

These notes refer to the Executive Powers and Civil Service Bill [HL] as introduced in the House of Lords on the 18th December 2003 [HL Bill 15]

EXECUTIVE POWERS AND CIVIL SERVICE BILL [HL]

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes for the Executive Powers and Civil Service Bill have been prepared in order to assist in understanding the Bill. They do not form part of the Bill.
2. The notes need to be read together with the Bill. They are not meant to be a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require explanation or comment, none is given.

SUMMARY

3. The Bill is intended to introduce reforms in relation to a range of Ministerial powers that are exercisable by virtue of the Royal Prerogative. Prerogative powers are rights and powers given to Ministers by the Sovereign. There is no definitive statement of the scope of these powers but they include the powers to ratify treaties with other countries, to mobilise troops, to regulate the Civil Service and make appointments to certain public positions. Other examples of prerogative powers that are relied on by Government are the powers to issue and withdraw passports and to grant honours.
4. The Bill creates a statutory framework for the exercise of these powers. They are referred to in the Bill as executive powers. It also contains detailed provisions dealing with particular areas (the civil service, special advisers, public appointments and the making of treaties) and makes provision for general review by Parliament in all other areas.
5. The Bill makes provision, amongst other things, with respect to:
 - a statutory basis for review by Parliament of executive powers generally, with specific requirements in relation to treaties and armed combat;
 - the principles for appointments to, and the operation of, the Civil Service;
 - the duties of special advisers;

- the establishment of the Civil Service Commission as a statutory body;
 - the functions of the Civil Service Commission, including powers of oversight of Civil Service appointments and conduct;
 - the creation of the office of Commissioner for Public Appointments to advise on appointments to certain public offices and the establishment of a Parliamentary Public Appointments Committee to approve them.
6. In general the Bill applies to Great Britain and Northern Ireland.
7. An overview of the Bill is set out below. A detailed description of each Part and the clauses is contained in the commentary. Terms used are generally defined in the text where they first appear. Some terms are defined in clauses 5 and 21.

BACKGROUND

8. **Part 1** places under the authority of Parliament executive powers exercisable by Ministers of the Crown by virtue of the Royal prerogative. At present, except where statutes specifically provide otherwise, the Royal prerogative is unregulated by Parliament. The effect of Part 1 is to require parliamentary authority for executive powers so as to secure parliamentary accountability. Schedule 1 provides for parliamentary authority for the ratification of treaties. The provisions in Schedule 1 are similar to those contained in the Treaties (Parliamentary Approval) Bill [H.L.] that was given its Second Reading in the House of Lords on 28 February 1996 (HL Official Report cols 1530-1536). **Part 2** gives effect to a recommendation first made in 1854 by the Northcote-Trevelyan report on *The Organisation of the Permanent Civil Service* for the key principles and structures governing the Civil Service to be enshrined in statute. Part 2 gives effect in particular to the recommendations by the Committee on Standards in Public Life, *Defining the Boundaries within the Executive: Ministers, Special Advisers and the permanent Civil Service*, Ninth Report, CM 5775, April 2003. Sir Nigel Wicks, who chaired the Committee, has stated that the introduction of legislation to regulate the relationships between Ministers, Civil Servants and Special Advisers and Parliament could help to restore some of the public trust in central government and public office holders that has been lost in recent years. That is a central aim of Part 2. **Part 3** creates a statutory Commissioner for Public Appointments. At present the Commissioner for Public Appointments is appointed by the Queen under the Public Appointments Order in Council 2002. Under Part 3, the Commissioner would advise the Public Appointments Committee, which is also set up under Part 3, on specified public appointments. **Part 4** is supplemental.

THE BILL

9. The Bill is in four Parts.

Part 1: Parliamentary authority for executive powers. This Part defines executive powers and places their exercise under the authority of Parliament. It prescribes requirements for Parliamentary approval before treaties can be ratified or commitments can be made for direct participation in war and

international peace-keeping activities. It also establishes a Committee of both Houses of Parliament (‘the Executive Powers Review Committee’) to report to Parliament on other circumstances in which executive action is taken.

