

Constitutional Reform and Governance Bill

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 Bill 142 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Jack Straw 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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A

B I L L

TO

Make provision relating to the civil service of the State; to make provision relating to the ratification of treaties; 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 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 the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales.

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

THE CIVIL SERVICE

CHAPTER 1

STATUTORY BASIS FOR MANAGEMENT OF THE CIVIL SERVICE

Application

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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—
 - (a) the Secret Intelligence Service;
 - (b) the Security Service;
 - (c) the Government Communications Headquarters;

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- (d) the Northern Ireland Civil Service;
 - (e) the Northern Ireland Court Service.
- (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; 5
 - (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); 10
 - (c) does not apply to the civil service of the State so far as it consists of persons –
 - (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. 15
- (4) In this Chapter references to the civil service –
- (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); 20
- 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”). 25
- (2) Schedule 1 (which is about the Commission) has effect.
- (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); 30
 - (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). 35
- (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. 40

- (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).
- (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
 - (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. 10
- (2) But those and all other statutory management powers are exercisable subject to section 3.
- (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). 15
- (4) “Act” includes—
- (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. 20

Codes of conduct

5 Civil service code

- (1) The Minister for the Civil Service must publish a code of conduct for the civil service (excluding the diplomatic service). 25
- (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.
- (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). 30
- (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.
- (5) The Minister for the Civil Service must lay any civil service code before Parliament. 35
- (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.

- (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. 5

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. 10
- (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. 15
(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 administration as it is duly constituted for the time being, whatever its political complexion. 20
- (3) The administrations are –
- (a) Her Majesty’s Government in the United Kingdom;
 - (b) the Scottish Executive; 25
 - (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. 30

8 Special advisers code

- (1) The Minister for the Civil Service must publish a code of conduct for special advisers (see section 15).
- (2) Before publishing a code (or any revision of a code) under this section, the Minister must consult the First Minister for Scotland and the First Minister for Wales. 35
- (3) In this Chapter “special advisers code” means the code of conduct published under this section as it is in force for the time being.

- (4) The Minister for the Civil Service must lay the special advisers code before Parliament.
 - (5) The First Minister for Scotland must lay the special advisers code before the Scottish Parliament.
 - (6) The First Minister for Wales must lay the special advisers code before the National Assembly for Wales. 5
 - (7) The special advisers code forms part of the terms and conditions of service of special advisers.
- 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. 10
 - (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 15
 - (b) that another civil servant covered by the code is acting, or has acted, in a way that conflicts with the code.
 - (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). 20
 - (5) The Commission—
 - (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. 25
 - (6) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires—
 - (a) civil service management authorities;
 - (b) the complainant; 30
 - (c) any civil servant whose conduct is covered by the complaint.
 - (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** 35
- (1) This section applies to the selection of persons who are not civil servants for appointment to the civil service.
 - (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;
- (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)). 5
- (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).
- (5) But, in relation to persons selected in reliance on subsection (3)(c), the recruitment principles may disapply subsection (4) in specified cases. 10
- 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).
- (2) Before publishing the set of principles (or any revision of it), the Commission must consult the Minister for the Civil Service. 15
- (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. 20
- 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);
- (b) excepting a selection from that requirement for the purposes of section 10(3)(c). 25
- (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.
- (4) Provision within subsection (1)(b) may be included only if the Commission is satisfied – 30
- (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. 35
- (5) Provision within subsection (1)(a) or (b) may be made in any way, including (for example) by reference to – 40
- (a) particular appointments or descriptions of appointments;
- (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) –
 - (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). 5
- (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). 10
- (2) The person may complain to the Commission about the matter.
- (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); 15
 - (b) must determine procedures for the making of complaints and for the investigation and consideration of complaints by the Commission;
 - (c) after considering a complaint, may make recommendations about how the matter should be resolved. 20
- (4) For the purposes of the investigation or consideration of a complaint, the following must provide the Commission with any information it reasonably requires –
 - (a) civil service management authorities;
 - (b) the complainant. 25

14 Monitoring by the Commission

- (1) The Commission must carry out whatever reviews of recruitment policies and practices it thinks are necessary to establish –
 - (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 30
 - (b) that the requirement in section 10(2) and the recruitment principles are not being undermined in any way (apart from non-compliance).
- (2) For this purpose, civil service management authorities must provide the Commission with any information it reasonably requires. 35

