

SCHEDULES

SCHEDULE 1

Article 3(4)

NORTHERN IRELAND LEGAL SERVICES COMMISSION

Incorporation and status

- 1.—(1) The Commission shall be a body corporate.
(2) Subject to the provisions of this Order, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to the Commission.
2. The Commission shall not be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown;and the Commission's property shall not be regarded as property of, or held on behalf of, the Crown.

Tenure of members

- 3.—(1) Subject to paragraphs 4 and 5, any member of the Commission shall hold and vacate office in accordance with the terms of his appointment.
(2) But a person shall not be appointed a member of the Commission for a period of more than five years.
- 4.—(1) A member of the Commission may resign office by giving notice in writing to the Lord Chancellor.
(2) A person who ceases to be a member of the Commission shall be eligible for re-appointment.
5. The Lord Chancellor may terminate the appointment of a member of the Commission if satisfied that—
 - (a) he has become bankrupt or made a composition or arrangement with his creditors,
 - (b) he is unable to carry out his duties as a member of the Commission by reason of illness,
 - (c) he has been convicted of a criminal offence,
 - (d) he has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission, or
 - (e) he is otherwise unable or unfit to discharge the functions of a member of the Commission.
- 6.—(1) Subject to sub-paragraphs (2) to (5), the member appointed to chair the Commission shall hold and vacate office as such in accordance with the terms of his appointment.
(2) If the person appointed to chair the Commission ceases to be a member of the Commission, he shall cease to chair it.
(3) A member appointed to chair the Commission may at any time resign from office as such by giving notice in writing to the Lord Chancellor.

(4) A member so appointed shall be eligible for re-appointment on ceasing to hold office as such (if still a member of the Commission).

(5) When a member is appointed to chair the Commission or ceases to hold office as such, the Lord Chancellor may vary the terms of the member's appointment as a member of the Commission so as to alter the date of cessation of membership.

Members' interests

7.—(1) Before appointing a person to be a member of the Commission, the Lord Chancellor shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Commission.

(2) The Lord Chancellor shall from time to time satisfy himself with respect to every member of the Commission that he has no such interest as is referred to in sub-paragraph (1).

(3) Any person whom the Lord Chancellor proposes to appoint as, and who has consented to be, a member of the Commission, and any member of the Commission shall (whenever requested by the Lord Chancellor to do so) supply him with such information as the Lord Chancellor considers necessary for the performance by the Lord Chancellor of his duties under this paragraph.

8.—(1) A member of the Commission who is in any way directly or indirectly interested in an individual contract entered into or proposed to be entered into, or an individual grant, loan or other payment made or proposed to be made, by the Commission shall disclose the nature of his interest at a meeting of the Commission; and—

- (a) the disclosure shall be recorded in the minutes of the Commission, and
- (b) the member shall not take any part in any deliberation or decision of the Commission with respect to that contract or grant, loan or other payment.

(2) For the purposes of sub-paragraph (1), a general notice given at a meeting of the Commission by a member of the Commission to the effect—

- (a) that he is a person with whom a contract may be entered into, or to whom a grant, loan or other payment may be made, by the Commission, or
- (b) that he is a member of a specified body with which a contract may be entered into, or to which a grant, loan or other payment may be made, by the Commission,

shall be regarded as a sufficient disclosure of his interest in relation to any contract subsequently entered into with, or grant, loan or other payment made to, him or the body.

(3) A member of the Commission need not attend in person at a meeting of the Commission in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read out at the meeting.

Remuneration

9.—(1) The Commission may—

- (a) pay to its members such remuneration, and
- (b) make provision for the payment of such pensions, allowances or gratuities to or in respect of its members,

as the Lord Chancellor may determine.

(2) Where a person ceases to be a member of the Commission otherwise than on the expiry of his term of office, and it appears to the Lord Chancellor that there are special circumstances which make it right for that person to receive compensation, the Lord Chancellor may require the Commission to make that person a payment of such amount as the Lord Chancellor may determine.

Staff

10.—(1) The Commission shall appoint a person to be the chief executive of the Commission who shall be responsible to the Commission for the exercise of its functions.

(2) The Commission may appoint such other employees as it thinks fit.

(3) The Commission may only appoint a person to be—

(a) its chief executive, or

(b) the holder of any other employment of a description specified by the Lord Chancellor by direction given to the Commission,

after consultation with, and subject to the approval of, the Lord Chancellor.

(4) An appointment under this paragraph may be made on such terms and conditions as the Commission, with the approval of the Lord Chancellor, may determine.

11.—(1) The Commission shall make, in respect of such of its employees as, with the approval of the Lord Chancellor, it may determine, such arrangements for providing pensions, allowances or gratuities, including pensions, allowances or gratuities by way of compensation for loss of employment, as it may determine.

(2) Arrangements under sub-paragraph (1) may include the establishment and administration, by the Commission or otherwise, of one or more pension schemes.

(3) If an employee of the Commission—

(a) becomes a member of the Commission, and

(b) was by reference to his employment by the Commission a participant in a pension scheme established and administered by it for the benefit of its employees,

the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 9.

(4) Where the Commission exercises the power conferred by sub-paragraph (3), any discretion as to the benefits payable to or in respect of the member concerned which the scheme confers on the Commission shall be exercised only with the approval of the Lord Chancellor.

Funding of costs relating to administration etc.

