution” means the amount to be paid into the Fund under paragraph 10.
- (4) Before making provision under this paragraph the IPSA must consult –
- (a) (if sub-paragraph (2)(a) does not apply) the trustees of the Fund,
  - (b) the Government Actuary, and 15
  - (c) persons appearing to the IPSA to represent persons likely to be affected by the provision.
- (5) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons –
- (a) any representations made by the trustees of the Fund in response to consultation under this paragraph, 20
  - (b) any provision made by the IPSA under this paragraph, and
  - (c) a statement of the reasons for making the provision.
- (6) When the provision and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate. 25
- (7) Provision under this section may –
- (a) apply to a financial year which has already ended or which has begun before the making of the provision, and
  - (b) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate. 30

**MPs’ pension scheme**

*MPs’ pension scheme*

- 12 (1) The IPSA may make a scheme containing provision about the application of the assets of the Fund in or towards the provision of pensions for or in respect of persons with service as a member of the House of Commons, in respect of that service. 35
- (2) A scheme under this paragraph may not provide for the application of any of the assets of the Fund in or towards the provision of pensions for or in respect of persons with service as Lord Chancellor. 40
- (3) A scheme under this paragraph may not provide for the application of any of the assets of the Fund in or towards the provision of pensions for or in respect of a person (“P”) with service as –
- (a) Prime Minister and First Lord of the Treasury, or

- (b) Speaker of the House of Commons.
- (4) Sub-paragraph (3) does not apply if P elects, in accordance with provision made by the scheme, to contribute to the Fund out of P’s salary as a member of the House of Commons while holding the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons. 5
- (5) The provision mentioned in sub-paragraph (4) may not provide for a pension payable under the scheme for or in respect of P to be calculated by reference to service as a member of the House of Commons before 28 February 1991.
- Meaning of “service as a member of the House of Commons”* 10
- 13 (1) For the purposes of this Schedule a person is to be treated as in service as a member of the House of Commons at any time if at that time a salary is or was payable to the person under –
- (a) section 4 of the Parliamentary Standards Act 2009 (c. 13), or
- (b) in relation to a time before that section was in force, the resolutions of the House of Commons then in force relating to the remuneration of its members. 15
- (2) For the purposes of this Schedule service as a member of the House of Commons includes service as the holder of a qualifying office or position.
- (3) In relation to a time when a determination under section 4(4) of the Parliamentary Standards Act 2009 is in effect a “qualifying office or position” means an office or position in respect of which, because of section 4A(2) of that Act, a higher salary is payable than the salary payable to members of the House of Commons generally. 20
- (4) In relation to a time before the first determination under section 4(4) of the Parliamentary Standards Act 2009 comes into effect a “qualifying office or position” means –
- (a) the office of Chairman of Ways and Means and the office of Deputy Chairman of Ways and Means,
- (b) an office or position in respect of which, under the resolutions of the House of Commons then in force relating to the remuneration of its members, a higher salary was payable than the salary payable to members of the House of Commons generally. 30
- MPs’ pension scheme: further provision*
- 14 (1) A scheme under paragraph 12 may in particular – 35
- (a) include any or all of the provisions specified in paragraphs 24 to 32, except for –
- (i) the provision specified in paragraph 26(1), unless with the consent of the trustees of the Fund,
- (ii) the provision specified in paragraph 31, unless with the consent of the trustees of the Fund, and 40
- (iii) the provision specified in paragraph 29(2),
- (b) make provision which has effect from a date earlier than the date the scheme is made,
- (c) make provision in relation to service before the passing of this Act, 45

- (d) make different provision in relation to different cases, circumstances or persons, and
  - (e) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the IPSA considers appropriate. 5
- (2) In sub-paragraph (1)(e) the reference to subordinate legislation does not include a scheme under paragraph 12.

*Procedure for MPs' pension scheme*

- 15 (1) Before making a scheme under paragraph 12 the IPSA must consult – 10
- (a) the Treasury,
  - (b) the Minister for the Civil Service,
  - (c) the trustees of the Fund,
  - (d) persons the IPSA considers to represent those likely to be affected by the scheme,
  - (e) the Government Actuary, 15
  - (f) the Review Body on Senior Salaries, and
  - (g) any other person the IPSA considers appropriate.
- (2) The IPSA must send to the Speaker of the House of Commons for laying before the House of Commons – 20
- (a) any representations made to it by the trustees of the Fund in response to consultation under this paragraph,
  - (b) any scheme made by it under paragraph 12, and
  - (c) a statement of the reasons for making the scheme.
- (3) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate. 25
- (4) The reference in sub-paragraph (1)(f) to the Review Body on Senior Salaries –
- (a) if the name of the body is changed, is to be treated as a reference to the body by its new name, and
  - (b) if the functions of the body (or substantially corresponding functions) become functions of a different body, is to be treated as a reference to the body by which those functions are exercisable. 30
- (5) Any question arising under sub-paragraph (4) is to be determined by the Speaker of the House of Commons.

**Ministers' etc pension scheme** 35

*Ministers' etc pension scheme*

- 16 (1) The Minister for the Civil Service may make a scheme containing provision about the application of the assets of the Fund in or towards the provision of pensions for or in respect of persons with service to which this paragraph applies, in respect of that service. 40
- (2) This paragraph applies to service as –
- (a) the holder of an office specified in Parts 1 to 4 of Schedule 1 to the Ministerial and other Salaries Act 1975 (c. 27) (ministerial offices),

- (b) the holder of an office specified in Part 1 of Schedule 2 to that Act (Opposition leaders and whips),
  - (c) Speaker of the House of Lords,
  - (d) Chairman of Committees of the House of Lords,
  - (e) Deputy Chairman of Committees of the House of Lords. 5
- (3) A scheme under this paragraph may not provide for the application of any of the assets of the Fund in or towards the provision of pensions for or in respect of a person with service as –
- (a) Lord Chancellor,
  - (b) Prime Minister and First Lord of the Treasury, or 10
  - (c) Speaker of the House of Commons.

*Ministers' etc pension scheme: further provision*

- 17 (1) A scheme under paragraph 16 may in particular –
- (a) include any or all of the provisions specified in paragraphs 24 to 32 and 34, except the provisions specified in paragraphs 26(1) and 31 unless with the consent of the trustees of the Fund, 15
  - (b) make provision which has effect from a date earlier than the date the scheme is made,
  - (c) make provision in relation to service before the passing of this Act (including, in relation to service within paragraph 16(2)(a) or (b), service before the passing of the Ministerial and other Salaries Act 1975 (c. 27)), 20
  - (d) make different provision in relation to different cases, circumstances or persons, and
  - (e) make such incidental, consequential and transitional provision (other than provision modifying an enactment or subordinate legislation) as the Minister considers appropriate. 25
- (2) In sub-paragraph (1)(e) the reference to subordinate legislation does not include a scheme under paragraph 16.

*Procedure for Ministers' etc pension scheme* 30

- 18 (1) Before making a scheme under paragraph 16 the Minister for the Civil Service must consult –
- (a) the IPSA,
  - (b) the Government Actuary,
  - (c) the trustees of the Fund, and 35
  - (d) any other person the Minister considers appropriate.
- (2) The Minister for the Civil Service must lay before the House of Commons –
- (a) any representations made to the Minister by the trustees of the Fund in response to consultation under this paragraph,
  - (b) any scheme made by the Minister under paragraph 16, and 40
  - (c) a statement of the reasons for making the scheme.
- (3) When the scheme and the statement of reasons have been laid, the Minister must publish them in a way the Minister considers appropriate.

### Supplementary provision

#### *Protection of accrued rights*

- 19 (1) This paragraph applies where –
- (a) the IPSA makes a scheme under paragraph 12, or
  - (b) the Minister for the Civil Service makes a scheme under paragraph 16,
- (the “new scheme”). 5
- (2) The new scheme must not make any provision in relation to an accrued right which puts (or might put) a person in a worse position than the person would have been in apart from the provision. 10
- (3) Sub-paragraph (2) does not apply if –
- (a) the trustees of the Fund consent to the new scheme making the provision, and
  - (b) the person making the new scheme is satisfied that the consent requirement is met. 15
- (4) The consent requirement is met if under the new scheme the provision has effect in relation to an accrued right only with the written consent, given in accordance with sub-paragraph (5), of –
- (a) the person (“P”) in respect of whose service the right has accrued, or
  - (b) if P is dead, the persons (“the survivors”) who because of the accrued right are entitled, or may become entitled, to a pension or the benefit of any pension. 20
- (5) Consent is given in accordance with this sub-paragraph if it is given after the person making the scheme has given P (or the survivors) –
- (a) information in writing which adequately explains the nature of the provision and its effect, 25
  - (b) notice in writing that they may make representations about the provision,
  - (c) an adequate opportunity to make such representations, and
  - (d) notice in writing that the provision has effect in relation to the accrued right only with their written consent. 30
- (6) Consent may be given by a person acting on behalf of P (or the survivors); and the references in sub-paragraph (5) to P (or the survivors) include a person acting on their behalf.
- (7) In sub-paragraph (4)(a) “service” means – 35
- (a) where the new scheme is a scheme under paragraph 12, service as a member of the House of Commons, and
  - (b) where the new scheme is a scheme under paragraph 16, service to which that paragraph applies.

#### *Meaning of “accrued right”*

- 20 (1) This paragraph applies for the interpretation of paragraph 19. 40
- (2) “Accrued right”, in relation to a provision of the new scheme, means a right (including a contingent right) or entitlement to or in respect of a pension or

future pension payable out of the Fund which has accrued in respect of service before the provision comes into force.

(3) Where the new scheme is a scheme under paragraph 12, in this paragraph “service” means service as a member of the House of Commons.

(4) Where the new scheme is a scheme under paragraph 16, in this paragraph “service” means service to which that paragraph applies. 5

*Power to make consequential amendments*

21 (1) The Minister for the Civil Service may by order make such modifications of any enactment or subordinate legislation (whenever passed or made) as the Minister considers appropriate in consequence of any provision of a scheme made by the IPSA or the Minister for the Civil Service under this Part of this Schedule. 10

(2) In sub-paragraph (1) the reference to subordinate legislation does not include a scheme made by the IPSA or the Minister for the Civil Service under this Part of this Schedule. 15

(3) An order under this paragraph is to be made by statutory instrument.

(4) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation etc*

22 (1) A scheme made by the IPSA under paragraph 8 or 12 may amend or revoke any previous scheme made by the IPSA under that paragraph. 20

(2) A scheme made by the Minister for the Civil Service under paragraph 16 may amend or revoke any previous scheme made by the Minister under that paragraph.

