

Civil Service Bill

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TO

Make provision with regard to the Civil Service; to establish a Civil Service Commission; to make provision for and in connection with the removal of general restrictions as to nationality which apply to persons employed or holding office in any civil capacity under the Crown; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

CIVIL SERVICE COMMISSION

1 Civil service of the State

- (1) The civil service of the State (“the civil service”) shall continue to consist of every person who serves the Crown in a civil capacity, other than a holder of judicial or political office, and whose remuneration is paid wholly and directly out of moneys provided by Parliament. 5
- (2) The Minister for the Civil Service may provide by order made by statutory instrument that a member of any prescribed body or the holder of any prescribed office (not being a judicial or political office) shall be included in the civil service for the purposes of this Act, and any such order shall be subject to annulment in pursuance of a resolution by either House of Parliament. 10
- (3) The Minister for the Civil Service may provide by order made by statutory instrument that a person, or persons of a class or description falling within subsection (1) or (2) above shall not be included in the civil service for the purposes of this Act, but such an order shall not be made unless a draft of the instrument has been approved by each House of Parliament. 15

2 Civil Service Commission

- (1) There shall be a body of Commissioners to be known as the Civil Service Commission (“the Commission”) to exercise the functions conferred upon it by this Act.
- (2) The Commission shall consist of not fewer than seven Commissioners appointed by Her Majesty on an address presented by the House of Commons, and no motion shall be made for such an address except by the Prime Minister acting with the agreement of the Leader of Her Majesty’s Opposition. 5
- (3) Subject to the provisions of this section, the expenses of the Commission shall be defrayed out of moneys provided by Parliament. 10
- (4) *The Commission shall for the financial year ending on 31st March 2005 and for each subsequent financial year prepare an estimate of the use by it of resources (within the meaning of the Government Resources and Accounts Act 2000 (c. 20)) and the Public Accounts Commission shall examine that estimate and lay it before the House of Commons with such modifications, if any, as the Public Accounts Commission thinks fit.* 15
- (5) *Schedule 1 has effect in respect of the Commission.*
- (6) In this section, “Leader of Her Majesty’s Opposition” has the same meaning as in the Ministerial and Other Salaries Act 1975 (c. 27).

3 Principal functions of the Commission 20

- (1) Subject to section 5 below, the Commission shall maintain the principle of selection on merit on the basis of fair and open competition in relation to appointments to the civil service and for this purpose the Commission –
- (a) shall oversee and monitor recruitment procedures to the civil service, and publish such codes on recruitment for observance by appointing authorities as it thinks fit; 25
- (b) shall require that every appointment to the Senior Civil Service be approved by it in writing, except where such appointment is for a period of less than twelve months;
- (c) may except an appointment from the principle of selection on merit on the basis of fair and open competition, either individually or by cases of a class or description; and 30
- (d) may take such other steps as it thinks fit.
- (2) The Commission may hear and determine applications or appeals to it by a member of the civil service under the Civil Service Code and for this purpose may – 35
- (a) determine its own procedure;
- (b) require the parties to an application or appeal to provide such information and other assistance as the Commission shall think necessary or appropriate; and 40
- (c) make recommendations
- (3) The Commission may undertake such inquiries as it thinks fit into the recruitment of the civil service and the operation of any code of conduct made under this Act.
- (4) The Commission – 45

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- (a) shall lay annually before each House of Parliament a general report on the performance of its functions under this Act; and
- (b) may from time to time lay before each House of Parliament such other reports with respect to those functions as it thinks fit.
- (5) In this section, “the Senior Civil Service” means that part of the civil service the members of which are classified by the Minister for the Civil Service as members of the Senior Civil Service. 5
- 4 Exercise of functions by Commission 10**
- (1) Any function of the Commission under this Act may be exercised by a single Commissioner or any officer of the Commission who is authorised for that purpose by the Commission. 10
- (2) The Commission may from time to time and to such extent as it thinks fit authorise any person to perform—
- (a) any function under section 3 (1)(a);
- (b) any of its functions relating to the selection and recruitment of persons prior to the exercise by it of its power under section 3(1)(b) to give written approval to an appointment; or 15
- (c) any of its functions under section 3(1)(b) and (c) where it has approved the arrangements for selection for particular appointments.
- 5 Exemption from selection on merit 20**
- (1) The principle of selection on merit on the basis of fair and open competition under section 3 of this Act shall not apply to any situation—
- (a) where the holder is appointed directly by the Crown; or
- (b) where the holder is appointed directly by a Minister of the Crown, a member of the Scottish Executive, the Assembly First Secretary of the National Assembly for Wales or an Assembly Secretary with the approval of the Minister for the Civil Service and on terms incorporating conditions approved by him. 25
- (2) A situation under subsection (1)(b) above may not be held other than for the purpose of assisting the Minister, member of the Scottish Executive or Assembly Secretary who made the appointment, or for a period which extends beyond his term of office. 30
- (3) The holder of a situation under subsection above (1)(b) may not—
- (a) authorise any expenditure of public funds;
- (b) exercise any management function in respect of the civil service; or 35
- (c) exercise any statutory power;
- but this shall not apply in the case of up to two situations in the Prime Minister's Office which may be designated by him.
- (4) The number of situations that may be held at any time by persons appointed by virtue of this section shall not exceed— 40
- (a) twelve in the case of persons appointed by members of the Scottish Executive;
- (b) six in the case of persons appointed by an Assembly Secretary; and