Part 2: The Civil Service and special advisers. This Part puts the fundamental principles that underlie the operation of the Civil Service on a statutory footing and defines the role of special advisers. The core principles are that Civil Service appointments are to be made on the basis of merit and that Civil Service functions are to be discharged having regard to the need for impartiality and objectivity. To ensure that the overall structure is generally respected, the Civil Service Commission is set up as an independent statutory body with functions of audit and investigation.

Part 3: Public appointments. This Part sets out a procedure for making certain key public appointments. A Committee is established to approve them following the advice of a new statutory office holder, the Commissioner for Public Appointments.

Part 4: Supplemental. This Part deals with interpretation, commencement and territorial scope.

COMMENTARY ON CLAUSES

PART 1: PARLIAMENTARY AUTHORITY FOR EXECUTIVE POWERS

10. Part 1 puts most prerogative powers under the authority of Parliament and sets out the ways in which Parliament will oversee those powers.

11. Part 1 comes into effect immediately. However, it allows for a period of nine months before the new arrangements contained in that Part take effect. This allows time, for example, for the completion of the preparation of, and proceedings relating to, any Orders in Council that are under consideration when the Bill is passed.

Clause 1: Meaning of “executive powers”

12. This clause defines the executive powers that are to be placed under the authority of Parliament. These are identified as the rights and powers under Her Majesty’s prerogative. Such rights and powers are generally recognised to include, among other things:

In domestic affairs

- the appointment and dismissal of Ministers;
- the appointment and regulation of the Civil Service;
- the commissioning of officers in the Armed Forces;
- directing the disposition of the Armed Forces in the UK;
- the appointment of Queen’s Counsel;
- the prerogative of mercy (used, for example, to remedy errors in sentencing);

- the issue and withdrawal of United Kingdom passports;
- the granting of honours;
- the creation of corporations by Charter;

In foreign affairs

- the making of treaties;
- the declaration of war;
- the deployment of the Armed Forces on operations overseas;
- the recognition of foreign States;
- the accreditation and reception of diplomats.

13. However, *paragraph (a) of clause 1* specifically excludes from the executive powers within the Bill's scope those rights and powers that belong to the Queen in Her private capacity or to any other member of the Royal Family. In addition, *paragraph (b)* excludes the Queen's role as Head of State or in connection with the proceedings of the Privy Council. This is to ensure that official functions of Her Majesty will not be affected, such as:

- the summoning, prorogation and dissolution of Parliament; and
- the giving of royal assent to Bills.

Clause 2: Executive powers to be exercisable under authority of Parliament

14. This clause places the executive powers described in clause 1 under the authority of Parliament. It creates a clear statutory basis for Parliament to scrutinise their exercise; the remaining provisions of Part 1 set out the means by which it will do so. This is developed in *clause 3*.

15. *Subsection (2)* makes clear that any procedural arrangements that currently apply in relation to the exercise of executive powers are not affected solely as a result of placing executive powers on a statutory basis. Similarly, Orders of the Privy Council made before the passing of the Bill, or at any time during the 9 month period immediately afterwards, are not affected.

Clauses 3 and 4: Appropriate Parliamentary authority for executive powers

16. *Clause 3* prescribes the parameters for the exercise of executive powers.

17. *Subsections (2)(a) and (3)* make it clear that executive powers can be used for any purpose only if there is no statutory authority that could be used to achieve the same result.

18. *Subsections (2)(b) and (4) and Schedule 1* require Parliamentary approval before treaties can be ratified or before members of the Armed Forces can be sent into combat. *Subsection (4)(b)* creates an exception for situations in which urgent action is

required to meet an emergency. In such a case, the Prime Minister is required to notify Parliament, stating his reasons for believing that immediate action is needed.