(3) For the purposes of this Schedule “member” – 25

(a) in relation to a scheme under paragraph 12, means a person with service as a member of the House of Commons who, in respect of that service, has a right or entitlement under the scheme to a pension or future pension payable out of the Fund, and

(b) in relation to a scheme under paragraph 16, means a person with service to which that paragraph applies who, in respect of that service, has a right or entitlement under the scheme to a pension or future pension payable out of the Fund. 30

(4) In this Part of this Schedule –

“the Fund” means the Parliamentary Contributory Pension Fund; 35

“the IPSA” means the Independent Parliamentary Standards Authority;

“member-nominated trustee” has the meaning given by paragraph 2;

“modifications” includes additions, alterations and omissions (and related expressions are to be read accordingly); 40

“pension” includes gratuity;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

PART 2

PROVISION WHICH MAY BE INCLUDED IN SCHEMES

*Introductory*

- 23 (1) In this Part of this Schedule “relevant service” –
- (a) for the purposes of paragraph 14(1)(a), means service as a member of the House of Commons, and
  - (b) for the purposes of paragraph 17(1)(a), means service to which paragraph 16 applies.
- 5
- (2) Expressions defined in relation to Part 1 of this Schedule have the same meaning in this Part of this Schedule as in that Part.
- 10

*Contributions*

- 24 Provision authorising or requiring contributions and other sums to be paid into the Fund by or on behalf of persons in relevant service, including provision for those contributions and sums to be paid –
- (a) by deductions from salary;
  - (b) in the case of a person who does not draw a salary, out of money provided by Parliament.
- 15

*Conditions etc*

- 25 Provision as to –
- (a) the circumstances in which there is to be entitlement to a pension payable out of the Fund;
  - (b) the conditions of any such entitlement;
  - (c) the persons to or for the benefit of whom such a pension is payable;
  - (d) the calculation of the amount of any such pension;
  - (e) the payment or commutation of any such pension.
- 20
- 25

*Pensions not paid out of Fund*

- 26 (1) Provision for the application of assets of the Fund in or towards the provision of pensions to be paid otherwise than out of the Fund.
- (2) In connection with such provision, provision for the payment into the Fund out of money provided by Parliament of sums in addition to those paid into the Fund under paragraph 10.
- 30

*Transfer values*

- 27 (1) Provision for the payment and receipt of transfer values by the trustees of the Fund (including provision for the payment of such values into the Consolidated Fund).
- (2) Provision for the transfer and receipt by the trustees of the Fund of funds or policies of insurance in lieu of transfer values.
- 35

*Service*

- 28 Provision authorising service other than relevant service to be taken into account, in addition to relevant service, for the purposes of any provision of the scheme.

*Repayments*

5

- 29 (1) Provision as to the circumstances and manner in which amounts equal to some or all of the contributions and other sums paid by or on behalf of a person into the Fund may be repaid or paid to that person.
- (2) Provision as to the circumstances and manner in which any such amounts are to be paid out of the Consolidated Fund in respect of transfer values paid into that Fund. 10
- (3) Provision under sub-paragraph (1) or (2) may include provision as to whether any repayment or payment made under that provision is to be made with or without interest.

*Assignment etc*

15

- 30 Provision rendering void –
- (a) any assignment (or, in Scotland, assignation) of a pension which is payable or may become payable out of the Fund;
  - (b) any charge on such a pension;
  - (c) any agreement to assign or charge such a pension. 20

*Functions*

- 31 Provision conferring functions under the scheme on persons specified in or determined under the scheme.

*Approvals*

- 32 Provision making the approval, satisfaction or opinion of persons on whom functions are conferred by or under the scheme material for the purposes of any provision of the scheme. 25

*Payments without probate*

- 33 Provision authorising (in relation to such cases, circumstances or persons as may be specified in or determined under the scheme) any sum due to be paid out of the Fund in respect of a person who has died to be paid without probate or other proof of title. 30

*Application of other provisions*

- 34 Provision which (with or without modifications) applies in relation to a pension payable out of the Fund so much of any enactment or subordinate legislation (whenever passed or made) as relates to another pension, being a pension payable out of money provided by Parliament. 35

PART 3

AMENDMENTS, TRANSITIONAL PROVISION ETC

*Pensions (Increase) Act 1971 (c. 56)*

- 35 (1) Part 1 of Schedule 2 is amended as follows.
- (2) For paragraph 3A substitute – 5
- “3A A pension which, under a scheme under paragraph 12 or 16 of Schedule 7 to the Constitutional Reform and Governance Act 2010, is payable out of the Parliamentary Contributory Pension Fund.”
- (3) In paragraph 3B for “an order” substitute “a scheme”.

*Parliamentary and other Pensions Act 1972 (c. 48)* 10

- 36 (1) Section 27 (pensions for dependants of Prime Minister or Speaker) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a) for the words from “in respect” to the end substitute “under a scheme made by the Minister for the Civil Service under paragraph 16 of Schedule 7 to the Constitutional Reform and Governance Act 2010 to receive a pension payable out of the Parliamentary Contributory Pension Fund in respect of service to which that paragraph applies”, and 15
- (b) in paragraph (c) for “Treasury” substitute “Minister for the Civil Service”. 20
- (3) In subsection (2) –
- (a) for “the Parliamentary pension scheme” substitute “a scheme made by the Minister for the Civil Service under paragraph 16 of Schedule 7 to the Constitutional Reform and Governance Act 2010”, 25
- (b) in paragraph (a) for “as a Member of the House of Commons” substitute “to which that paragraph applies”, and
- (c) in paragraph (b), for “Leader of the House of Commons” substitute “Minister for the Civil Service”.
- (4) In subsection (5), omit from ““the Leader” to the end. 30
- 37 (1) The amendments made by paragraph 36 do not apply in relation to a person who, having held office as Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, died before that paragraph comes into force.
- (2) In relation to such a person section 27 of the Parliamentary and other Pensions Act 1972, and the provisions designated under that section, have effect as if this Act had not been passed. 35

*European Parliament (Pay and Pensions) Act 1979 (c. 50)*

- 38 (1) Section 4 (pensions) is amended as follows.
- (2) In subsection (1) – 40

- 
- (a) for “Leader of the House of Commons may by order make” substitute “IPSA may make a scheme containing”, and
- (b) for “by the order” substitute “in the scheme”.
- (3) In subsection (2) –
- (a) for “orders” substitute “a scheme”, and 5
- (b) for “order” substitute “scheme”.
- (4) In subsection (3) –
- (a) for “an order” substitute “a scheme”, and
- (b) in paragraphs (d) and (g) for “order” substitute “scheme”.
- (5) In subsection (3A), for “An order” substitute “A scheme”. 10
- (6) For subsection (4) substitute –
- “(4) Before making a scheme under this section the IPSA must consult –
- (a) the Treasury,
- (b) the Minister for the Civil Service,
- (c) persons it considers to represent those likely to be affected by the scheme, 15
- (d) the Government Actuary, and
- (e) any other person it considers appropriate.
- (4A) The IPSA must send to the Speaker of the House of Commons for laying before both Houses of Parliament – 20
- (a) any scheme made by it under this section, and
- (b) a statement of the reasons for making the scheme.
- (4B) When the scheme and the statement of reasons have been laid, the IPSA must publish them in a way it considers appropriate.”
- (7) For subsection (5) substitute – 25
- “(5) The IPSA must from time to time prepare a report on the operation of any provisions in force under this section, and send it to the Speaker of the House of Commons for laying before both Houses of Parliament.”
- (8) After subsection (7) insert – 30
- “(8) A scheme made by the IPSA under this section may amend or revoke any previous scheme made by the IPSA under this section.”
- 39 (1) Section 6 (block transfer into another pension scheme) is amended as follows.
- (2) In subsection (1) – 35
- (a) for “Leader of the House of Commons may by order” substitute “IPSA may, with the consent of the Treasury and the Minister for the Civil Service”, and
- (b) for “the order” substitute “the direction”.
- (3) In subsection (2) – 40
- (a) for “making an order” substitute “giving a direction”,
- (b) for “Leader of the House of Commons” substitute “IPSA”,
- (c) for “he” (in both places) substitute “it”,

- 
- (d) for “make such an order” substitute “give such a direction”, and  
(e) for “the order” substitute “the direction”.
- (4) In subsection (4), in the definition of “the relevant pension provisions” –  
(a) for “an order” substitute “a direction”,  
(b) for “orders” substitute “a scheme”, and 5  
(c) for “order is made” substitute “direction is given”.
- 40 (1) Section 7 (expenses and receipts) is amended as follows.  
(2) In subsection (1)(c) (expenses and receipts) –  
(a) for “any order” substitute “a scheme”, and  
(b) omit the words from “or of any” to the end. 10
- (3) In subsection (1)(d) for “an order” substitute “a direction”.
- 41 (1) Section 8 is amended as follows.  
(2) In subsection (1) (interpretation) –  
(a) after the definition of “electoral region” insert –  
““the IPSA” means the Independent Parliamentary 15  
Standards Authority;”, and  
(b) omit the definition of “the Leader of the House of Commons”.
- (3) Omit subsection (2).
- House of Commons Members’ Fund and Parliamentary Pensions Act 1981 (c. 7)*
- 42 In section 1 (entitlement to payments out of House of Commons Members’ 20  
Fund) –  
(a) in subsection (5)(b) for “paragraph (b), (c) or (d) of section 2(2) of the  
Parliamentary and other Pensions Act 1987” substitute “subsection  
(5A)”, and  
(b) after subsection (5) insert – 25  
“(5A) The offices are –  
(a) the offices mentioned in paragraph 16(2)(a), (b), (d) or  
(e) of Schedule 7 to the Constitutional Reform and  
Governance Act 2010;  
(b) the offices of Chairman of Ways and Means and 30  
Deputy Chairman of Ways and Means.”
- Parliamentary and other Pensions Act 1987 (c. 45)*
- 43 Omit –  
(a) section 1,  
(b) section 2(1) to (8) and (10), 35  
(c) section 3, and  
(d) Schedule 1.
- 44 (1) The existing regulations have effect (subject to any provision in an order 40  
under section 94 of this Act) –  
(a) so far as they relate to matters which could be contained in a scheme  
made by the IPSA under paragraph 8, as if they were a scheme made  
by the IPSA under that paragraph,

(b)	so far as they relate to matters which could be contained in a scheme made by the IPSA under paragraph 12, as if they were a scheme made by the IPSA under that paragraph, and	
(c)	so far as they relate to matters which could be contained in a scheme made by the Minister for the Civil Service under paragraph 16, as if they were a scheme made by the Minister under that paragraph.	5
(2)	An order under section 94 or 95 of this Act may provide for any provision of the existing regulations which –	
(a)	relates to one or more of the matters listed in paragraph 8(1), but	
(b)	could not be contained in a scheme under paragraph 8, to have effect as if contained in a scheme under that paragraph.	10
(3)	If it does so a scheme under paragraph 8 may –	
(a)	revoke the provision;	
(b)	amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).	15
(4)	An order under section 94 or 95 of this Act may provide for any provision of the existing regulations which –	
(a)	relates to service as a member of the House of Commons, but	
(b)	could not be contained in a scheme under paragraph 12, to have effect as if contained in a scheme under that paragraph.	20
(5)	If it does so a scheme under paragraph 12 may –	
(a)	revoke the provision;	
(b)	amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).	
(6)	An order under section 94 or 95 of this Act may provide for any provision of the existing regulations which –	25
(a)	relates to service to which paragraph 16 applies, but	
(b)	could not be contained in a scheme under that paragraph, to have effect as if contained in a scheme under that paragraph.	
(7)	If it does so a scheme under paragraph 16 may –	30
(a)	revoke the provision;	
(b)	amend it so that it makes provision which may be contained in a scheme under that paragraph (but not otherwise amend it).	
(8)	“The existing regulations” means the regulations under section 2 of the Parliamentary and other Pensions Act 1987 (c. 45) in force immediately before the date specified in an order made by a Minister of the Crown by statutory instrument.	35
(9)	An order under sub-paragraph (8) may specify different dates for different purposes.	
	<i>Ministerial and other Pensions and Salaries Act 1991 (c. 5)</i>	40
45	Omit section 6.	