- (c) in the case of appointments by Ministers of the Crown a number that shall be subject to approval by a resolution of each House of Parliament.

6 The Civil Service Code

- (1) The Minister for the Civil Service shall publish a code of conduct, to be known as “The Civil Service Code” (“the Code”). 5
- (2) The Code shall regulate the conduct of the civil service by prescribing the values which its members are expected to uphold, and shall include, in particular—
- (a) a duty to serve the duly constituted Government with integrity, honesty and political impartiality; 10
 - (b) a duty to discharge public functions reasonably and according to law;
 - (c) a duty to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration; and
 - (d) a duty to act without fear or favour and with political impartiality in the provision of advice and the performance of public functions. 15
- (3) The Code shall provide a mechanism for an appeal by any civil servant who believes that he is being required to act in a way that is unlawful, improper, unethical or otherwise in breach of the Code, and shall also provide for an application direct to the Commission in any case where the civil servant reasonably believes he will be subjected to a detriment if he makes an appeal. 20
- (4) The Code may make other such provision as the Minister thinks fit.
- (5) The Minister for the Civil Service may make such supplementary codes to make special provision for the holders of situations under section 5(1)(b) of this Act as he thinks fit. 25
- (6) The Minister for the Civil Service shall lay before each House of Parliament a draft of any code or revised code made under this section and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Minister for the Civil Service shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn. 30
- (7) In this section “government” includes the Crown in right of Her Majesty’s Government in the United Kingdom, the Scottish Executive and the National Assembly for Wales.

7 Power to make orders

- (1) The Minister for the Civil Service may by order made by statutory instrument make provision— 35
- (a) prescribing the number, grading and classification of posts in the civil service;
 - (b) *determining the conditions of service of all persons employed in the civil service, including remuneration, expenses and allowances, holidays, hours of work, part-time and other working arrangements, retirement, redundancy and redeployment;* 40
 - (c) regulating the conduct of the civil service, other than the Civil Service Code or other codes under section 6 above; and 45

- (d) regulating recruitment of persons to situations in the civil service, including qualifications relating to age, knowledge, ability, professional attainment, aptitude and potential.
- (2) An order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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PART 2

NATIONALITY REQUIREMENTS

8 Removal of existing nationality requirements

- (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) shall not prevent any person from being employed or holding office in a civil capacity under the Crown. 10
- (2) In the Aliens Restriction (Amendment) Act 1919 (c. 92), section 6 (which, subject to exceptions, prevents the appointment of aliens to posts in the Civil Service) is omitted. 15
- (3) The Aliens' Employment Act 1955 (c. 18) is hereby repealed.
- (4) The European Communities (Employment in the Civil Service) Order 1991 (S.I., 1991, No. 1221) is hereby revoked.

9 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 specified in the rules. 20
- (2) The rules may also impose requirements as to nationality which must be satisfied by persons of a description specified in the rules who are related to, or living with, such a person. 25
- (3) The rules may be made –
 - (a) by a Minister of the Crown; or
 - (b) by any other officer of the Crown to whom that power has been delegated by a Minister of the Crown.
- (4) The rules may include provision – 30
 - (a) exempting persons of a description specified in the rules (and persons related to, or living with, them) who were first employed, or first held office, in the capacity in question before a specified date; and
 - (b) allowing any Minister or other officer of the Crown to grant exemptions in cases in which the Minister or officer considers it appropriate. 35
- (5) The reference in section 75(5)(b) of the Race Relations Act 1976 (c. 74) (rules relating to nationality etc. of persons employed in service of Crown) to the implementation of rules includes the grant of (or refusal to grant) exemptions under subsection (4)(b).

10 Repeals and revocation

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Schedule 2 (repeals and revocations) has effect.