19. In all other circumstances, *subsection (1)* provides automatic authority for the exercise of executive powers without imposing any pre-conditions that must be observed. This ensures continuity between the existing arrangements and the new statutory scheme in Part 1 and provides the flexibility to deal with situations that arise on a day-to-day basis.

20. However, *subsection (2)(c)*, *clause 4* and *Schedule 2* provide for the establishment of a Committee of both Houses of Parliament to review the circumstances in which executive powers are exercised. The Committee is required to report to Parliament annually. If both Houses approve a report stating that the nature and significance of the action taken in any particular case is such that it ought to be considered by Parliament, *Schedule 2* provides that anything done under the relevant power will become unlawful unless certain steps are taken within 18 months of that approval. These are either that the Minister responsible for the action lays legislation before Parliament which is then passed or that he gives a statement of his reasons for not doing so which is approved by Parliament.

PART 2: THE CIVIL SERVICE AND SPECIAL ADVISERS

21. Part 2 creates a statutory framework for the basic foundations of the Civil Service structure in England, Wales and Scotland. The provisions of Part 2 are to come into effect on the date or dates specified by order by the Secretary of State (*clause 23*).

Clause 5: Interpretation of this Part

22. This clause defines a number of terms that are used in Part 2 of the Bill. The definitions that are of key importance in determining the scope of the provisions are those of “Civil Service”, “civil servant” and “special advisers”.

23. For these purposes, “civil service” does not include the Northern Ireland Civil Service. However, if the work of civil servants or special advisers to whom it does apply extends to matters relating to Northern Ireland, they will remain subject to the duties imposed by the Part.

Clause 6: Appointments to the Civil Service

24. *This clause* requires that that civil appointments are to be made on the basis of merit (*subsection (2)*) and in accordance with regulations made by the Minister for the Civil Service (*subsection (3)*). The Prime Minister is currently the Minister with responsibility for the Civil Service.

25. An integral part of the ‘merit principle’ set out in *subsection (2)(a)*, is the need for fair and open competition. *Subsection (2)(b)* envisages that limited exceptions may be made to the merit principle. Such exceptions are to be specified in the Civil Service Recruitment Code that the Civil Service Commission (established under

clause 7) are required to make under *clause 8*. A number of exceptions to the merit principle are currently specified in the existing civil service orders, namely the Civil Service Order in Council 1995 (as amended) and the Diplomatic Service Order in Council 1991 (as amended). For example, provision is made to allow encouragement and assistance in the process of selection of disabled persons who in all other respects satisfy the necessary standards required for a job or post. It is envisaged that this exception, and certain others, will be carried forward.

26. Regulations under *subsection (3)* are subject to the negative resolution procedure. Such regulations may, for example, deal with qualifications for appointments relating to age, knowledge, ability, professional attainment, aptitude and potential.

Clause 7: The Civil Service Commission

27. *Clause 7* establishes the Civil Service Commission as a body corporate with not fewer than six nor more than twelve other Commissioners. The Commission is currently appointed under the Royal prerogative and operates under the terms of the existing civil service orders. Those orders will need to be revoked once the provisions of Part 2 of the Bill come into force.

28. The Commissioners are appointed by the Queen upon the recommendation of the Prime Minister. However, *subsections (4) and (5)* requires the Prime Minister to consult the leaders of the main political parties before making a recommendation as to who should be appointed as the First Civil Service Commissioner. This extends to the Scottish Parliament and the Welsh Assembly. The requirement for cross-consultation of all the main parties emphasises the independence of the Commission and its political impartiality. These characteristics are established by *clause 10* and are designed to reinforce the impartiality and objectivity of the Civil Service itself.

29. There are detailed provisions in Schedule 3 of the Bill about the constitution and status of the Civil Service Commission.