*Pensions Act 2004 (c. 35)*

- 46 In section 249A(3)(c) (schemes to which section 249A does not apply) for “section 2 of the Parliamentary and other Pensions Act 1987 (c. 45)” substitute “paragraph 8, 12 or 16 of Schedule 7 to the Constitutional Reform and Governance Act 2010”. 5

*Parliamentary Standards Act 2009 (c. 13)*

- 47 (1) In section 5(9) (MPs’ allowances scheme does not affect pensions) for “the Parliamentary and other Pensions Act 1987 (c. 45)” substitute “Schedule 7 to the Constitutional Reform and Governance Act 2010”. 10
- (2) In paragraph 18 of Schedule 1 (IPSA’s administration and regulation functions), after sub-paragraph (2) insert – 10
- “(3) The IPSA’s functions under the following provisions are also regulation functions –
- (a) sections 3, 4 and 6 of the European Parliament (Pay and Pensions) Act 1979 (but not any function relating to the administration of a scheme under section 3 or 4); 15
- (b) paragraphs 2 to 5, 8, 9, 11, 12 and 15 of Schedule 7 to the Constitutional Reform and Governance Act 2010 (but not any function relating to the administration of a scheme under paragraph 8 or 12).” 20
- (3) In paragraph 29(2) of Schedule 1 (interpretation) in the definition of “regulation functions” after “18(2)” insert “and (3)”. 20
- 48 (1) An order under section 13 of the Parliamentary Standards Act 2009 may make the provision mentioned in section 13(6) (provision for transfer schemes) in connection with this Schedule (as well as in connection with that Act). 25
- (2) But for this purpose –
- (a) the reference in section 13(6)(a) to matters dealt with by the rules is to be treated as a reference to matters which could be dealt with by a scheme under paragraph 8 or 12; 30
- (b) section 13(6)(b) and (c) does not apply to property, rights and liabilities, or documents and information, held by or on behalf of the trustees of the Fund.
- (3) Section 13(7) of that Act applies to a scheme made by virtue of section 13(6) and this paragraph. 35

*Trustees of the Fund*

- 49 (1) This paragraph applies if, under an order under section 95, paragraph 2 comes into force for the purpose of making an appointment under paragraph 2(1)(a) or (b) before it comes into force for other purposes.
- (2) The reference in paragraph 2(1)(a) or (b) to the persons who are already trustees of the Fund is to the persons who are trustees of the Fund by virtue of section 1 of the Parliamentary and other Pensions Act 1987 (c. 45). 40

- 50 (1) In this paragraph “the transitional period” means the period of six months beginning with the day on which paragraph 2 comes into force (other than for the purpose of making an appointment under paragraph 2(1)(a) or (b)).
- (2) During the transitional period –
- (a) paragraph 2(1) applies as if for paragraph (c) there were substituted –
- “(c) the persons who (by virtue of section 1 of the Parliamentary and other Pensions Act 1987) are the trustees of the Fund immediately before the beginning of the transitional period.”, and
- (b) paragraph 5 applies to persons who are trustees of the Fund because of paragraph (a) as if they were member-nominated trustees.
- (3) But if a person who is a trustee of the Fund immediately before the beginning of the transitional period is appointed under paragraph 2(1)(a) or (b) that person is not to be treated as being a trustee of the Fund because of sub-paragraph (2)(a).
- (4) The trustees of the Fund must make arrangements (the “transitional arrangements”) for 8 persons to be nominated and selected as member-nominated trustees before the end of the transitional period.
- (5) Those persons become member-nominated trustees immediately after the end of the transitional period.
- (6) Only persons who are trustees of the Fund immediately before the beginning of the transitional period may be nominated and selected as member-nominated trustees under the transitional arrangements.
- (7) But if it is not possible to secure 8 member-nominated trustees from among those persons, the deficiency may be supplied by other persons.
- (8) At the end of the transitional period any persons who –
- (a) immediately before the end of that period, are trustees of the Fund because of sub-paragraph (2)(a), but
- (b) have not been nominated and selected as member-nominated trustees,
- cease to be trustees of the Fund.

## SCHEDULE 8

Section 54

### CONDITIONS FOR REMOVAL OF MEMBERS OF THE HOUSE OF LORDS ETC

#### PART 1

35

#### CONDITIONS FOR REMOVAL

##### *Condition 1: serious criminal offence*

- 1 (1) Condition 1 is met if a person –
- (a) is convicted of an offence committed after section 54 comes into force,

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- (b) is sentenced or ordered to be imprisoned or detained for that offence indefinitely or for more than one year, and
  - (c) is imprisoned or detained in pursuance of that sentence or order or would have been were the person not unlawfully at large.
- (2) This condition is met when the person is first imprisoned or detained after conviction in pursuance of the sentence or order or would have been were the person not unlawfully at large. 5
- (3) The cases covered by this condition include cases in which—
- (a) a person is convicted of an offence committed outside the United Kingdom; 10
  - (b) anything mentioned in sub-paragraph (1)(a) to (c) occurs outside the United Kingdom.
- (4) An act punishable under the law of a country or territory outside the United Kingdom constitutes an offence for the purposes of this Schedule (however it is described in that law). 15

*Condition 2: bankruptcy restrictions orders etc*

- 2 Condition 2 is met if and when—
- (a) a bankruptcy restrictions order or undertaking (but not an interim order) under any of the following comes into force in relation to a person— 20
    - (i) Schedule 4A to the Insolvency Act 1986 (c. 45);
    - (ii) section 56A or 56G of the Bankruptcy (Scotland) Act 1985 (c. 66);
    - (iii) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or 25
  - (b) a debt relief restrictions order or undertaking (but not an interim order) under Schedule 4ZB to the 1986 Act comes into force in relation to a person.

PART 2

SUPPLEMENTARY PROVISION FOR SECTION 54(2) 30

*Supplementary provision relating to excepted hereditary peers*

- 3 (1) This paragraph applies if P is an excepted hereditary peer.
- (2) P is no longer excepted from section 1 of the House of Lords Act 1999 (c. 34).
- (3) If P counted towards the limit under section 2(2) of the 1999 Act, that limit is reduced by one. 35

*Supplementary provision relating to life peers*

- 4 (1) This paragraph applies if P is a life peer.
- (2) P ceases to be disqualified by virtue of P's peerage for—
- (a) voting at elections to the House of Commons, or
  - (b) being, or being elected as, a member of that House. 40

*Representation of the People Act 1985 (c. 50)*

- 5 In relation to P, any reference in section 1(3) or (4)(b) of the Representation of the People Act 1985 to a register of parliamentary electors is to be read as including –
- (a) any register of local government electors in Great Britain, and 5
  - (b) any register of local electors in Northern Ireland,
- which was required to be published on any date before the relevant event occurs.

*New peerages*

- 6 (1) Sub-paragraph (2) applies if, after the relevant event occurs, a peerage under the Life Peerages Act 1958 (c. 21) is conferred on P. 10
- (2) Section 54(2) does not stop P being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage.
- (3) Sub-paragraph (4) applies if, after the relevant event occurs, P becomes the person who is to hold the office of Earl Marshal or perform the office of Lord Great Chamberlain. 15
- (4) Section 54(2) does not stop P being entitled to receive writs of summons to attend the House of Lords by virtue of the peerage that led to P becoming the person who is to hold or perform the office in question.

PART 3 20

REVERSAL OF EFFECT OF SECTION 54(2)

*Claims for reversal*

- 7 (1) If the relevant event is the meeting of condition 1, P may make a claim for the effect of section 54(2) to be reversed if –
- (a) the conviction is overturned or quashed, or 25
  - (b) as a result of a determination that P should not have been sentenced or ordered to be imprisoned or detained for the offence indefinitely or for more than one year, the sentence or order is changed so that the requirements of paragraph 1(1)(b) are no longer met.
- (2) If the relevant event is the meeting of condition 2, P may make a claim for the effect of section 54(2) to be reversed if (as the case may be) –
- (a) the bankruptcy restrictions order or undertaking is annulled under –
- (i) paragraph 9(3)(a) or 10 of Schedule 4A to the Insolvency Act 1986 (c. 45), 35
  - (ii) section 56E(3)(a), 56G(5)(a) or 56J of the Bankruptcy (Scotland) Act 1985 (c. 66), or
  - (iii) paragraph 9(3)(a) or 10 of Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- (b) the bankruptcy restrictions order or the debt relief restrictions order is annulled on an appeal against the making of the order, 40
  - (c) the debt relief restrictions order or undertaking is annulled by a direction under paragraph 10 of Schedule 4ZB to the 1986 Act, or

- 
- (d) the debt relief restrictions undertaking is annulled under paragraph 9(3)(a) of Schedule 4ZB to the 1986 Act.
- (3) The claim is made by notice to the Lord Chancellor who must give notice of receipt to P.
- (4) The Lord Chancellor must then – 5
- (a) decide if the claim is justified,
- (b) sign a certificate of the Lord Chancellor’s decision, and
- (c) send a copy of the certificate to P and the Clerk of the Parliaments.
- (5) If the Lord Chancellor decides that the claim is justified, the effect of section 54(2) (including Part 2 of this Schedule as relevant) is reversed from the day after the day on which the certificate is signed. 10
- (6) P may not make a claim under this paragraph if P has disclaimed under section 57 the peerage by virtue of which P was entitled to receive writs of summons to attend the House of Lords.
- 8 In paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (c. 4) after the entry relating to the Tribunals, Courts and Enforcement Act 2007 insert – 15
- “Constitutional Reform and Governance Act 2010*  
*Paragraph 7 of Schedule 8”.*
- Convictions outside the United Kingdom* 20
- 9 (1) This paragraph applies if –
- (a) the relevant event is the meeting of condition 1, and
- (b) it is met by virtue of a sentence or order given or made outside the United Kingdom.
- (2) The effect of section 54(2) (including Part 2 of this Schedule as relevant) is reversed if the House of Lords resolves that, for the purposes of this paragraph, P is to be treated as not having been the subject of the sentence or order. 25
- (3) The reversal has effect from the day after the day on which the resolution is passed. 30
- (4) A resolution may not be passed if P has disclaimed under section 57 the peerage by virtue of which P was entitled to receive writs of summons to attend the House of Lords.

