Public Appointments (Parliamentary Approval) (Scotland) Bill
[AS INTRODUCED]

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Schedule—Listed public bodies
An Act of the Scottish Parliament to require the Scottish Ministers to submit nominations for specified public appointments to the Scottish Parliament for approval; and for connected purposes.

1 **Exercise of powers of appointment, etc.**

(1) The Scottish Ministers shall not make or recommend the making of an appointment to which this Act applies unless the nomination for that appointment is approved or deemed to have been approved by the Parliament in accordance with section 7(1) or (2) of this Act.

(2) This Act applies to any appointment to a listed public body which is made—

(a) by the Scottish Ministers whether or not acting jointly with some other person; or

(b) on the recommendation of the Scottish Ministers, for the purpose of filling a vacancy arising after this Act comes into force.

(3) In this Act—

“appointment” includes—

(a) the extension of an existing appointment;

(b) any re-appointment to the same body, whether or not in the same capacity;

“listed public body” means any body listed in the schedule to this Act.

2 **Issues for consideration**

The issues for consideration by the Parliament in relation to any nomination are the following—

(a) the procedure followed by the Scottish Ministers for the purpose of making the nomination;

(b) any statutory requirements concerning the person appointed;
(c) the suitability of the nominee for the appointment proposed having regard to whether the nominee’s abilities, experience and qualities meet the needs of the listed public body in question;

(d) any guidance or any code of practice from time to time applicable to the appointment or to comparable appointments in Scotland.

3 Duty to notify nominations

(1) It shall be the duty of the Scottish Ministers to notify the Parliament of their nomination of any person for an appointment to which this Act applies.

(2) In this Act any such notification is referred to as a nomination notification.

4 Nomination notifications

(1) Any nomination notification shall be—
   (a) in writing;
   (b) given by lodging the notification with the Clerk.

(2) A nomination notification shall be accompanied by—
   (a) information concerning the nominee, having regard to the issues mentioned in section 2(a), (b) and (d) above; and
   (b) a statement concerning the suitability of the nominee for the appointment proposed in terms of section 2(c).

(3) For the purposes of this Act a nomination notification is duly given on the day on which it complies with subsections (1) and (2) above.

(4) At any time after the commencement of consideration of a nomination the Scottish Ministers shall provide such further information as the Parliament may require for the purpose of augmenting (but not extending the scope of) the information already provided.

5 Parliamentary consideration of nominations

(1) Standing orders shall provide for the procedure to be followed by the Parliament in considering nominations notified in accordance with section 4 above.

(2) Standing orders shall provide that in the case of any nomination for appointment as convener of a listed public body the Parliament shall hold a hearing on the nomination, and that in any other case it may do so.

(3) Standing orders shall provide for the procedure to be followed at any such hearing.

6 Consideration period

(1) Subject to subsection (3) below, the consideration period applicable to a nomination which has been notified under this Act shall be 28 days beginning on the day after the date on which the nomination notification is duly given in accordance with section 4(3) above, unless the period is extended under subsection (2) below.

(2) A consideration period may be extended once only in such circumstances and for such period (not exceeding 28 days) as standing orders may provide.
(3) In calculating any consideration period—

(a) subject to paragraph (b) below, the first day of any extension shall be the day after the expiry of the initial 28 day period;

(b) no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than four days.

7 Outcome of Parliamentary consideration

(1) At any time before the expiry of the consideration period applicable to a nomination notification the Parliament may approve or reject the nomination.

(2) If the Parliament has neither approved nor rejected the nomination by the expiry of the consideration period, the nomination shall be deemed to have been approved.

(3) The Parliament shall give reasons for a decision to reject a nomination.

8 Consequences of the Parliament's decision

(1) If the Parliament approves a nomination the Scottish Ministers may proceed to make the proposed appointment, or as the case may be the proposed recommendation for appointment, to which the nomination relates.

(2) But if the Parliament rejects the nomination the Scottish Ministers shall not make the proposed appointment or recommendation.

(3) On any occasion when the Parliament has rejected a nomination, the Scottish Ministers shall not nominate the rejected nominee for the same appointment on that occasion except with the express permission of the Parliament given at the time of the rejection.

9 Definitions

In this Act—

“appointment” has the meaning given by section 1(3) above;

“the Clerk” means the Clerk of the Parliament;

“consideration period” has the meaning given by section 6 above;

“convener” in relation to a listed public body means the person, however designated, appointed to undertake the specific function of chairing meetings of that body, but does not include any deputy, however designated;

“listed public body” has the meaning given by section 1(3) above;

“nomination” means a settled proposal to make, or as the case may be to recommend the making of, an appointment to which this Act applies, being a proposal made by the Scottish Ministers after completion of all procedures to which the appointment is subject, other than the requirements of this Act;

“nomination notification” has the meaning given by section 3(2) above;

“nominee” means a person the subject of a nomination notification;

“the Parliament” means the Scottish Parliament and (except in section 6(3)(b) above) includes any committee or sub-committee of the Parliament;
“Scottish public authority with mixed functions or no reserved functions” has the same meaning as in paragraphs 1 and 2 of Part III of Schedule 5 to the Scotland Act 1998 (c.46);

“standing orders” means the standing orders of the Parliament.