Clause 8: Duties of the Civil Service Commission

30. Under *subsection (1)*, the Civil Service Commission is to have the functions conferred by or under the Bill. In broad terms, these are to ensure that the Civil Service is run in accordance with the recruitment principles set out in *clause 6* and the duties relating to its impartiality and objectivity set out in *clauses 10 and 11*.

31. The functions listed in *subsection (1)* include the duty to maintain the Recruitment Code for the Civil Service and to ensure that appointments are made in accordance with it. This is a Code relating to the recruitment conditions which *clause 6* imposes, and all persons making appointments to the Civil Service must comply with it (*clause 9*). The Recruitment Code will contain, amongst other things, the limited exceptions to the merit principle and provisions relating to their interpretation and application (*subsection (2)*).

32. The Commission is also required to oversee the operation of the Civil Service Code of Conduct, which *clause 13* requires the Prime Minister to maintain, and to hear any appeals that are made to it in accordance with the code.

Clause 9: General duty of persons making civil service appointments

33. This clause requires all persons who make Civil Service appointments to comply with the Recruitment Code for the Civil Service.

Clause 10: Duties of Ministers and special advisers to uphold impartiality

34. By requiring Ministers and special advisers to uphold the impartiality and objectivity of the Civil Service, this clause puts on to a statutory footing the central principles that have traditionally underpinned the constitutional role of the Civil Service. Since the Commission is to ensure that this impartiality and objectivity is protected, *subsection (2)* goes on to require that Ministers recognise the Commission as an independent body.

Clause 11: Civil servants and special advisers: duties and restrictions

35. Clause 11 distinguishes between the respective duties of civil servants and special advisers.

36. *Subsection (2)* recognises that special advisers are expected to act in a way that takes account of political considerations. As such the Bill requires them only to act with honesty and integrity. It leaves other matters for the individual arrangements that are made between the special adviser and the Minister to whom he provides advice and assistance. However, *subsection (3)* makes clear that special advisers are not to exercise any executive powers (as defined in Part 1 of the Bill) that would otherwise be exercisable by members of the Government. In particular, they would not have any powers to authorise the spending of government money, to be able to instruct civil servants or to have any role in the line management of civil servants.

Clause 12: Information relating to special advisers

37. Clause 12 sets out the information relating to special advisers that must be brought into the public domain. This includes how many special advisers there are, how much they are paid and comparisons with previous years (*subsection (2)*).

Clauses 13 and 14: Codes of conduct for civil servants and special advisers

38. These clauses deal with the separate codes of conduct that are to be drawn up for civil servants and for special advisers. By requiring separate codes, the roles of each can be kept clearly separate and monitored appropriately.

39. **Clause 13** specifies that the Codes will set out the respective roles of civil servants and special advisers within the overall constitutional framework and the values they are expected to uphold (*subsection (2)*). Civil servants and special advisers are required to comply with the provisions of their respective codes (*subsections 3 and 4*).

40. **Clause 14** sets out the procedure for preparing and issuing draft codes of conduct and for making amendments to any published code. Each code, or an amendment to it, must be made as an order and laid before Parliament, subject to the negative resolution procedure (*subsections 5 and 6*).

41. Before consulting on the provisions of any draft code or amendment, *subsection (2)(a)* requires that the Prime Minister should seek the preliminary views of the Civil Service Commission. The Prime Minister must then publish a draft, together with an accompanying explanation and a statement confirming compatibility with clauses 10 and 11, and invite representations to be made about the draft. *Subsection 3* requires the Prime Minister to have regard to any such representations. If he proceeds to make an order giving effect to the draft, he must publish a general statement of the representations and his response to them (*subsection 4*).

Clause 15: Power to investigate contraventions relating to the Civil Service

42. The Civil Service Commission is given power to investigate suspected breaches of the requirements relating to recruitment to the Civil Service or of conduct by a person, in contravention of the Civil Service Code. Under *subsection (3)*, the Commission is empowered to launch an investigation either on its own initiative or in response to any complaint made to it in accordance with procedures contained in the Civil Service Code.