SCHEDULE 9

Section 61

AMENDMENT TO PART 2 OF THE PUBLIC ORDER ACT 1986 ETC

*Public Order Act 1986 (c. 64)*

1 After section 14 insert –

**“14ZA Access to and from the Palace of Westminster** 5

- (1) This section applies in relation to –
- (a) a public procession which is being held (or is intended to be held) where the route (or the proposed route) is wholly or partly within the area around Parliament (see section 14ZB), or 10
  - (b) a public assembly which is being held, or is intended to be held, wholly or partly within that area.
- (2) The senior police officer may give directions imposing on the persons organising or taking part in the procession or assembly such conditions as, in the officer’s reasonable opinion, are necessary for ensuring that the specified requirements (see subsection (3)) are met. 15
- (3) For the purposes of subsection (2) the Secretary of State may by order made by statutory instrument specify requirements that must be met in relation to the maintaining of access to and from the Palace of Westminster. 20
- (4) They may include (for example) requirements specifying entrances at or by the Palace of Westminster or Portcullis House –
- (a) which must be kept open, and
  - (b) to and from which there must be access routes for pedestrians and vehicles through the area around Parliament. 25
- (5) An order under this section may confer discretions on the senior police officer.
- (6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (7) In relation to a public procession, the conditions that may be imposed under this section include conditions as to the route of the procession or prohibiting it from entering any public place specified in the directions.
- (8) In relation to a public assembly, the conditions that may be imposed under this section are limited to conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration and the maximum number of persons who may constitute it. 35
- (9) “The senior police officer” is to be construed in accordance with section 12(2) or 14(2) (as the case may be); and directions are to be given in accordance with section 12(3) or 14(3) if applicable. 40
- (10) Subsections (4) to (10) of section 12 or subsections (4) to (10) of section 14 (as the case may be) apply in relation to conditions imposed under

this section as they apply in relation to conditions imposed under that section.

- (11) Nothing in this section limits what can be done under section 12(1) or 14(1).

**14ZB The area around Parliament** 5

- (1) For the purposes of section 14ZA “the area around Parliament” means the area specified as such by the Secretary of State by order made by statutory instrument.
- (2) The area may be specified by description, by reference to a map or in any other way. 10
- (3) No point in the area specified may be more than 300 metres in a straight line from the nearest relevant entrance.
- (4) Each of the following is a relevant entrance for the purposes of subsection (3)– 15
- (a) Carriage Gates;
  - (b) St Stephen’s Entrance;
  - (c) Peers’ Entrance;
  - (d) Black Rod’s Garden Entrance;
  - (e) the main entrance to Portcullis House (on Victoria Embankment). 20
- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

**14ZC Special provision if a House meeting outside Palace of Westminster**

- (1) The Secretary of State may by order made by statutory instrument specify, for the purposes of this section– 25
- (a) a building situated outside the Palace of Westminster, and
  - (b) an area, no point in which is more than 300 metres in a straight line from the point nearest to it on the specified building. 30
- (2) The area may be specified by description, by reference to a map or in any other way.
- (3) The following subsections apply in relation to– 35
- (a) a public procession which is being held (or is intended to be held) where the route (or the proposed route) is wholly or partly within the specified area, or
  - (b) a public assembly which is being held, or is intended to be held, wholly or partly within the specified area.
- (4) The senior police officer may give directions imposing on the persons organising or taking part in the procession or assembly such conditions as, in the officer’s reasonable opinion, are necessary for ensuring that the specified requirements (see subsection (5)) are met. 40
- (5) For the purposes of subsection (4) the Secretary of State may by order made by statutory instrument specify requirements that must be met in relation to the maintaining of access to and from the specified 45

building during any week in which the specified building is, or is planned to be, used by a House of Parliament for the purpose of holding meetings of the House or of any of its committees (including joint committees).

- (6) “Week” means any period of 7 days starting with a Sunday. 5
- (7) The requirements may include (for example) requirements specifying entrances at or by the specified building –
- (a) which must be kept open, and
  - (b) to and from which there must be access routes for pedestrians and vehicles through the specified area. 10
- (8) An order under subsection (5) may confer discretions on the senior police officer.
- (9) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (10) Subsections (7) to (11) of section 14ZA apply for the purposes of this section as they apply for the purposes of that section.”

*Noise and Statutory Nuisance Act 1993 (c. 40)*

- 2 In paragraph 1(1) of Schedule 2 (which is about consents for the operation of loudspeakers) omit “or of section 137(1) of the Serious Organised Crime and Police Act 2005”. 20

*Serious Organised Crime and Police Act 2005 (c. 15)*

- 3 In the Table in section 175(3) (transitional provision relating to offences) omit the entries relating to section 136.

*Serious Crime Act 2007 (c. 27)*

- 4 Omit paragraph 64 of Schedule 6. 25

*Transitional provision*

- 5 (1) The public assemblies in relation to which section 14 of the Public Order Act 1986 (c. 64) applies by virtue of the repeal of section 132(6) of the Serious Organised Crime and Police Act 2005 by section 61(1) of this Act include (in particular) public assemblies which started, or were being organised, before section 61(1) comes into force. 30
- (2) The public processions and assemblies in relation to which sections 14ZA to 14ZC of the Public Order Act 1986 apply include (in particular) public processions and assemblies which started, or were being organised, before paragraph 1 of this Schedule comes into force. 35
- (3) In this paragraph references to public processions and assemblies include references to processions and assemblies which are intended to be held.

## SCHEDULE 10

Section 65

## JUDICIAL APPOINTMENTS ETC

*Courts Act 1971 (c. 23)*

- 1 In section 21(5) (appointment of Recorders) for “subsection (4)” substitute “subsection (4A)”. 5

*Constitutional Reform Act 2005 (c. 4)*

- 2 (1) Amend section 26 as follows.
- (2) In subsection (2) for “the Prime Minister” substitute “the Lord Chancellor”.
- (3) Omit subsection (3).
- (4) In subsection (4) for “his name is notified to the Prime Minister for an” substitute “the person is recommended for”. 10
- 3 (1) Amend section 29 as follows.
- (2) In subsections (2)(a), (3)(a) and (4) for “notify” substitute “recommend”.
- (3) In subsection (4) for “notification” substitute “recommendation”.
- (4) In subsection (5) for “notify that person’s name to the Prime Minister” substitute “recommend that person for appointment”. 15
- (5) In subsection (6) for “notifying a selection” to the end substitute “recommending a selection are references to the Lord Chancellor recommending the selected person for appointment”.
- 4 In section 60(5) for “notifying” substitute “recommending”. 20
- 5 (1) Amend section 96 as follows.
- (2) In subsection (2)(b) after “selected” insert “(“the candidate”)”.
- (3) After subsection (2) insert –
- “(2A) Before making the appointment or recommendation the Lord Chancellor may act under subsection (2B) or (3) (or both). 25
- (2B) The Lord Chancellor may request the candidate –
- (a) to provide the Lord Chancellor with the information specified in the request relating to the candidate’s physical or mental condition, and
- (b) to do so within the period specified in the request.” 30
- (4) For subsection (3) substitute –
- “(3) The Lord Chancellor may –
- (a) request the candidate to undergo, in accordance with arrangements made by the Lord Chancellor, any assessment of the candidate’s physical or mental condition that the Lord Chancellor considers appropriate, and
- (b) arrange for a report of the assessment to be provided to the Lord Chancellor.” 35

- (5) In subsection (4) –
- (a) in paragraph (a) for “that he is not satisfied” to the end substitute “under subsection (4A)”, and
  - (b) in paragraphs (b) and (c) for “person selected” substitute “candidate”. 5
- (6) After subsection (4) insert –
- “(4A) The Lord Chancellor may notify the Commission under this subsection if –
- (a) the candidate does not comply with a request under subsection (2B) or (3)(a), or 10
  - (b) the Lord Chancellor is not satisfied, on the basis of a report under subsection (3)(b), that it would be appropriate to appoint or recommend the candidate.
- (4B) Before notifying the Commission under subsection (4A) the Lord Chancellor must consult the Lord Chief Justice.” 15
- (7) In subsection (5) –
- (a) in paragraph (a) for “previous” substitute “other”, and
  - (b) after paragraph (c) insert –
    - “(d) the candidate must not be selected again pursuant to that request for the same appointment or recommendation.” 20
- (8) This paragraph and paragraph 6 below have no effect in a case in which the Lord Chancellor accepts a selection under Chapter 2 of Part 4 of the 2005 Act made pursuant to a pre-commencement request.
- (9) “Pre-commencement request” means a request made before the coming into force of this paragraph. 25
- 6 In section 97(1)(e) for “96(4)(a)” substitute “96(4B)”.  
7 In section 118 before subsection (1) insert –
- “(A1) This Chapter applies in relation to justices of the peace appointed under section 10(1) of the Courts Act 2003 as it would apply if the office were listed in Schedule 14.” 30
- 8 After section 139(4)(e) (disclosure of confidential information) insert –
- “(f) the disclosure is made –
- (i) for the purpose of preventing a crime, or
  - (ii) for the purposes of a criminal investigation or criminal proceedings or a decision whether to start such an investigation or proceedings.” 35
- 9 In paragraphs 10, 13(2) and 14(2) of Schedule 8 for “notifies” substitute “recommends”.
- 10 In Part 2 of Schedule 14 omit the entries relating to – 40
- (a) justice of the peace, and
  - (b) justice of the peace who is not a District Judge (Magistrates’ Courts).

## SCHEDULE 11

Section 74

## THE NATIONAL AUDIT OFFICE

## PART 1

## MEMBERSHIP AND STATUS

*Membership* 5

- 1 (1) NAO is to have nine members.
- (2) They are to be –
  - (a) five persons who are not employees of NAO (“non-executive members”) (see Part 2 below);
  - (b) the Comptroller and Auditor General (see Part 3 below); 10
  - (c) three employees of NAO (“employee members”) (see Parts 4 and 5 below).

*Status*

- 2 (1) NAO (including its members and employees) is not to be regarded –
  - (a) as the servant or agent of the Crown, or 15
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) NAO’s property is not to be regarded as property of, or held on behalf of, the Crown.

## PART 2

## NON-EXECUTIVE MEMBERS 20

*The chair of NAO*

- 3 (1) One of the non-executive members is to be the chair of NAO.
- (2) It is for Her Majesty by Letters Patent to appoint the chair of NAO.
- (3) Her Majesty’s power is exercisable on an address of the House of Commons. This is subject to sub-paragraph (6). 25
- (4) It is for the Prime Minister to move the motion for the address.
- (5) To do so the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (6) Her Majesty may by Letters Patent extend an appointment under this paragraph on the recommendation of the Prime Minister. 30
- (7) To make a recommendation the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (8) An extension of an appointment counts as a separate appointment for the purposes of paragraphs 5 to 7.

*Appointment of other non-executive members*

- 4 (1) The other non-executive members are to be appointed by the Commission as follows.
- (2) If there is a vacancy, the chair of NAO must recommend a person to the Commission for appointment. 5
- (3) The Commission may –
- (a) appoint that person, or
  - (b) require the chair to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Period of appointment and re-appointment* 10

- 5 (1) An appointment under this Part of this Schedule is to be for a period of no more than three years.
- (2) A person may not be appointed under this Part of this Schedule more than twice.

*Remuneration packages* 15

- 6 (1) The Prime Minister and the person who chairs the Committee of Public Accounts may jointly determine a remuneration package for the chair of NAO.
- (2) Amounts required for providing the remuneration package of the chair of NAO are to be charged on and paid out of the Consolidated Fund. 20
- (3) The Commission may determine a remuneration package for any other non-executive member.
- (4) The remuneration packages of the other non-executive members are to be paid for by NAO.
- (5) A remuneration package determined under this paragraph – 25
- (a) may include an annual salary, allowances and other benefits but may not include arrangements for a pension;
  - (b) may include a formula or other mechanism for adjusting one or more elements of the package from time to time.