PART 3

MISCELLANEOUS

11 Transitional, transitory and saving provisions

- (1) The Minister for the Civil Service may by order made by statutory instrument make any transitory, transitional or saving provision which he considers expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act. 5
- (2) An order under this section shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament. 10

12 Expenses

There shall be paid out of money provided by Parliament –

- (a) *any expenditure incurred by the Minister for the Civil Service under or by virtue of this Act; and*
- (b) *any increase attributable to the provisions of this Act in the sums which under any other enactment are paid out of moneys so provided.* 15

13 Short title, commencement and extent

- (1) This Act may be cited as the Civil Service Act 2004.
- (2) This Act shall come into force on 1st April 2005.
- (3) This Act (except sections 2, 3, 4, 5, 6 and 7) shall extend to Northern Ireland. 20

SCHEDULES

SCHEDULE 1

Section 2

THE CIVIL SERVICE COMMISSION

Status

- 1 The Commission shall be a body corporate. 5

Members

- 2 (1) The Commission shall consist of a chairman (to be known as the First Civil Service Commissioner) and six other members who may appoint one of their number to be deputy chairman.
- (2) The members of the Commission shall hold and vacate office in accordance with such terms as may be prescribed by or under regulations made by the Minister of the Civil Service and, on vacating office, shall be eligible for reappointment. 10
- (3) Regulations under sub-paragraph (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (4) A member of the Commission may at any time by notice in writing to the Minister resign his office.
- 3 *The Commission –*
- (a) shall pay to its members such remuneration and allowances (if any) as the Minister may determine; and 20
- (b) as regards any member in whose case the Minister may so determine, shall pay such pension to or in respect of him, or make such payments towards the provision of such pension as the Minister may determine.
- 4 *If a person ceases to be a member of the Commission, and it appears to the Minister that there are special circumstances which make it right that he should receive compensation, the Minister may require the Commission to pay to that person a sum of such amount as the Minister may determine.* 25

Procedure

- 5 The procedure (including the quorum) of the Commission shall be such as it may determine. 30
- 6 The validity of any proceeding of the Commission shall not be affected by any vacancy among its membership or by any defect in the appointment of any member of it.
- 7 The Commission shall appoint – 35

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- (a) with the approval of the Minister, a chief officer; and
(b) such number of other employees as it may determine.
- 8 *The Commission shall pay to its employees such remuneration and allowances as it may determine.*
- 9 (1) *The Commission shall in the case of its employees –* 5
 (a) *pay such pension to or in respect of them;*
 (b) *make such payments towards the provision of such pensions; or*
 (c) *provide and maintain such schemes (whether contributory or not) for the payment of such pensions,*
as it may determine. 10
- (2) *In this paragraph any reference to the payment of pensions to or in respect of the Commission's employees includes a reference to the payment of pensions by way of compensation to or in respect of any of the Commission's employees who suffer loss of office or employment or loss or diminution of emoluments.*
- Accounts and reports* 15
- 10 (1) The Commission shall keep proper accounts and other records, and shall prepare for each financial year a statement of account in such form as the Minister with the approval of the Treasury may direct and submit those statements of account to the Minister at such time as he may with the approval of the Treasury direct. 20
- (2) The Minister shall, as respects each financial year, send the Commission's statement of accounts to the Comptroller and Auditor General not later than the end of November following the financial year.
- (3) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts and lay copies of it, together with his report, before each House of Parliament. 25
- Land*
- 11 The Commission, for the purpose of providing itself with office or other accommodation in connection with the exercise of any of its functions, may acquire land, erect and maintain buildings or other structures thereon, and, when the land is no longer required for such purpose, dispose of it. 30
- 12 Any land occupied by the Commission shall, for the purpose of any rate on property, be treated as if it were property occupied by or on behalf of the Crown for public purposes.
- Interpretation* 35
- 13 In this Schedule –
 “the Commission” means the Civil Service Commission;
 “financial year” means the period commencing with the appointed day and ending with 31st March following that day, and each successive period of twelve months; 40
 “the Minister” means the Minister for the Civil Service;
 “pension” includes allowance or gratuity.

SCHEDULE 2

Section 8

REPEALS AND REVOCATIONS

<i>Title and reference</i>	<i>Extent of repeal or revocation</i>	
Aliens Restriction (Amendment) Act 1919 (c. 92)	Section 6.	5
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, No. 1221)	The whole Order.	10

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To make provision with regard to the Civil Service; to establish a Civil Service Commission; to make provision for and in connection with the removal of general restrictions as to nationality which apply to persons employed or holding office in any civil capacity under the Crown; and for connected purposes.

*Presented by Mr Oliver Heald
supported by
Mr Michael Howard, David Davis,
Mr Alan Duncan, Mr Nicholas Soames and
David Maclean.*

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