10 Amendment of this Act

(1) The Scottish Ministers may by order amend the schedule to this Act—
(a) by adding to the listed public bodies any Scottish public authority with mixed functions or no reserved functions;
(b) in the event of any change in the name or constitution of any listed public body, or of the dissolution of any such body, by deleting the entry relating to that body, and, where appropriate, substituting such entries as are required to reflect such change or dissolution.

(2) The Scottish Ministers may by order alter either of the periods specified in subsections (1) and (2) of section 6 above, and a different period may be specified for each subsection.

(3) An order under subsection (1) or subsection (2) above may contain such provisions as appear to the Scottish Ministers to be necessary or expedient in connection with the modifications effected by the order.

(4) An order under subsection (1) or subsection (2) above shall be made by statutory instrument.

(5) An order under subsection (1) above shall be subject to annulment in pursuance of a resolution of the Parliament.

(6) An order under subsection (2) above shall not be made unless a draft of the order has been laid before, and approved by resolution of, the Parliament.

11 Modification of enactments, etc.

(1) The Scottish Ministers may, by order, make such modification as they consider necessary or expedient of any enactment or instrument governing an appointment to which this Act applies in order to make that enactment or instrument consistent with this Act.

(2) An order under subsection (1) above shall be made by statutory instrument.

(3) No such order shall be made unless a draft of the statutory instrument has been laid before, and approved by a resolution of, the Parliament.

12 Short title and commencement

(1) This Act may be cited as the Public Appointments (Parliamentary Approval) (Scotland) Act 2001.

(2) This Act comes into force at the end of the period of six months beginning with the date of Royal Assent.
SCHEDULE
(introduced by section 1)

LISTED PUBLIC BODIES

The Accounts Commission for Scotland
5 The Advisory Committee on Sites of Special Scientific Interest
The Ancient Monuments Board for Scotland
The Building Standards Advisory Committee
Caledonian MacBrayne Ltd
The Central Advisory Committee on Justices of the Peace (Scotland)
10 The Clinical Standards Board for Scotland
Community Learning Scotland
The Common Services Agency for the Scottish Health Service constituted under section 10 of the National Health Service (Scotland) Act 1978 (c.29)
The Crofters’ Commission
15 The Deer Commission for Scotland
The East of Scotland Water Authority
The Fisheries Committee established under section 5(2) of the Electricity (Scotland) Act 1979 (c.11)
The General Teaching Council for Scotland
20 Hannah Research Institute
A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978 (c.29)
The Health Education Board for Scotland
The Health Technology Board for Scotland
25 Highlands and Islands Airports Ltd
Highlands and Islands Enterprise
The Hill Farming Advisory Committee for Scotland
The Historic Buildings Council for Scotland
Learning and Teaching Scotland
30 The Local Government Boundary Commission for Scotland
Macaulay Land Use Research Institute
The Mental Welfare Commission for Scotland
Moredun Research Institute
The National Board for Nursing, Midwifery and Health Visiting for Scotland
35 The Board of Trustees for the National Galleries of Scotland
A National Health Service Trust
The Trustees of the National Library of Scotland
The Board of Trustees of the National Museums of Scotland
The North of Scotland Water Authority
The Parole Board for Scotland
Police Advisory Board for Scotland
Post Qualification Education Board for Health Service Pharmacists in Scotland
Rowett Research Institute
The Board of Trustees of the Royal Botanic Garden, Edinburgh
The Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Fine Art Commission for Scotland
The Scottish Advisory Committee on Distinction Awards
The Scottish Advisory Committee on the Medical Workforce
Scottish Agricultural Wages Board
Scottish Ambulance Service Board
The Scottish Arts Council
Scottish Children’s Reporter Administration
The Scottish Conveyancing and Executry Services Board
The Scottish Council for Postgraduate Medical and Dental Education
The Scottish Criminal Cases Review Commission
Scottish Crop Research Institute
Scottish Enterprise
The Scottish Environment Protection Agency
The Scottish Further Education Funding Council
The Scottish Higher Education Funding Council
Scottish Homes
Scottish Hospital Endowments Research Trust
The Scottish Hospital Trust
The Scottish Industrial Development Advisory Board
The Scottish Law Commission
The Scottish Legal Aid Board
The Scottish Medical Practices Committee
Scottish Natural Heritage
The Scottish Qualifications Authority
The Scottish Records Advisory Council
Scottish Screen
Scottish Standing Committee on the Calculation of Residual Values of Fertilisers and Feeding Stuffs
The Scottish Tourist Board
Scottish Transport Group
The Scottish Valuation and Rating Council
The Sports Council for Scotland
The State Hospitals Board for Scotland
The Water Industry Commissioner for Scotland
The West of Scotland Water Authority
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An Act of the Scottish Parliament to require the Scottish Ministers to submit nominations for specified public appointments to the Scottish Parliament for approval; and for connected purposes.

Introduced by: Alex Neil
On: 3 September 2001
Bill type: Member’s Bill