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. 40

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;
- (b) the appointment is approved by the Prime Minister; 5
- (c) the terms and conditions of the appointment (apart from those by virtue of section 8(7)) are approved by the Minister for the Civil Service;
- (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. 10

Scottish Executive

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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; 20
- (b) the terms and conditions of the appointment (apart from those by virtue of section 8(7)) 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. 25

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

Welsh Assembly Government

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; 30
 - (b) the terms and conditions of the appointment (apart from those by virtue of section 8(7)) are approved by the Minister for the Civil Service; 35
 - (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.
- (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. 45

16 Annual reports about special advisers

- (1) The Minister for the Civil Service must –

- (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 5
 - (b) lay the report before the Scottish Parliament.
- (3) The First Minister for Wales must –
 - (a) prepare an annual report about special advisers serving the Welsh Assembly Government, and 10
 - (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.

Additional functions of the Commission

- 17 Agreements for the Commission to carry out additional functions 15**
 - (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.
 - (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. 20

Final provisions

- 18 Definitions etc 25**
 - (1) In this Chapter –
 - “civil servant” is read as stated in section 1(4);
 - “civil service” is read as stated in section 1(4);
 - “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; 30
 - “the Commission” is defined in section 2(1);
 - “diplomatic service” means Her Majesty’s diplomatic service;
 - “diplomatic service code” is defined in section 6(2);
 - “function” includes power or duty;
 - “information” means information recorded in any form; 35
 - “recruitment principles” is defined in section 11(3);
 - “special adviser” is defined in section 15;
 - “special advisers code” is defined in section 8(3).
 - (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.

CHAPTER 2

CONSEQUENTIAL AND TRANSITIONAL PROVISION

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19 Consequential amendments and transitional provision

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

CHAPTER 3

NORTHERN IRELAND

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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))”.
- (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”.

PART 2

RATIFICATION OF TREATIES

21 Treaties to be laid before Parliament before ratification

- (1) Subject to what follows, a treaty is not to be ratified unless –
- a Minister of the Crown has laid before Parliament a copy of the treaty,
 - the treaty has been published in a way that a Minister of the Crown thinks appropriate, and
 - 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.
- (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 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

-
- (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.
- 22 Extension of 21 sitting day period**
- (1) A Minister of the Crown may, in relation to a treaty, extend the period mentioned in section 21(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.
- 23 Section 21 not to apply in exceptional cases** 25
- (1) Section 21 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 21(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.

24 Section 21 not to apply to certain descriptions of treaties

- (1) Section 21 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 (treaty amending founding Treaties not to be ratified unless approved by Act of Parliament).
- (2) Section 21 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 788 of the Income and Corporation Taxes Act 1988 (c. 1) (double taxation arrangements);
 - (c) section 173 of the Finance Act 2006 (c. 25) (international tax enforcement arrangements). 15
- (3) Section 21 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 21 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

25 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

THE HOUSE OF LORDS

Excepted hereditary peers

26 Ending of by-elections for hereditary peers

- (1) For section 2(4) of the House of Lords Act 1999 (c. 34) substitute – 5
- “(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 10

27 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 – 15
- (a) a condition set out in Part 1 of Schedule 3 is met in relation to P,
- (b) an expulsion resolution is passed in relation to P under section 28, or
- (c) P resigns from the House of Lords under section 29.
- (The conditions set out in Part 1 of Schedule 3 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 – 20
- (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 3 supplements subsection (2).
- (4) Part 3 of Schedule 3 provides for the effect of subsection (2) to be reversed in certain circumstances. 25
- (5) In this Part –
- “excepted hereditary peer” means a person excepted from section 1 of the House of Lords Act 1999 by virtue of section 2 of that Act;
- “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. 30
- (6) In determining whether a person is entitled to receive writs of summons for the purposes of the definition of “life peer”, ignore – 35
- (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); 40

- (d) any suspension resolution passed in relation to the person under section 28.