12.—(1) The Lord Chancellor shall pay to the Commission such sums as he may determine as appropriate for—

(a) the exercise by the Commission of functions in relation to civil legal services other than the funding of services, and

(b) the administrative costs of the Commission.

(2) The Lord Chancellor may—

(a) determine the manner in which and times at which the sums mentioned in sub-paragraph (1) are to be paid to the Commission, and

(b) impose conditions on the payment of those sums.

Proceedings

13.—(1) Subject to anything in any instrument made under this Part, the Commission may regulate its own proceedings.

(2) Committees—

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, No. 435

(a) may be appointed, and may be dissolved, by the Commission, and
(b) may include, or consist entirely of, persons who are not members of the Commission,
but the Lord Chancellor may by direction require the Commission to make such provision relating to committees as is specified in the direction.

(3) A committee shall act in accordance with such instructions as the Commission may from time to time give; and the Commission may provide for anything done by a committee to have effect as if it had been done by the Commission.

(4) The Commission may pay to the members of any committee such fees and allowances as the Lord Chancellor may determine.

(5) Where a committee is to consider an individual contract entered into or proposed to be entered into, or an individual grant, loan or other payment made or proposed to be made, by the Commission, any member of the committee who is in any way directly or indirectly interested in the contract or the grant, loan or other payment shall disclose the nature of his interest at a meeting of the committee; and—

- (a) the disclosure shall be recorded in the minutes of the committee, and
- (b) the member shall not take any part in any deliberation or decision of the committee with respect to that contract or grant, loan or other payment.

(6) For the purposes of sub-paragraph (5), a general notice given at a meeting of a committee by a member of the committee to the effect—

- (a) that he is a person with whom a contract may be entered into, or to whom a grant, loan or other payment may be made, by the Commission, or
- (b) that he is a member of a specified body with which a contract may be entered into, or to which a grant, loan or other payment may be made, by the Commission,

shall be regarded as a sufficient disclosure of his interest in relation to any contract subsequently entered into with, or grant, loan or other payment made to, him or the body.

(7) A member of a committee need not attend in person at a meeting of the committee in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read out at the meeting.

(8) The validity of any proceedings of the Commission or of any committee appointed by the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

Provision of information

14.—(1) The Commission shall provide the Lord Chancellor with such information as he may require relating to its property and to the discharge or proposed discharge of its functions.

(2) The Commission shall—

- (a) permit any person authorised by the Lord Chancellor to inspect and make copies of any accounts or documents of the Commission, and
- (b) provide such explanation of them as any such person, or the Lord Chancellor, may require.

Annual report

15.—(1) The Commission shall provide to the Lord Chancellor, as soon as possible after the end of each financial year, a report on how it has during that year—

- (a) funded civil legal services, and

- (b) funded criminal defence services, and
- (c) exercised its other functions.

(2) The Lord Chancellor may by direction require the Commission to deal with the matters specified in the direction in reports, or a particular report, under this paragraph.

(3) The Lord Chancellor shall lay before each House of Parliament a copy of each report provided to him under this paragraph and the Commission shall publish a report once it has been so laid.

(4) In this paragraph and paragraphs 16 and 17 “financial year” means —

- (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
- (b) each subsequent period of twelve months ending with 31st March.

Annual plan

16.—(1) The Commission shall, before the beginning of each financial year (other than that specified in paragraph 15(4)(a)) prepare a plan setting out how it intends in that year—

- (a) to fund civil legal services,
- (b) to fund criminal defence services, and
- (c) to exercise its other functions,

and the plan shall include a summary of what the Commission has ascertained in the exercise of its functions under Article 6(1).

(2) The Lord Chancellor may by direction require the Commission to deal with the matters specified in the direction in plans, or a particular plan, under sub-paragraph (1).

(3) The Commission shall send a copy of each plan prepared under sub-paragraph (1) to the Lord Chancellor.

(4) If the Lord Chancellor approves it, he shall lay a copy before each House of Parliament and the Commission shall publish the plan once it has been so laid.

(5) If he does not approve it, he shall by direction require the Commission to revise it in accordance with the direction; and the direction shall include the Lord Chancellor’s reasons for not approving the plan.

(6) When the Commission has revised the plan, it shall send the Lord Chancellor a copy of the revised plan, and he shall lay a copy before each House of Parliament, and the Commission shall publish the revised plan once it has been so laid.

Accounts and audit

17.—(1) The Commission shall keep accounts and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts shall be kept, and the statement of accounts shall be prepared, in such form as the Lord Chancellor may, with the approval of the Treasury, specify by direction given to the Commission.

(3) The Commission shall send a copy of the statement of accounts in respect of each financial year to the Lord Chancellor and to the Comptroller and Auditor General within such period after the end of the financial year to which it relates as the Lord Chancellor may specify by direction given to the Commission.

(4) The Comptroller and Auditor General shall—

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, No. 435

- (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (3), and
 - (b) send a copy of his report to the Commission.
- (5) The Commission shall lay before each House of Parliament—
- (a) a copy of each statement of accounts prepared under sub-paragraph (1), and
 - (b) a copy of each report received from the Comptroller and Auditor General under sub-paragraph (4)(b).

Instruments

18.—(1) The fixing of the seal of the Commission shall be authenticated by a member of the Commission or by some other person authorised either generally or specially by the Commission to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Commission or to be signed on the Commission's behalf—

- (a) shall be received in evidence, and
- (b) unless the contrary is proved, shall be deemed to be so executed or signed.