*Other terms of appointment* 30

- 7 (1) The Commission may determine other terms for an appointment under this Part of this Schedule not covered by paragraph 5 or 6.
- (2) These terms may include restrictions on –
- (a) the offices or positions (including offices and positions for which persons are appointed or recommended by or on behalf of the Crown) that the non-executive member may hold while, or after ceasing to be, a member; 35
  - (b) the agreements or other arrangements (including agreements and arrangements with the Crown or bodies or other persons acting on behalf of the Crown) that the non-executive member may be a party to while, or after ceasing to be, a member. 40

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*Consultation*

- 8 Before making a determination under paragraph 6 or 7, the Commission must consult any person with oversight of public appointments who the Commission thinks it is appropriate to consult.

*Termination of appointments*

- 9 (1) The chair of NAO may resign by giving written notice to the Prime Minister.  
 (2) Any other non-executive member may resign by giving written notice to the Commission.
- 10 (1) Her Majesty may terminate the appointment of the chair of NAO on an address of both Houses of Parliament.  
 (2) The Commission may terminate the appointment of any other non-executive member by giving the member written notice if –
- (a) the member has been absent from meetings of NAO without NAO’s permission for a period of more than three months,
  - (b) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the member,
  - (c) in Scotland, the member’s estate is sequestrated,
  - (d) the member is unfit to continue the appointment because of misconduct,
  - (e) the member has failed to comply with the terms of the appointment, or
  - (f) the member is otherwise unable, unfit or unwilling to carry out the member’s functions.

PART 3

CHIEF EXECUTIVE

- 11 The Comptroller and Auditor General is to be the chief executive (but not an employee) of NAO.

PART 4

EMPLOYEE MEMBERS

*Appointment*

- 12 (1) The employee members are to be appointed by the non-executive members as follows.  
 (2) If there is a vacancy, the Comptroller and Auditor General must recommend a person to the non-executive members for appointment.  
 (3) The non-executive members may –
- (a) appoint that person, or
  - (b) require the Comptroller and Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Terms of appointment*

- 13 (1) The terms of an employee member’s appointment are to be determined by the non-executive members.
- (2) Terms may provide for an employee member to receive a remuneration package which – 5
- (a) may include an annual salary, allowances and other benefits but, subject to sub-paragraph (4), may not include arrangements for a pension;
- (b) may include a formula or other mechanism for adjusting one or more elements of the package from time to time. 10
- (3) The remuneration package is to be paid for by NAO (subject to sub-paragraph (4)).
- (4) If an employee member (“E”) is a participant in a pension scheme under the terms of E’s employment with NAO, E’s remuneration package may provide for those terms to apply to E’s service as employee member as if it were part of E’s service as employee. 15
- (5) So far as appropriate, the Superannuation Act 1972 (c. 11) and any scheme under that Act applies in relation to E accordingly.

*Termination of appointments*

- 14 The appointment of an employee member terminates – 20
- (a) if the terms of the member’s appointment provide for it to expire at the end of a period, at the end of that period;
- (b) in any event, when the member ceases to be an employee of NAO.
- 15 An employee member may resign by giving written notice to the non-executive members. 25
- 16 The non-executive members may terminate the appointment of an employee member by giving the member written notice if –
- (a) the member has been absent from meetings of NAO without NAO’s permission for a period of more than three months,
- (b) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the member, 30
- (c) in Scotland, the member’s estate is sequestrated,
- (d) the member is unfit to continue the appointment because of misconduct,
- (e) the member has failed to comply with the terms of the appointment, or 35
- (f) the member is otherwise unable, unfit or unwilling to carry out the member’s functions.

PART 5

EMPLOYEES 40

- 17 (1) NAO may employ staff.

- (2) In determining the terms of employment of any staff, NAO must have regard to the desirability of keeping the terms broadly in line with those applying to civil servants.
- (3) A person who is an employee of NAO must not hold any office or position for which the person is appointed or recommended by or on behalf of the Crown. 5

## PART 6

### PROCEDURAL RULES

#### *General*

- 18 NAO must make rules for the purpose of regulating NAO's procedure. 10

#### *Quorum for NAO meetings*

- 19 If the rules provide for a quorum for any meetings of NAO, the quorum cannot be met unless a majority of the members present are non-executive members.

#### *Committees* 15

- 20 (1) The rules may include provision –
- (a) for the setting up of committees of NAO and for those committees to set up sub-committees;
  - (b) regulating the procedures of those committees and sub-committees.
- (2) An employee of NAO who is not an employee member may be a member of a committee or sub-committee. 20
- (3) A person who is neither a member of NAO nor an employee of NAO may be a member of a committee or sub-committee so long as no functions of NAO are delegated to the committee or sub-committee (see paragraph 23).

## PART 7 25

### OTHER MATTERS

#### *Powers*

- 21 NAO may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

#### *Validity of proceedings* 30

- 22 The validity of any proceedings of NAO, the non-executive members or any committee or sub-committee is not affected by a vacancy or a defective appointment.

#### *Delegation*

- 23 (1) NAO may delegate functions to any of its members, employees or committees. 35

- (2) A committee may delegate functions (including functions delegated to it) to a sub-committee.
- (3) The delegation of a function does not prevent NAO or the committee (as the case may be) from carrying out the function itself.
- (4) Functions under the following provisions may not be delegated – 5
  - (a) section 76(2) of this Act;
  - (b) paragraph 18 or 25(1) of this Schedule;
  - (c) paragraph 1(1), 3(1) or (3), 7(3), 9(1) or 10(1) to (5) of Schedule 12.

*NAO to prepare resource accounts*

- 24 (1) Resource accounts of the kind mentioned in section 5 of the Government Resources and Accounts Act 2000 (c. 20) must be prepared for NAO for each financial year. 10
- (2) The Commission must appoint the Comptroller and Auditor General or some other appropriate person as accounting officer to be responsible for that. 15
- (3) The person appointed as accounting officer must carry out any other functions determined by the Commission.

*Audit of NAO*

- 25 (1) NAO must appoint an auditor for NAO for each financial year.
  - (2) The Commission’s approval is required for the appointment (including its terms). 20
  - (3) The auditor must be eligible for appointment as a statutory auditor by virtue of Chapter 2 of Part 42 of the Companies Act 2006 (c. 46).
  - (4) Sections 1214 and 1216 of the 2006 Act apply as if the audit of NAO were a statutory audit. 25
  - (5) The auditor must examine NAO’s resource accounts for the financial year.
  - (6) Sections 6(1) and 25(2) of the Government Resources and Accounts Act 2000 apply (with any necessary modifications) in relation to the examination as they apply in relation to an examination by the Comptroller and Auditor General of the resource accounts of a department. 30
  - (7) On completion of the examination the auditor must –
    - (a) certify the accounts, and
    - (b) send them, together with the auditor’s report on them, to the Commission.
  - (8) The Commission must lay the accounts and report before the House of Commons. 35
- 26 (1) The terms of the auditor’s appointment may require the auditor to carry out economy, efficiency and effectiveness examinations of the use of NAO’s resources.
  - (2) On completion of the examinations, the auditor must send its report to the Commission. 40

(3) The Commission must lay the report before the House of Commons.

27 (1) The auditor may require access at any reasonable time to any document, as the auditor thinks necessary for the purposes of the auditor’s functions under paragraph 25 or 26.

(2) The auditor may also require any person holding or accountable for any document to provide any information or explanation that the auditor thinks necessary for those purposes. 5

#### *Documentary evidence*

28 (1) The application of NAO’s seal is to be authenticated by the signature of any of the following – 10

- (a) a member of NAO;
- (b) any person authorised (whether generally or specifically) for the purpose by a member of NAO.

(2) A document purporting to be duly executed under NAO’s seal or signed on its behalf – 15

- (a) is to be received in evidence, and
- (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

(3) This paragraph does not extend to Scotland.

## SCHEDULE 12

Section 75 20

### INTERACTION BETWEEN NAO AND THE COMPTROLLER AND AUDITOR GENERAL

#### *Strategy*

1 (1) NAO and the Comptroller and Auditor General must jointly – 25

- (a) prepare a strategy for the national audit functions;
- (b) review the strategy (and revise it as appropriate) at least once every 12 months.

“The national audit functions” means NAO’s functions and the Comptroller and Auditor General’s functions.

(2) The strategy must – 30

- (a) for the period for the time being covered by it, include a plan for the use of resources for the national audit functions;

- (b) for each financial year for the time being covered by it, specify the maximum amount of resources to be provided by NAO for the purposes of paragraph 2(1).

(3) The strategy (including any revision) must be approved by the Commission. 35

(4) For this purpose, the chair of NAO and the Comptroller and Auditor General must jointly submit the strategy (or revision) to the Commission.

(5) Before approving the strategy (or revision), the Commission must review it and may modify it.

- (6) In doing this the Commission must have regard to any advice given by the Treasury.
- (7) NAO and the Comptroller and Auditor General must each give effect to the strategy.

*NAO to provide resources for the Comptroller and Auditor General's functions* 5

- 2 (1) NAO must provide resources for the Comptroller and Auditor General's functions as required by the Comptroller and Auditor General.
- (2) In particular, NAO is responsible for –
  - (a) employing staff to assist in the carrying out of those functions,
  - (b) procuring services for the purposes of those functions, 10
  - (c) holding documents or information acquired or generated in the course of, or otherwise for the purposes of, those functions (see, further, paragraph 13 below), and
  - (d) keeping records in relation to those functions, 15  
as required by the Comptroller and Auditor General.
- (3) For any financial year, the maximum amount of resources that the Comptroller and Auditor General may require for the purposes of sub-paragraph (1) is the maximum amount specified for that year in the strategy under paragraph 1(2)(b).
- (4) Sub-paragraph (1) is also subject to paragraph 3. 20

*Provision of certain services by the Comptroller and Auditor General to require NAO's approval*

- 3 (1) The Comptroller and Auditor General may provide services that are not within sub-paragraph (2) only with NAO's approval.
- (2) The services within this sub-paragraph are services provided by the Comptroller and Auditor General – 25
  - (a) to NAO by virtue of Schedule 11 to this Act,
  - (b) that are part of, or are incidental to, the Comptroller and Auditor General's functions given by or under the Exchequer and Audit Departments Act 1866 (c. 39), the Exchequer and Audit Departments Act 1921 (c. 52), the National Loans Act 1968 (c. 13), the National Audit Act 1983 (c. 44) or the Government Resources and Accounts Act 2000 (c. 20), or 30
  - (c) that consist of, or are incidental to, an audit, examination or inspection that the Comptroller and Auditor General is required or authorised to carry out by a statutory provision, excluding section 1226 of the Companies Act 2006 (c. 46) and any provision of this Part of this Act. 35
- (3) If NAO approves the provision of any services under sub-paragraph (1), it is for NAO to determine the maximum amount of resources that the Comptroller and Auditor General may require for the services for the purposes of paragraph 2(1). 40
- (4) In this Schedule "NAO approved services" means services provided with NAO's approval under sub-paragraph (1).

*NAO to monitor and provide advice*

- 4 NAO must, as it thinks appropriate, monitor the carrying out of the Comptroller and Auditor General’s functions.
- 5 (1) NAO must, as it thinks appropriate, provide advice to the Comptroller and Auditor General about that office’s functions. 5
- (2) The Comptroller and Auditor General must have regard to any advice given.