28 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. 5
- (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,
 - (b) that conduct warrants the loss of the person’s entitlement to receive writs of summons to attend the House, and 10
 - (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, 15
 - (b) that conduct warrants the suspension of the person’s entitlement to receive writs of summons to attend the House, and
 - (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 – 20
- (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. 25
- (5) An expulsion resolution or a suspension resolution must specify –
- (a) the date or dates on which, or
 - (b) the period or periods during which, 30
- 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.
- (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. 35

29 Resignation from House of Lords

- (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. 40
- (3) The notice must be in writing signed by the resigning peer and by two persons as witnesses.

- (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.

30 Disclaimer of peerage

5

- (1) A person (“the former member”) to whom section 27 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 27(2) has been reversed under Part 3 of Schedule 3).
- (2) The former member disclaims the peerage by giving notice of the disclaimer to the Lord Chancellor. 10
- (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 15
 - (b) send a copy of it to the former member.
- (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. 20
- (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 25
 - (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 30
 - (b) make arrangements under which the public may inspect the register.

31 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. 35
- (2) Nothing in this Part affects –
 - (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. 40

PART 4

PUBLIC ORDER

32 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). 5
- (2) Schedule 4 (which inserts new powers into Part 2 of the Public Order Act 1986 (c. 64) etc) has effect.

PART 5

HUMAN RIGHTS CLAIMS AGAINST DEVOLVED ADMINISTRATIONS

33 Time limit for human rights actions against Northern Ireland Ministers etc 10

- (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. 15 20
- (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; 25
- (b) proceedings brought by a person mentioned in subsection (2).
- (2F) Subsection (9) of section 7 of the Human Rights Act 1998 applies for the purposes of subsection (2D) as it applies for the purposes of that section.” 30
- (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).

34 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). 35
- (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— 40

- (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
- (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; 10
 - (b) proceedings brought by a person mentioned in subsection (3).
- (3C) Subsection (9) of section 7 of the Human Rights Act 1998 applies for the purposes of subsection (3A) as it applies for the purposes of that section.”
- (3) In subsection (5) after “Ministers” insert “(and in subsection (3B)(a) the reference to the Welsh Ministers is to be read accordingly)”. 15
- (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. 20
- (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).

PART 6

COURTS AND TRIBUNALS 25

35 Judicial appointments etc

Schedule 5 (which makes amendments relating to judicial appointments etc) has effect.

36 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. 30
- (2) The provisions are—
 - (a) section 5(1)(a), (b) or (c) of the Employment Tribunals Act 1996 (c. 17);
 - (b) paragraph 10(a) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41); 35
 - (c) paragraph 10 of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (c. 15);
 - (d) paragraph 5(2) of Schedule 2 to that Act;
 - (e) paragraph 5(2) of Schedule 3 to that Act; 40
 - (f) 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) –
- (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. 5

PART 7

NATIONAL AUDIT

The Comptroller and Auditor General

- 37 The office of the Comptroller and Auditor General** 10
- (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.
 - (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. 15
 - (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.
 - (8) The person may not be appointed again.
- 38 Status of the Comptroller and Auditor General etc** 20
- (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.
(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.) 25
 - (3) The person who is the Comptroller and Auditor General must not be a member of the House of Lords.
 - (4) The Comptroller and Auditor General is not to be regarded – 30
 - (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. 35
 - (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.

- (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) – 5
- (a) section 43 and Schedule 6, 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;
 - (b) section 44 and Schedule 7, which deal with the interaction between the National Audit Office and the Comptroller and Auditor General and which (among other things) – 10
 - (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; 15
 - (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; 20
 - (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; 25
 - (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 46, which places requirements on the Comptroller and Auditor General in relation to efficiency etc; 30
 - (d) section 7A of the National Audit Act 1983 (c. 44), which requires the Comptroller and Auditor General to have regard to certain proposals made by the Committee of Public Accounts.

39 Provision of services

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. 35

40 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. 40
- (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. 45

-
- (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). 5
- (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.* 10
- (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. 15
- (9) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons. 20
- 41 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. 25
- 42 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— 30
- (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.
- (3) “Specified” means specified from time to time by the Commission. 35
- (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— 40
- (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.
- (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. 5
- (7) But subsections (5) and (6) do not stop P from holding any of the following offices –
- (a) the Auditor General for Scotland; 10
 - (b) the Auditor General for Wales;
 - (c) the Comptroller and Auditor General for Northern Ireland.