Clauses 16: Investigation procedure

43. This Clause sets out the powers of the Commission in connection with investigations conducted under *clause 15*. *Subsections (1) to (3)* contains the formal requirements as to notice and the making of representations in relation to the scope of a proposed investigation and the issues it raises.

44. If the Civil Service Commission decides to conduct an investigation after considering initial responses, the investigation must be conducted in private (*subsection (7)*) and the Commission must allow any person affected the opportunity of making new or additional representations (*subsection (4)*). In all other respects, the Commission can determine its own procedure (*subsection (8)*).

45. *Subsections (5) and (6)* deal with what the Commission may do. In addition to requiring documents and information, it may also require any person to attend in person in order to answer questions put to him.

PART 3: PUBLIC APPOINTMENTS

46. Part 3 establishes a procedure for the approval of certain key public appointments. The provisions of this Part are to come into effect on the date or dates specified by order by the Secretary of State (*clause 23*).

Clause 17: Procedures for making specified public appointments

47. Appointments listed in *clause 18* made after the provisions of Part 3 come into force must be approved by a statutory committee of nine drawn from members of the

House of Commons, (the Public Appointments Committee established under *clause 20*). The person making such an appointment must also consult the Public Appointments Commissioner.

Clause 18: Specified public appointments

48. Clause 18 lists the public appointments to which the procedure set out in *clause 17* applies. The list includes both statutory and non-statutory appointments.

49. The Secretary of State may, having considered the advice of the Public Appointments Committee, amend the list by order, subject to negative resolution procedure.

Clause 19: Commissioner for Public Appointments

50. Clause 19 establishes the office of Commissioner for Public Appointments to offer advice on nominations for any of the appointments listed in *clause 18*. There are detailed provisions in Schedule 4 of the Bill about the office of the Commissioner for Public Appointments.

Clause 20: Public Appointments Committee

51. Clause 20 establishes the Public Appointments Committee to approve nominations for any of the appointments listed in *clause 18*. There are detailed provisions in Schedule 5 of the Bill about the constitution and status of the Public Appointments Committee.

PART 4: SUPPLEMENTAL

52. Part 4 contains various supplemental provisions.

SCHEDULE 1: PARLIAMENTARY AUTHORITY FOR TREATIES AND WARS ETC

53. Schedule 1 specifies the requirements that must be met before the Government ratify treaties or engage in armed conflict. As a result of *clause 3* of the Bill, these requirements do not apply in emergencies.

Paragraphs 1 to 3 : Ratification of treaties

54. All descriptions of treaty must be laid before Parliament, together with an explanation of the treaty's purpose and effect, a description of the anticipated benefits to the United Kingdom and a cost-benefit analysis (*paragraph 1*). All treaties must be approved by Parliament.

55. However, *paragraphs 2 and 3* set out different parliamentary procedures for approval depending on the treaty's nature and content. Affirmative procedure is required for treaties that require legislation to implement them, affect private rights,

impose taxes or cede territory. The Secretary of State may, by order, add other descriptions of treaty for which affirmative action is required.

56. In all other cases, the treaty may be ratified provided that neither House has prayed against ratification within 21 days of a Committee of both Houses reporting to Parliament on the treaty in question.

Paragraph 4: Participation in war, armed conflict or peacekeeping

57. This paragraph requires that any participation in armed combat must be approved by the affirmative resolution procedure.

SCHEDULE 2: EXECUTIVE POWERS REVIEW COMMITTEE

58. Schedule 2 makes provision as to the appointment, tenure, proceedings and functions of the Executive Powers Review Committee in carrying out the reviews required by *clause 4(2)* of the Bill in relation to the exercise of executive powers.

Paragraph 2: Appointment

59. The Executive Powers Review Committee is to consist of 12 members drawn from both Houses of Parliament. The Members are to be appointed by the Prime Minister following consultation with the leaders of the main political parties. One Member is to be appointed chairman.