*Delegation of the Comptroller and Auditor General’s functions*

- 6 (1) The Comptroller and Auditor General may prepare a scheme for the delegation of functions of that office to employees of NAO. 10
- (2) The scheme (including any revision) must be approved by the Commission.
- (3) If the Commission approves the scheme (or any revision), the Comptroller and Auditor General may delegate functions in accordance with it.
- (4) A delegation does not stop the Comptroller and Auditor General from doing anything personally. 15

*Vacancy in office of Comptroller and Auditor General or incapacity of Comptroller and Auditor General*

- 7 (1) This paragraph applies if the office of the Comptroller and Auditor General is vacant.
- (2) This paragraph also applies if – 20
- (a) a person (“P”) holds the office of the Comptroller and Auditor General,
- (b) the Speaker of the House of Commons certifies to that House that, in the view of the Speaker, P’s ability to carry out the office’s functions is seriously impaired because of ill health (mental or physical), and 25
- (c) this paragraph has not previously applied in relation to P.
- (3) NAO may, with the Commission’s agreement, authorise an employee of NAO to carry out the Comptroller and Auditor General’s functions during (as the case may be) – 30
- (a) the vacancy, or
- (b) the period of ill health.
- (4) “The period of ill health” means the period – 35
- (a) starting when the Speaker of the House of Commons certifies to that House as mentioned in sub-paragraph (2)(b), and
- (b) ending when the Speaker certifies to that House that, in the view of the Speaker, P’s ability to carry out the office’s functions is no longer seriously impaired because of ill health (mental or physical).
- (5) The functions covered by sub-paragraph (3) include the function of delegating under paragraph 6.
- (6) In relation to a vacancy or period of ill health of more than six months, functions may not be carried out by virtue of sub-paragraph (3) after the end of the first six months. 40

*Audit fees etc*

- 8 (1) NAO may charge fees for audits carried out by the Comptroller and Auditor General.
- (2) Any charging of fees must be done in accordance with a scheme prepared by NAO. 5
- (3) The scheme (including any revision) must be approved by the Commission.
- (4) The agreement of a Minister of the Crown is required for the charging of a fee if the accounts to be audited are the accounts of a body or other person who acts on behalf of the Crown.
- (5) Sub-paragraphs (1) to (4) do not apply in relation to an audit carried out as part of any NAO approved services. 10
- (6) The Comptroller and Auditor General may charge fees and other amounts in relation to NAO approved services but only in accordance with the agreement or other arrangements under which the services are provided.
- (7) Fees and other amounts received by the Comptroller and Auditor General must be paid to NAO. 15
- (8) Fees and other amounts received by NAO under this paragraph must be paid into the Consolidated Fund.

*Reports*

- 9 (1) NAO and the Comptroller and Auditor General must, as soon as practicable after the end of each financial year, jointly prepare a report on the carrying out during the year of the national audit functions (see paragraph 1(1)). 20
- (2) The chair of NAO and the Comptroller and Auditor General must jointly submit the report to the Commission.
- (3) The Commission must lay the report before Parliament. 25

*Code of practice*

- 10 (1) NAO and the Comptroller and Auditor General must jointly prepare a code of practice dealing with the relationship between NAO and the Comptroller and Auditor General.
- (2) In doing this, they must (in particular) seek to reflect the principle set out in section 69(6) and (7) of this Act, subject to any limitations on that principle that are agreed between the Commission, NAO and the Comptroller and Auditor General. 30
- (3) NAO and the Comptroller and Auditor General must jointly review the code regularly and revise it as appropriate. 35
- (4) In preparing or revising the code, they must consult the Treasury.
- (5) They must also consider any proposals for revisions of the code made by the Commission from time to time.
- (6) The code (including any revision) must be approved by the Commission.

- (7) For this purpose, the chair of NAO and the Comptroller and Auditor General must jointly submit the code (or revision) to the Commission.
- (8) If the Commission approves the code (or revision), the Commission must lay it before Parliament (stating the time from which it takes effect).
- (9) NAO and the Comptroller and Auditor General must each comply with the code. 5
- 11 (1) This paragraph applies for the purposes of NAO's approval of the code (or any revision).
- (2) The approval must be given at a meeting of NAO.
- (3) The approval can be given only if at least one half of the non-executive members present and voting on the matter vote in favour of giving the approval. 10
- (4) The requirements of this paragraph are in addition to any other requirements relating to NAO's procedure.
- 12 (1) The code must – 15
- (a) in relation to the strategy required by paragraph 1, deal with –
- (i) the way in which it is to be prepared, reviewed and revised;
- (ii) the matters to be covered by it;
- (iii) the periods to be covered by it from time to time;
- (b) deal with the way in which resources are to be provided for the purposes of paragraph 2(1); 20
- (c) deal with the way in which estimates are to be prepared for the purposes of section 76 of this Act;
- (d) deal with the way in which NAO is to make decisions for the purposes of paragraph 3; 25
- (e) deal with the way in which NAO is to monitor the Comptroller and Auditor General's functions for the purposes of paragraph 4;
- (f) deal with the way in which advice is to be given by NAO for the purposes of paragraph 5, including the nature of the advice to be given; 30
- (g) deal with the way in which the Comptroller and Auditor General is to charge fees and other amounts under paragraph 8;
- (h) deal with the extent to which NAO's functions are to be delegated to the Comptroller and Auditor General (see paragraph 23 of Schedule 11); 35
- (i) place restrictions upon the public comments that a non-executive member of NAO may make in relation to the carrying out of the Comptroller and Auditor General's functions.
- (2) The code may also deal with the following –
- (a) the way in which reports required by paragraph 9 are to be prepared and the matters to be covered by those reports; 40
- (b) matters about which NAO or the Comptroller and Auditor General (or both) are to consult the Commission from time to time;
- (c) standards for corporate governance.
- (3) This paragraph is not exhaustive as regards the matters that may be covered by the code. 45

*Documents and information*

- 13 (1) Any document or information which a person is required to provide, or may provide, to the Comptroller and Auditor General, may be provided to NAO (either by that person or the Comptroller and Auditor General).
- (2) For the purposes of section 3(2) of the Freedom of Information Act 2000 (c. 36) any document or information held by NAO as mentioned in paragraph 2(2)(c) is treated as held by NAO on its own behalf. 5
- (3) The documents and information to be held by NAO as mentioned in paragraph 2(2)(c) include documents and information previously held by the National Audit Office established under section 3(2) of the National Audit Act 1983 (c. 44). 10

SCHEDULE 13

Section 80

TRANSITIONAL PROVISION RELATING TO PART 10

*Transfer of property etc*

- 1 (1) Before the appointed time, the Comptroller and Auditor General must – 15
- (a) determine the property, rights and liabilities of the Comptroller and Auditor General that are to be transferred to NAO in consequence of the provision made by this Part of this Act, and
- (b) prepare a scheme describing, in the way the Comptroller and Auditor General thinks appropriate, that property and those rights and liabilities. 20
- (2) The scheme must be approved by the Commission.
- (3) At the appointed time, the property, rights and liabilities described in the scheme are transferred to NAO.
- (4) Sub-paragraph (3) operates in relation to property, rights and liabilities – 25
- (a) whether or not they would otherwise be capable of being transferred,
- (b) without any instrument or other formality being required, and
- (c) irrespective of any kind of requirement for consent that would otherwise apply. 30
- (5) In sub-paragraph (1) the references to rights and liabilities include references to rights and liabilities under or in connection with contracts of employment with staff that were appointed under section 3(2) of the National Audit Act 1983.
- (6) For any purpose relating to a person who becomes an employee of NAO by virtue of sub-paragraph (3) – 35
- (a) a period of employment under section 3(2) of the National Audit Act 1983 (including a period that was counted as such a period by virtue of paragraph 2(3) of Schedule 2 to that Act) is to be treated as a period of employment with NAO, and 40
- (b) the transfer to NAO is not to be treated as a break in service.

- (7) Anything done by, on behalf of or in relation to the Comptroller and Auditor General in relation to anything transferred by sub-paragraph (3) has effect as if done by, on behalf of or in relation to NAO, so far as necessary or appropriate for continuing its effect after the appointed time.
- (8) Anything (including legal proceedings) which, immediately before the appointed time, is in the process of being done by, on behalf of or in relation to the Comptroller and Auditor General in relation to anything transferred by sub-paragraph (3) may be continued by, on behalf of or in relation to NAO. 5
- (9) So far as necessary or appropriate in consequence of sub-paragraphs (3) to (8), in any agreement (whether written or not) or instrument or other document a reference to the Comptroller and Auditor General is to be treated as a reference to, or as including a reference to, NAO. 10
- (10) Sub-paragraph (11) applies for the purposes of paragraph 1(2)(c) and Part 4 of Schedule 11 to this Act. 15
- (11) Before the appointed time, a person’s employment under section 3(2) of the National Audit Act 1983 (c. 44) is to be treated as if it were employment with NAO.
- (12) In this paragraph “the appointed time” means the time appointed for the purposes of this paragraph by an order made by the Treasury by statutory instrument. 20

*Tax consequences of transfers by virtue of paragraph 1(3)*

- 2 (1) For the purposes of the application of Part 5 of the Corporation Tax Act 2009 (loan relationships) in relation to a transfer by virtue of paragraph 1(3), the Comptroller and Auditor General and NAO are to be treated as if, at the time of the transfer, they were members of the same group. 25
- (2) In sub-paragraph (1) the reference to being members of the same group is to be read in accordance with section 335(6) of that Act.
- 3 (1) For the purposes of Part 8 of the Corporation Tax Act 2009 (intangible fixed assets) – 30
- (a) a transfer by virtue of paragraph 1(3) of a chargeable intangible asset of the Comptroller and Auditor General is to be treated as a tax-neutral transfer, and
- (b) an intangible fixed asset which is a pre-FA 2002 asset of the Comptroller and Auditor General at the time it is transferred by virtue of paragraph 1(3) is to be treated, on and after the transfer, as a pre-FA 2002 asset in the hands of NAO. 35
- (2) Expressions used in sub-paragraph (1) and in Part 8 have the same meanings in sub-paragraph (1) as they have in Part 8.
- 4 For the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) a disposal constituted by virtue of a transfer by paragraph 1(3) is to be taken (in relation to both the Comptroller and Auditor General and NAO) to be for a consideration such that no gain or loss accrues to the Comptroller and Auditor General. 40

*Old Comptroller and Auditor General to continue to be Comptroller and Auditor General*

- 5 (1) This paragraph applies to the person (“P”) who is the Comptroller and Auditor General immediately before the appointed time.
- (2) From the appointed time, P—
- (a) continues to be the Comptroller and Auditor General and is treated as having been appointed to that office under this Part of this Act, and 5
  - (b) holds the office for ten years less the period equal to the period during which P was the Comptroller and Auditor General before the appointed time. 10
- (3) P’s remuneration package under section 71 of this Act is to be determined jointly by the Prime Minister and the person who chairs the Committee of Public Accounts before the appointed time (but is not to cover any period before the appointed time).
- (4) In this paragraph “the appointed time” means the time appointed for the purposes of this paragraph by an order made by the Treasury by statutory instrument. 15

*Provision of services*

- 6 (1) This paragraph applies in relation to anything done by or on behalf of the Comptroller and Auditor General under a power that ceases to be exercisable upon the coming into force of section 70 of this Act. 20
- (2) So far as necessary or appropriate for continuing its effect after the coming into force of section 70, the thing is treated as having been done by or on behalf of the Comptroller and Auditor General under section 70.
- 7 (1) Paragraph 3 of Schedule 12 does not apply in relation to the provision of any services which, at the time that paragraph comes into force, the Comptroller and Auditor General has a contractual duty to provide. 25
- (2) But paragraph 8 of that Schedule applies in relation to any such services as if they were NAO approved services.