The National Audit Office

43 Incorporation of the National Audit Office

- (1) There is to be a body corporate called the National Audit Office. 15
- (2) In Welsh it is called Y Swyddfa Archwilio Genedlaethol.
- (3) In this Part “NAO” means the National Audit Office.
- (4) Schedule 6 (which is about NAO) has effect.

44 Interaction between NAO and the Comptroller and Auditor General

Schedule 7 (which is about the interaction between NAO and the Comptroller and Auditor General) has effect. 20

45 NAO’s expenditure

- (1) *NAO’s expenditure is to be paid out of money provided by Parliament.*
(But see sections 40(6) and 47(1) and paragraph 6(2) of Schedule 6.)
- (2) For each financial year, NAO must prepare an estimate of NAO’s use of resources. 25
- (3) This must cover (in particular) the resources required for the purposes of paragraph 2(1) of Schedule 7 (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. 30
- (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. 35
- (6) In doing this the Commission must have regard to any advice given by the Committee of Public Accounts or the Treasury.

*Other matters***46 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. 5

47 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.* 10
- (2) The liability must not be to another indemnified person. 15
- (3) The following are indemnified persons –
- (a) the Comptroller and Auditor General;
 - (b) NAO;
 - (c) a past or present member of NAO;
 - (d) a past or present employee of NAO. 20

48 Definitions

- (1) In this Part –
- “the Commission” means the Public Accounts Commission;
 - “function” includes power or duty;
 - “NAO” is defined in section 43(3); 25
 - “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 –
- (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. 35
- (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. 40

49 Transitional provision and consequential amendments

- (1) Schedule 8 (which contains transitional provision) has effect.
- (2) Schedule 9 (which contains amendments consequential on this Part) has effect.

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

5

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

“(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.

10

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).

(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.”

15

PART 8

TRANSPARENCY OF GOVERNMENT FINANCIAL REPORTING TO PARLIAMENT

51 Inclusion in departmental estimates of resources used by designated bodies

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

20

“Departmental estimates

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.

25

(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 –

30

(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.

35

(4) A body, or a description of body, may be designated in relation to a government department for a particular financial year or generally.

(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
- (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. 5
- (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 –
- (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 10
- (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.
- (8) Before designating a body, or a description of body, the Treasury must, where they think it appropriate, consult – 15
- (a) the Scottish Ministers,
- (b) the Department of Finance and Personnel for Northern Ireland, or
- (c) the Welsh Ministers. 20
- (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 25
- (b) the fact that the department’s resource accounts for a financial year prepared under section 5 include information relating to the body.
- (10) An order under subsection (3) is to be made by statutory instrument. 30
- (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 – 35
- (a) the Scottish Consolidated Fund,
- (b) the Consolidated Fund of Northern Ireland, or
- (c) the Welsh Consolidated Fund.”
- (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 – 40
- (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.” 45
- (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.”

5

52 Corresponding provision in relation to Wales

(1) Part 5 of the Government of Wales Act 2006 (c. 32) (finance) is amended as follows.

10

(2) After section 126 insert –

“126A Inclusion in Budget motions of resources used by designated bodies

(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.

15

(2) For the purposes of this section a body is a “designated” body in relation to a relevant person if –

- (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.

20

(3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally.

(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.

25

(5) “A relevant Consolidated Fund” means –

- (a) the Consolidated Fund of the United Kingdom,
- (b) the Scottish Consolidated Fund, or
- (c) the Consolidated Fund of Northern Ireland.

30

(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 –

35

- (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.

40

- (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.
- (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.” 5
- (3) Schedule 8 (Auditor General for Wales) is amended as follows.
- (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.” 10
- (5) In paragraph 15 (audit of accounts of Auditor General) –
- (a) in sub-paragraph (5)(b) –
- (i) for “the Auditor General”, in the first place, substitute “a relevant person”; and 15
- (ii) for “the Auditor General”, in the second place, substitute “the relevant person”; and
- (b) after sub-paragraph (5) insert –
- “(5A) In sub-paragraph (5)(b) “relevant person” means – 20
- (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).”
- (6) In paragraph 17(8) (access of Auditor General to documents), after paragraph (b) insert – 25
- “(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,”. 30
- (7) In paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (c. 10) (accounts), after sub-paragraph (1) insert – 35
- “(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.”