Paragraph 3: Tenure

60. Members of the Executive Powers Review Committee are appointed for the lifetime of a Parliament but may resign upon giving notice to the Prime Minister. They are also required to vacate office if they are appointed as a Minister of the Crown or leave the House of Parliament to which they belong.

Paragraphs 4 and 5: Procedure

61. *Paragraph 4* makes provision as to quorum and voting. Otherwise, *paragraph 5* allows the Executive Powers Review Committee to regulate its own procedure.

Paragraphs 6 and 7: Terms of reference and report to Parliament

62. *Paragraph 6* contains the general principle of good governance that any action taken in exercise of executive powers taken must be taken in such a way that it is sufficiently accessible, clear and certain to the persons affected by it. If the Executive Powers Review Committee considers that the executive action taken does not comply with this principle, and that the nature or significance of the action is such that it should have been directly authorised by Parliament, they may draw attention to the matter in the report to Parliament required by *paragraph 7*.

Paragraphs 8 and 9: Duty of Minister to respond in certain cases

63. *Paragraph 8* requires the Minister responsible for any executive action criticised in a report to take one of two routes in the event that the relevant part of the report is approved by resolution of both Houses. He must either prepare legislation for Parliament to consider or give a statement of his reasons for not doing so.

64. In the event that no other delegated legislative power is available and it is appropriate to do so, *paragraph 9* confers power to make an order for the purposes of paragraph 8.

Paragraphs 10: Executive action unlawful in certain cases

65. This paragraph contains provision that renders the executive action that has been criticised to be unlawful unless the legislation laid before Parliament has been approved or the Minister's reasons for not legislating have been approved.

SCHEDULE 3: THE CIVIL SERVICE COMMISSION FOR ENGLAND, WALES AND SCOTLAND

66. Schedule 3 sets out the requirements for the Civil Service Commission's constitution and imposes certain obligations on it.

Paragraphs 1 and 2: Commissioners

67. *Paragraphs 1 and 2* make detailed provision in relation to appointment of Civil Service Commissioners, loss of office and remuneration. Civil Service Commissioners are liable to be removed from office by the Prime Minister in circumstances set out in *paragraph 1(6)*.

Paragraph 3: Staff

68. The Civil Service Commission may determine what human resources it needs to discharge its functions. This paragraph requires the approval of the Secretary of State to be given in respect of numbers of staff and other appointees, their terms and conditions of service and any arrangements for staff pensions.

Paragraphs 4 to 6: Procedure

69. *Paragraph 4* allows the Civil Service Commission to regulate its own procedure. *Paragraph 6* makes provision for the official authentication of the Commission's acts.

70. *Paragraph 5* provides for acts of the Civil Service Commission to be valid irrespective of a vacancy in the office of commissioner or any defect in the appointment of a commissioner. This is to prevent any action taken by the Commission in pursuit of its functions being rendered invalid purely as a result of such a vacancy or defect.

Paragraph 7: The Commission's powers

71. This paragraph gives the Civil Service Commission incidental powers in order to ensure that it is able properly to discharge the functions conferred on it by the Bill.

Paragraph 8: Accounts

72. The Civil Service Commission must keep accounts. Copies of the accounts must be sent to the Comptroller and Auditor General for audit, as well as to the Prime Minister.

Paragraph 9: Reports

73. This paragraph requires the Civil Service Commission to make regular reports to Parliament. A report must be made at least once every year but additional reports may be laid at other times. The report must deal with how the Civil Service Commission has discharged its functions throughout the year and how it has allocated its resources.

Paragraphs 10 and 11: Disqualification for membership of parliamentary bodies

74. Civil Service Commissioners are disqualified from membership of the House of Commons. Paragraph 12 makes similar provision in respect of the Northern Ireland Assembly.

Paragraph 12: Status

75. The Civil Service Commission does not act on behalf of the Crown and none of the commissioners, officers and staff is a Crown servant.