*Indemnification* 30

- 8 (1) The liabilities covered by section 78 of this Act include liabilities that—
- (a) arise before the coming into force of that section, or
  - (b) arise in relation to any act or omission occurring before the coming into force of that section.
- (2) For this purpose, section 78(3)(d) covers former members of the staff of the National Audit Office established by section 3 of the National Audit Act 1983 (c. 44). 35

*NAO’s procedural rules before rules made under paragraph 18 of Schedule 11*

- 9 (1) This paragraph applies until the first set of rules under paragraph 18 of Schedule 11 are made. 40

- (2) It applies in relation to any matter to be decided by NAO for the purpose of preparing or making that first set of rules or for the purposes of paragraph 10 of Schedule 12.
- (3) The matter is to be decided –
- (a) at a meeting of NAO at which the chair of NAO and at least six other members are present, and
  - (b) by the majority of votes of the members present and voting on the matter.
- (4) But the matter may not be decided unless a majority of the members voting on the matter are non-executive members.
- (5) If the votes are tied, the chair of NAO is to have the casting vote, whether or not the chair has already voted on the matter.  
(But the chair of NAO is to be counted only once for the purposes of subparagraph (4) above or paragraph 11(3) of Schedule 12.)
- (6) It is for the chair of NAO to call a meeting of NAO by giving written notice to the other members of the date, time and venue of the meeting.

## SCHEDULE 14

Section 80

## CONSEQUENTIAL AMENDMENTS RELATING TO PART 10

## PART 1

## MEANING OF “OLD NAO” 20

- 1 In this Schedule “old NAO” means the National Audit Office established by section 3 of the National Audit Act 1983 (c. 44).

## PART 2

## AMENDMENTS TO ACTS OF PARLIAMENT

*Exchequer and Audit Departments Act 1866 (c. 39)* 25

- 2 Omit sections 3 and 6.

*Exchequer and Audit Departments Act 1957 (c. 45)*

- 3 (1) This is repealed.
- (2) Sub-paragraph (1) does not affect the position of any person by virtue of section 1(3A) of the 1957 Act. 30

*Public Records Act 1958 (c. 51)*

- 4 In Part 2 of the Table at the end of paragraph 3 in Schedule 1 the reference to old NAO is to be read as a reference to NAO.

*Superannuation Act 1972 (c. 11)*

- 5 (1) Before section 13(1) insert –
- “(A1) This section does not apply to a person appointed as Comptroller and Auditor General under Part 10 of the Constitutional Reform and Governance Act 2010.” 5
- (2) Sub-paragraph (1) does not affect the position of the person mentioned in paragraph 5(1) of Schedule 13 to this Act so far as section 13 of the 1972 Act applies in relation to that person’s service as Comptroller and Auditor General before the appointed time (see paragraph 5(4) of that Schedule).
- 6 (1) In Schedule 1 in the list of “Other Bodies” omit “National Audit Office” and, at the appropriate place, insert “Employee of the National Audit Office”. 10
- (2) Sub-paragraph (1) does not affect the position of any person who was a member of the staff of old NAO but who ceased to be a member before the transfers under paragraph 1(3) of Schedule 13 to this Act occur.

*House of Commons Disqualification Act 1975 (c. 24)* 15

- 7 In Schedule 1 –
- (a) in Part 2, at the appropriate place, insert “The National Audit Office”, and
- (b) in Part 3 omit “Comptroller and Auditor General” and “Member of the staff of the National Audit Office” and, at the appropriate place, insert “Employee of the National Audit Office”. 20

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 8 In Schedule 1 –
- (a) in Part 2, at the appropriate place, insert “The National Audit Office”, and 25
- (b) in Part 3 omit “Comptroller and Auditor General” and “Member of the staff of the National Audit Office” and, at the appropriate place, insert “Employee of the National Audit Office”.

*Parliamentary and other Pensions and Salaries Act 1976 (c. 48)*

- 9 (1) Omit section 6(3). 30
- (2) Sub-paragraph (1) does not affect the position of any person by virtue of section 1(3A) of the Exchequer and Audit Departments Act 1957 (c. 45).

*Race Relations Act 1976 (c. 74)*

- 10 (1) In Part 2 of Schedule 1A, under the heading “Regulatory, audit and inspection” – 35
- (a) at the appropriate place insert “The Comptroller and Auditor General”;
- (b) the reference to old NAO is to be read as a reference to NAO.
- (2) Sub-paragraphs (3) and (4) apply in relation to any function that was a function of old NAO by virtue of Part 2 of Schedule 1A. 40

- (3) Anything done by, on behalf of or in relation to old NAO has effect as if done by, on behalf of or in relation to the relevant person, so far as necessary or appropriate for continuing its effect after the coming into force of sub-paragraph (1).
- (4) Anything (including legal proceedings) which, immediately before the coming into force of sub-paragraph (1), is in the process of being done by, on behalf of or in relation to old NAO may be continued by, on behalf of or in relation to the relevant person. 5
- (5) “The relevant person” means – 10
- (a) in relation to matters within NAO’s functions, NAO;
  - (b) in relation to matters within the Comptroller and Auditor General’s functions, the Comptroller and Auditor General.

*Interpretation Act 1978 (c. 30)*

- 11 In Schedule 1, in the definition of “Comptroller and Auditor General”, omit “appointed in pursuance of the Exchequer and Audit Departments Act 1866”. 15

*National Audit Act 1983 (c. 44)*

- 12 (1) The following are omitted – 20
- (a) sections 1, 3(1) to (6), 4 and 5;
  - (b) paragraphs 1 to 3 of Schedule 2;
  - (c) Schedule 3.
- (2) Sub-paragraph (1) does not affect the position of any person by virtue of paragraph 2(3) or (4) of Schedule 2 to the 1983 Act.
- (3) The repeal of section 3(4) of the 1983 Act does not affect the position under the Superannuation Act 1972 (c. 11) of any person who was a member of the staff of old NAO but who ceased to be a member before the transfers under paragraph 1(3) of Schedule 13 to this Act occur. 25

- 13 After section 7 insert –

**“7A Proposals made by Committee of Public Accounts**

In determining whether to carry out any examination under this Part, the Comptroller and Auditor General must have regard to any proposals made by the Committee of Public Accounts.” 30

*Finance Act 1989 (c. 26)*

- 14 (1) Amend section 182 as follows.
- (2) In subsection (4)(a)(i) for “and any member of the staff of the National Audit Office” substitute “, of the National Audit Office and any member or employee of that Office or of any member of the staff of the National Audit Office that was established by section 3 of the National Audit Act 1983”. 35
- (3) After subsection (4)(a)(i) insert – 40
- “(ia) of the Comptroller and Auditor General for Northern Ireland and any member of the staff of the Northern Ireland Audit Office,”.

(4) In subsection (6) after “Comptroller” insert “and Auditor General, the Comptroller and Auditor General for Northern Ireland”.

(5) Omit subsection (11)(a) and (b).

*Social Security Administration Act 1992 (c. 5)*

15 (1) Amend section 123(8) as follows. 5

(2) After paragraph (a) insert –

- “(aa) any member or employee of the National Audit Office;
  - (ab) any other person who carries out the administrative work of the National Audit Office or who provides, or is employed in the provision of, services to that Office;”.
- 10

(3) In paragraph (i) omit “the National Audit Office or”.

(4) In paragraph (j) –

- (a) for “either of those Offices” substitute “the Northern Ireland Audit Office”;
  - (b) for “either of them” substitute “that Office”.
- 15

(5) After paragraph (j) insert –

- “(jza) the following persons –
    - (i) any member of the staff of the National Audit Office that was established by section 3 of the National Audit Act 1983, or
    - (ii) any other person who carried out the administrative work of that Office, or who provided, or who was employed in the provision of, services to that Office;”.
- 20

*Taxation of Chargeable Gains Act 1992 (c. 12)*

16 At the end of section 288(3A) insert – 25  
“(l) paragraph 4 of Schedule 13 to the Constitutional Reform and Governance Act 2010.”

*National Lottery etc. Act 1993 (c. 39)*

17 In section 4B(4)(f) for “the National Audit Office” substitute “the Comptroller and Auditor General”. 30

*Government of Wales Act 1998 (c. 38)*

18 Omit paragraph 1 of Schedule 12.

*Government Resources and Accounts Act 2000 (c. 20)*

19 Omit paragraph 18(2), (4) and (5) of Schedule 1.

*Freedom of Information Act 2000 (c. 36)* 35

20 In section 36(5)(i) –

- (a) the reference to old NAO is to be read as a reference to NAO;
- (b) after that reference insert “or the Comptroller and Auditor General”.

- 
- 21 (1) In Part 6 of Schedule 1 –
- (a) at the appropriate place insert “The Comptroller and Auditor General”;
  - (b) the reference to old NAO is to be read as a reference to NAO.
- (2) Sub-paragraphs (3) and (4) apply in relation to any function that was a function of old NAO by virtue of Part 6 of Schedule 1. 5
- (3) Anything done by, on behalf of or in relation to old NAO has effect as if done by, on behalf of or in relation to the relevant person, so far as necessary or appropriate for continuing its effect after the coming into force of sub-paragraph (1). 10
- (4) Anything (including legal proceedings) which, immediately before the coming into force of sub-paragraph (1), is in the process of being done by, on behalf of or in relation to old NAO may be continued by, on behalf of or in relation to the relevant person.
- (5) “The relevant person” means – 15
- (a) in relation to matters within NAO’s functions, NAO;
  - (b) in relation to matters within the Comptroller and Auditor General’s functions, the Comptroller and Auditor General.

*Constitutional Reform Act 2005 (c. 4)*

- 22 Omit paragraph 7 of Schedule 6. 20

*Government of Wales Act 2006 (c. 32)*

- 23 In paragraphs 5 and 8 of Schedule 5 after “Comptroller and Auditor General” insert “or the National Audit Office”.

*Companies Act 2006 (c. 46)*

- 24 Omit section 1230(3)(a). 25
- 25 In paragraph A32 of Part 2 of Schedule 2 and paragraph 47 of Schedule 11A for “the National Audit Office” substitute “the Comptroller and Auditor General”.

*Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)*

- 26 (1) In Schedule 1 omit the reference to old NAO. 30
- (2) In relation to any offence alleged to have been committed by old NAO before the coming into force of sub-paragraph (1), proceedings may be brought or continued against NAO as if anything done by, on behalf of or in relation to old NAO had been done by, on behalf of or in relation to NAO.

PART 3

AMENDMENTS TO OTHER LEGISLATION

*Court Funds Rules 1987 (S.I. 1987/821)*

- 27 In rule 63(2) for “National Audit Office” substitute “Comptroller and Auditor General”. 5

*Official Secrets Act 1989 (Prescription) Order 1990 (S.I. 1990/200)*

- 28 In Schedule 1, at the appropriate place, insert—

“National Audit Office	The members and employees of the Office”	10
---------------------------	---	----

- 29 In Schedule 2 for “Member of staff of the National Audit Office” substitute “Member of staff of the National Audit Office that was established by section 3 of the National Audit Act 1983”.