PART 9

FINAL PROVISIONS

40

53 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).

54 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.*

5

55 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 – 10
 - (a) amend, repeal or revoke any existing statutory provision;
 - (b) include supplementary, incidental, transitional, transitory or saving provision.

- (3) “Existing statutory provision” means – 15
 - (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. 20

- (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. 25

56 Extent, commencement, transitional provision and short title

- (1) Part 4 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). 30

- (3) This Act (apart from this Part) 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. 35

- (4) 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.

- (5) An order under subsection (3) or (4) is to be made by statutory instrument.

- (6) This Act may be cited as the Constitutional Reform and Governance Act 2009. 40

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 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 –
- (a) a vacancy among the members, or 20
- (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 2009 (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 2009 (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 2009”.

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 2009 (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) Omit subsections (4) and (9).

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

10 (1) Amend section 24 as follows.

(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 2009 (see section 1(4) of that Act).” 5

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)” 10

(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 2009 (see section 1(4) of that Act), but 15
 (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” 20

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”. 25

(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 2009 (see section 1(4) of that Act).” 30

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 – 35

“(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 2009 (see section 1(4) of that Act).”

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”.
- (3) For subsection (3) substitute – 5
- “(3) See Part 1 of the Constitutional Reform and Governance Act 2009 (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.” 10
- (4) Omit subsections (4) and (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 2009 (see section 1(4) of that Act).” 15

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”. 20
- (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 2009 (see section 1(4) of that Act).” 25

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 – 30
- “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 2009 (see section 1(4) of that Act);”.

PART 2 35

CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

Civil Service Orders in Council

- 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;
- (e) the Civil Service (Amendment) Order in Council 1998; 5
- (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;
- (j) the Civil Service (Amendment) Order in Council 2004; 10
- (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;
- (o) the Civil Service (Amendment) Order in Council 2008; 15
- (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;
 - (b) the Diplomatic Service (Amendment) Order in Council 1994; 20
 - (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.

Servants of the Crown (Parliamentary, European Assembly and Northern Ireland Assembly Candidature) Order 1987 25

- 21 This is revoked.

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

- 22 (1) Amend Schedule 1 as follows.
- (2) For “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”. 30
- (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;”;
- 35
- 23 In Schedules 3 and 4 for “Head of the Home Civil Service” (wherever appearing) substitute “designated permanent secretary”.

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 5

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. 10
- (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. 15
- (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. 20
- (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. 25
- (4) The other terms on which the person holds office as the First Commissioner are – 30
- (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. 35
- (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.

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. 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 the First Commissioner, and 10
- (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. 15
- (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. 20
- (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 25
- (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. 30
- (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. 35
- (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.
- (3) The five year rule is that the total of the following must not exceed five years – 40
- (a) the period or periods for which the person holds office as Commissioner, and

- (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. 5

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. 10
- (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. 15

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. 20
- (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). 25
- 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. 30
- (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). 35

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. 40

- (2) The report must, for the relevant period, include the information required by –
- (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. 5
- (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; 10
 - (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; 15
 - (b) ending when section 2 of this Act comes into force.

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 20
 - (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 – 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
- (3) The scheme may include supplementary, incidental, transitional, transitory or saving provision, including (in particular) provision –
- (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); 35
 - (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; 40
 - (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 – 45

- (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.
- (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). 5
- Preparatory work* 10
- 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 –
- (a) starts when this Act is passed, and 15
 - (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)

- 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. 20
- (2) Section 16(1) of the Interpretation Act 1978 applies in relation to an old management function ceasing to be exercisable as if –
- (a) the function had been conferred by an Act, and
 - (b) that Act were repealed by section 3 of this Act. 25
- (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

- 39 (1) Anything done under old management functions by – 30
- (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. 35
- (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). 40
- (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 –

(a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or 5

(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.

(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 – 10

(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,

continue to hold their positions but on the basis mentioned in sub-paragraph (1). 15

(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 20

(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 (c. 61) before its repeal by Part 1 of this Schedule).