SCHEDULE 4: THE COMMISSIONER FOR PUBLIC APPOINTMENTS

76. Schedule 4 sets out the terms on which Commissioner for Public Appointments may be appointed or removed from office. It also contains detailed provisions relating to remuneration, expenditure and procedure.

Paragraphs 1 to 3: Appointment and tenure of office

77. *Paragraphs 1 and 2* make detailed provision in relation to appointment of the Commissioner for Public Appointments and his tenure. The Commissioner may not be appointed if he is a member of Parliament, or of any of the devolved legislatures, or if he is disqualified from being such a member or a member of a local authority. Holders of any public appointment specified in Part 2 of the Bill are also ineligible.

78. Under *paragraph 3*, the Commissioner is liable to be removed from office only by resolution of both Houses of Parliament but he may resign at any time by giving notice to the Prime Minister. Restrictions are also imposed on the length of time a person can hold office.

Paragraph 4: Independence

79. This paragraph makes it clear that the Commissioner for Public Appointments is completely independent of Parliament.

Paragraph 5: Remuneration

80. The level of remuneration (including pensions) paid to the Commissioner for Public Appointments is to be set by the Prime Minister.

Paragraphs 6 and 7: Vacancy in office

81. These paragraphs make provision for the appointment of an acting Commissioner in any case where there is a vacancy in the office of Commissioner for Public Appointments.

Paragraphs 8 and 9: Staff and assessors

82. *Paragraph 8* provides for the Commissioner for Public Appointments to be able to determine what staff he needs. This paragraph requires the approval of the Secretary of State to be given in respect of numbers of staff and other appointees, their terms and conditions of service and any arrangements for staff pensions. The Commissioner may also appoint assessors under *paragraph 9*.

Paragraphs 10 to 12: Procedure and powers

83. *Paragraph 10* prevents any defect in the appointment of a Commissioner for Public Appointments rendering invalid any action taken by the Commissioner in pursuit his functions.

84. *Paragraph 11* gives the Commissioner certain incidental powers in order to ensure that he is able properly to discharge the functions conferred on him by the Bill.

85. *Paragraph 12* allows the Commissioner for Public Appointments to delegate his functions to any member of his staff or to assessors.

Paragraph 13: Financial provision

86. The expenses of the Commissioner for Public Appointments are to be voted directly by Parliament.

Paragraphs 14 & 15: Accounts and reports

87. The Commissioner for Public Appointments must keep accounts. Copies of the accounts must be sent to the Comptroller and Auditor General for audit.

88. The Commissioner is also required to report to Parliament on the discharge of his functions.

Paragraph 16: Status

89. The Commissioner for Public Appointments does not act on behalf of the Crown nor is he a Crown servant. Persons working for him are also not Crown servants.

SCHEDULE 5: THE PUBLIC APPOINTMENTS COMMITTEE

90. Schedule 5 makes provision for the appointment, tenure and proceedings of the Public Appointments Committee discharging functions under Part 3.

Paragraph 1: Appointment

91. The Public Appointments Committee is to consist of nine members drawn from the House of Commons. The Members are to be appointed by the Prime Minister following consultation with the leaders of the main political parties. One Member is to be appointed chairman.

Paragraph 2: Tenure

92. Members of the Public Appointments Committee are appointed for the lifetime of a Parliament but may resign upon giving notice to the Prime Minister. They are also required to vacate office if they are appointed as a Minister or leave the House of Commons.

Paragraphs 3 and 4: Procedure

93. *Paragraph 4* makes provision as to quorum and voting. Otherwise, *paragraph 5* allows the Public Appointments Committee to regulate its own procedure.

Paragraph 5: Reports

94. This paragraph requires the Public Appointments Committee to make regular reports to the Prime Minister. A report must be made at least once every year but additional reports may be laid at other times. The report must be laid before Parliament.