*Race Relations (Prescribed Public Bodies) (No. 2) Regulations 1994 (S.I. 1994/1986)* 15

- 30 In the Schedule the reference to old NAO is to be read as a reference to NAO.

*Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379)*

- 31 In Schedule 2, in the definition of “Comptroller and Auditor General”, omit “appointed in pursuance of the Exchequer and Audit Departments Act 1866”. 20

*Public Interest Disclosure (Prescribed Persons) Order 1999 (S.I. 1999/1549)*

- 32 In the Schedule for “Comptroller and Auditor General of the National Audit Office” substitute “Comptroller and Auditor General”.

*Greater London Authority (Disqualification) Order 2000 (S.I. 2000/432)* 25

- 33 In the Schedule omit paragraph 13 and for paragraph 20 substitute—  
“20 Member or employee of the National Audit Office.”

*Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188)*

- 34 In regulation 12A for “the National Audit Office” substitute “the Comptroller and Auditor General”. 30

*Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458)*

- 35 (1) In Schedule 1—

- 
- (a) at the appropriate place insert “The Comptroller and Auditor General”;
- (b) the reference to old NAO is to be read as a reference to NAO.
- (2) Sub-paragraphs (3) and (4) apply in relation to any function that was a function of old NAO by virtue of Schedule 1. 5
- (3) Anything done by, on behalf of or in relation to old NAO has effect as if done by, on behalf of or in relation to the relevant person, so far as necessary or appropriate for continuing its effect after the coming into force of sub-paragraph (1).
- (4) Anything (including legal proceedings) which, immediately before the coming into force of sub-paragraph (1), is in the process of being done by, on behalf of or in relation to old NAO may be continued by, on behalf of or in relation to the relevant person. 10
- (5) “The relevant person” means –
- (a) in relation to matters within NAO’s functions, NAO; 15
- (b) in relation to matters within the Comptroller and Auditor General’s functions, the Comptroller and Auditor General.
- Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I. 2005/2966)*
- 36 (1) In Part 1 of Schedule 1 – 20
- (a) at the appropriate place insert “The Comptroller and Auditor General”;
- (b) the reference to old NAO is to be read as a reference to NAO.
- (2) Sub-paragraphs (3) and (4) apply in relation to any function that was a function of old NAO by virtue of Part 1 of Schedule 1. 25
- (3) Anything done by, on behalf of or in relation to old NAO has effect as if done by, on behalf of or in relation to the relevant person, so far as necessary or appropriate for continuing its effect after the coming into force of sub-paragraph (1).
- (4) Anything (including legal proceedings) which, immediately before the coming into force of sub-paragraph (1), is in the process of being done by, on behalf of or in relation to old NAO may be continued by, on behalf of or in relation to the relevant person. 30
- (5) “The relevant person” means –
- (a) in relation to matters within NAO’s functions, NAO; 35
- (b) in relation to matters within the Comptroller and Auditor General’s functions, the Comptroller and Auditor General.
- Public Contracts Regulations 2006 (S.I. 2006/5)*
- 37 In Schedule 1 the reference to old NAO is to be read as a reference to NAO.
- Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006 (S.I. 2006/2930)* 40
- 38 (1) In the Schedule –

- (a) at the appropriate place insert “The Comptroller and Auditor General”;
  - (b) the reference to old NAO is to be read as a reference to NAO.
- (2) Sub-paragraphs (3) and (4) apply in relation to any function that was a function of old NAO by virtue of the Schedule. 5
- (3) Anything done by, on behalf of or in relation to old NAO has effect as if done by, on behalf of or in relation to the relevant person, so far as necessary or appropriate for continuing its effect after the coming into force of sub-paragraph (1).
- (4) Anything (including legal proceedings) which, immediately before the coming into force of sub-paragraph (1), is in the process of being done by, on behalf of or in relation to old NAO may be continued by, on behalf of or in relation to the relevant person. 10
- (5) “The relevant person” means –
- (a) in relation to matters within NAO’s functions, NAO; 15
  - (b) in relation to matters within the Comptroller and Auditor General’s functions, the Comptroller and Auditor General.

*Child Support Information Regulations 2008 (S.I. 2008/2551)*

- 39 (1) Amend regulation 14 as follows.
- (2) After paragraph (a) insert – 20
- “(aa) a member or employee of the National Audit Office or any other person who carries out administrative work of the Office, or who provides or is employed in the provision of, services to it;”.
- (3) For paragraph (b) substitute – 25
- “(b) any member of the staff of the National Audit Office that was established by section 3 of the National Audit Act 1983 or any other person who carried out administrative work of that Office, or who provided, or was employed in the provision of, services to it;”.
- 30

SCHEDULE 15

Section 86

AMENDMENTS OF FREEDOM OF INFORMATION ACT 2000

- 1 The Freedom of Information Act 2000 (c. 36) is amended as follows.
- 2 In section 2(3) (exemptions not subject to public interest test) after paragraph (e) insert – 35
- “(ea) in section 37, paragraphs (a) to (ab) of subsection (1), and subsection (2) so far as relating to those paragraphs,”.
- 3 In section 37(1) (communications with Her Majesty, etc.), for paragraph (a) substitute –
- “(a) communications with the Sovereign, 40

- |   |  |    |
|---|--|----|
|   | (aa) communications with the heir to, or the person who is for the time being second in line of succession to, the Throne,   |    |
|   | (ab) communications with a person who has subsequently acceded to the Throne or become heir to, or second in line to, the Throne,  | 5  |
|   | (ac) communications with other members of the Royal Family (other than communications which fall within any of paragraphs (a) to (ab) because they are made or received on behalf of a person falling within any of those paragraphs), and | 10 |
|   | (ad) communications with the Royal Household (other than communications which fall within any of paragraphs (a) to (ac) because they are made or received on behalf of a person falling within any of those paragraphs), or”.              |    |
| 4 | In section 62(1) (meaning of “historical record”), for “thirty years” substitute “twenty years”.   | 15 |
| 5 | (1) Section 63 (removal of exemptions: historical records generally) is amended as follows.  |    |
|   | (2) In subsection (1) –  |    |
|   | (a) omit “28,” and   | 20 |
|   | (b) for “36, 37(1)(a), 42 or 43” substitute “or 42”.   |    |
|   | (3) In subsection (2) –  |    |
|   | (a) omit “28(3),” and  |    |
|   | (b) for “36(3), 42(2) or 43(3)” substitute “or 42(2)”.   |    |
|   | (4) After subsection (2) insert –  | 25 |
|   | “(2A) Information contained in a historical record cannot be exempt information by virtue of section 36 except –   |    |
|   | (a) in a case falling within subsection (2)(a)(ii) of that section, or   |    |
|   | (b) in a case falling within subsection (2)(c) of that section where the prejudice or likely prejudice relates to the effective conduct of public affairs in Northern Ireland.   | 30 |
|   | (2B) Compliance with section 1(1)(a) in relation to a historical record is not to be taken to have any of the effects referred to in subsection (3) of section 36, except where the effect –   |    |
|   | (a) falls within subsection (2)(a)(ii) of that section, or   | 35 |
|   | (b) falls within subsection (2)(c) of that section and relates to the effective conduct of public affairs in Northern Ireland.   |    |
|   | (2C) Information cannot be exempt information –  |    |
|   | (a) by virtue of section 28 or 43, or  |    |
|   | (b) by virtue of section 36 in the excepted cases mentioned in subsection (2A),  | 40 |
|   | after the end of the period of thirty years beginning with the year following that in which the record containing the information was created.   |    |
|   | (2D) Compliance with section 1(1)(a) in relation to any record is not to be taken, at any time after the end of the period of thirty years beginning   | 45 |

- with the year following that in which the record was created, to be capable –
- (a) of prejudicing any of the matters referred to in section 28(1) or 43(2), or
  - (b) of having any of the effects referred to in section 36(3) in the excepted cases mentioned in subsection (2B). 5
- (2E) Information cannot be exempt information by virtue of any of paragraphs (a) to (ad) of section 37(1) after whichever is the later of –
- (a) the end of the period of five years beginning with the date of the relevant death, and 10
  - (b) the end of the period of twenty years beginning with the date on which the record containing the information was created.
- (2F) In subsection (2E)(a) “the relevant death” means –
- (a) for the purposes of any of paragraphs (a) to (ac) of section 37(1), the death of the person referred to in the paragraph concerned, or 15
  - (b) for the purposes of section 37(1)(ad), the death of the Sovereign reigning when the record containing the information was created.”
- 6 After section 80 insert – 20
- “80A Information held by Northern Ireland bodies**
- (1) This section applies to information held by –
    - (a) the Northern Ireland Assembly,
    - (b) a Northern Ireland department, or
    - (c) a Northern Ireland public authority. 25
  - (2) In their application to information to which this section applies, the provisions of this Act have effect subject to the following modifications.
  - (3) Section 2(3) (exemptions not subject to public interest test) is to be read as if paragraph (ea) were omitted. 30
  - (4) Section 37(1) (communications with Her Majesty, etc) is to be read as if for paragraphs (a) to (ad) there were substituted –
    - “(a) communications with the Sovereign, with other members of the Royal Family or with the Royal Household, or”.
  - (5) Section 62(1) (meaning of “historical record”) is to be read as if the reference to twenty years were a reference to thirty years. 35
  - (6) Section 63 (removal of exemptions: historical records generally) is to be read as if –
    - (a) in subsection (1), for the words from “section” to the end there were substituted “section 28, 30(1), 32, 33, 35, 36, 37(1)(a), 42 or 43”, 40
    - (b) in subsection (2), for the words from “section” to the end there were substituted “section 28(3), 33(3), 36(3), 42(2) or 43(3)”, and
    - (c) subsections (2A) to (2F) were omitted.” 45

# Constitutional Reform and Governance Bill

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## B I L L

To make provision relating to the civil service of the State; to make provision in relation to section 3 of the Act of Settlement and other provision in relation to nationality restrictions connected with employment or the holding of office in a civil capacity under the Crown; to make provision relating to the ratification of treaties; to make provision for a referendum on the voting system for parliamentary elections, and about referendums generally; to make provision relating to the counting of votes in parliamentary elections; to make provision about the accounts to be prepared by the Electoral Commission; to amend the Parliamentary Standards Act 2009 and the European Parliament (Pay and Pensions) Act 1979 and to make provision relating to pensions for members of the House of Commons, Ministers and other office holders; to amend section 2 of the House of Lords Act 1999 and make provision relating to the removal, suspension and resignation of members of the House of Lords; to make provision for treating members of the House of Commons and members of the House of Lords as resident, ordinarily resident and domiciled in the United Kingdom for taxation purposes; to repeal sections 132 to 138 of the Serious Organised Crime and Police Act 2005 and to amend Part 2 of the Public Order Act 1986; to make provision relating to time limits for human rights claims against devolved administrations; to make provision relating to judges and similar office holders; to make provision relating to the Comptroller and Auditor General and to establish a body corporate called the National Audit Office; to amend Schedule 5 to the Government of Wales Act 2006 in relation to the Auditor General for Wales; to amend the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales; to amend the Public Records Act 1958 and the Freedom of Information Act 2000.

*Brought from the Commons on 3rd March 2010*

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