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. 25

(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. 30

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 must be taken of anything done under or in relation to the selection process before section 10(2) comes into force. 35

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. 40

(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.

SCHEDULE 3

Section 27

CONDITIONS FOR REMOVAL OF MEMBERS OF THE HOUSE OF LORDS ETC

PART 1

CONDITIONS FOR REMOVAL

Condition 1: serious criminal offence 5

- 1 (1) Condition 1 is met if a person –
- (a) is convicted of an offence committed after section 27 comes into force,
 - (b) is sentenced or ordered to be imprisoned or detained for that offence indefinitely or for more than one year, and 10
 - (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. 15
- (3) The cases covered by this condition include cases in which –
- (a) a person is convicted of an offence committed outside the United Kingdom;
 - (b) anything mentioned in sub-paragraph (1)(a) to (c) occurs outside the United Kingdom. 20
- (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).

Condition 2: bankruptcy restrictions orders etc

- 2 Condition 2 is met if and when – 25
- (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 –
 - (i) Schedule 4A to the Insolvency Act 1986 (c. 45);
 - (ii) section 56A or 56G of the Bankruptcy (Scotland) Act 1985 (c. 66); 30
 - (iii) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
 - (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. 35

PART 2

SUPPLEMENTARY PROVISION FOR SECTION 27(2)

Supplementary provision relating to excepted hereditary peers

- 3 (1) This paragraph applies if P is an excepted hereditary peer. 40

- (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.

Supplementary provision relating to life peers

- 4 (1) This paragraph applies if P is a life peer. 5
 (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.

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 – 10
 (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 relevant event occurs. 15

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.
 (2) Section 27(2) does not stop P being entitled to receive writs of summons to attend the House of Lords by virtue of that peerage. 20
 (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.
 (4) Section 27(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. 25

PART 3

REVERSAL OF EFFECT OF SECTION 27(2)

Claims for reversal 30

- 7 (1) If the relevant event is the meeting of condition 1, P may make a claim for the effect of section 27(2) above to be reversed if – 35
 (a) the conviction is overturned or quashed, or
 (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 27(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),
 - (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,
- (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 –
- (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 27(2) (including Part 2 of this Schedule as relevant) is reversed from the day after the day on which the certificate is signed.
- (6) P may not make a claim under this paragraph if P has disclaimed under section 30 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 –
- “*Constitutional Reform and Governance Act 2009*
Paragraph 7 of Schedule 3”.

Convictions outside the United Kingdom

- 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 27(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.
- (3) The reversal has effect from the day after the day on which the resolution is passed.
- (4) A resolution may not be passed if P has disclaimed under section 30 the peerage by virtue of which P was entitled to receive writs of summons to attend the House of Lords.

SCHEDULE 4

Section 32

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 as to the number or location of entrances to the Palace of Westminster –
- (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 250 metres in a straight line from the point nearest to it in Parliament Square.
- (4) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 15

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 –
- (a) a building situated outside the Palace of Westminster, and
 - (b) an area, no point in which is more than 250 metres in a straight line from the point nearest to it on the specified building. 20
- (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 – 25
- (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. 30
- (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.
- (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 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). 35 40
- (6) “Week” means any period of 7 days starting with a Sunday.
- (7) The requirements may include (for example) requirements as to the number or location of entrances to the specified building –
- (a) which must be kept open, and 45

- (b) to and from which there must be access routes for pedestrians and vehicles through the specified area.
- (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. 5
- (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)* 10
- 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”.
- 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. 15
- Serious Crime Act 2007 (c. 27)*
- 4 Omit paragraph 64 of Schedule 6.
- 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 32(1) of this Act include (in particular) public assemblies which started, or were being organised, before section 32(1) comes into force. 20
- (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. 25
- (3) In this paragraph references to public processions and assemblies include references to processions and assemblies which are intended to be held. 30

SCHEDULE 5

Section 35

JUDICIAL APPOINTMENTS ETC

Courts Act 1971 (c. 23)

- 1 In section 21(5) (appointment of Recorders) for “subsection (4)” substitute “subsection (4A)”. 35

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”. 5
- 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”. 10
- (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”. 15
- 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). 20
- (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.” 25
- (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.” 30
- (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”. 35

- (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
 - (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.”
- (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.”
- (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.
- 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.”
- 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.”
- 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 –
- (a) justice of the peace, and
 - (b) justice of the peace who is not a District Judge (Magistrates’ Courts).

SCHEDULE 6

Section 43

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

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

5

- 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.

10

- (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.

15

20

PART 3

CHIEF EXECUTIVE

25

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

PART 4

EMPLOYEE MEMBERS

Appointment

30

- 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).

35

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 45(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 7.

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 7

Section 44 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 6 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 38(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 45 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 6); 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 8

Section 49

TRANSITIONAL PROVISION RELATING TO PART 7

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 6 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 40 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 39 of this Act. 20
- (2) So far as necessary or appropriate for continuing its effect after the coming into force of section 39, the thing is treated as having been done by or on behalf of the Comptroller and Auditor General under section 39.
- 7 (1) Paragraph 3 of Schedule 7 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 47 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 47(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 6

- 9 (1) This paragraph applies until the first set of rules under paragraph 18 of Schedule 6 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 7.
- (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 sub-paragraph (4) above or paragraph 11(3) of Schedule 7.)
- (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 9

Section 49

CONSEQUENTIAL AMENDMENTS RELATING TO PART 7

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 7 of the Constitutional Reform and Governance Act 2009.” 5
- (2) Sub-paragraph (1) does not affect the position of the person mentioned in paragraph 5(1) of Schedule 8 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 8 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 8 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 8 to the Constitutional Reform and Governance Act 2009.”

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

Companies Act 2006 (c. 46)

- 23 Omit section 1230(3)(a).
- 24 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”. 25

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

- 25 (1) In Schedule 1 omit the reference to old NAO.
- (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. 30

PART 3

AMENDMENTS TO OTHER LEGISLATION

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

- 26 In rule 63(2) for “National Audit Office” substitute “Comptroller and Auditor General”. 35

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

- 27 In Schedule 1, at the appropriate place, insert –

| | “National Audit Office | The members and employees of the Office” | |
|---|---|--|----|
| 28 | 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”. | | 5 |
| <i>Race Relations (Prescribed Public Bodies) (No. 2) Regulations 1994 (S.I. 1994/1986)</i> | | | |
| 29 | In the Schedule the reference to old NAO is to be read as a reference to NAO. | | |
| <i>Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379)</i> | | | |
| 30 | In Schedule 2, in the definition of “Comptroller and Auditor General”, omit “appointed in pursuance of the Exchequer and Audit Departments Act 1866”. | | 10 |
| <i>Public Interest Disclosure (Prescribed Persons) Order 1999 (S.I. 1999/1549)</i> | | | |
| 31 | In the Schedule for “Comptroller and Auditor General of the National Audit Office” substitute “Comptroller and Auditor General”. | | 15 |
| <i>Greater London Authority (Disqualification) Order 2000 (S.I. 2000/432)</i> | | | |
| 32 | In the Schedule omit paragraph 13 and for paragraph 20 substitute – “20 Member or employee of the National Audit Office.” | | 20 |
| <i>Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188)</i> | | | |
| 33 | In regulation 12A for “the National Audit Office” substitute “the Comptroller and Auditor General”. | | |
| <i>Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458)</i> | | | |
| 34 | (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. | | 30 |
| | (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). | | 35 |
| | (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 –
- (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. 5

Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I. 2005/2966)

- 35 (1) In Part 1 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. 10
- (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.
- (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). 15
- (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. 20
- (5) “The relevant person” means –
- (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. 25

Public Contracts Regulations 2006 (S.I. 2006/5)

- 36 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) 30

- 37 (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. 35
- (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). 40
- (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 –
- (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. 5

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

- 38 (1) Amend regulation 14 as follows.
- (2) After paragraph (a) insert – 10
- “(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 – 15
- “(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;”.

Constitutional Reform and Governance Bill

A

B I L L

To make provision relating to the civil service of the State; to make provision relating to the ratification of treaties; 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 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 the Government Resources and Accounts Act 2000 and to make corresponding provision in relation to Wales.

*Presented by Secretary Jack Straw
supported by
The Prime Minister, Mr Chancellor of the Exchequer,
Secretary David Miliband, Secretary Alan Johnson,
Tessa Jowell and Michael Wills.*

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