

*Status: Point in time view as at 01/08/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Safety at Work etc. Act 1974, SCHEDULE 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 2

Section 10.

#### ADDITIONAL PROVISIONS RELATING TO CONSTITUTION ETC. OF THE COMMISSION AND EXECUTIVE

##### *Tenure of office*

- 1 Subject to paragraphs 2 to 4 below, a person shall hold and vacate office as a member or as chairman or deputy chairman in accordance with the terms of the instrument appointing him to that office.
- 2 A person may at any time resign his office as a member or as chairman or deputy chairman by giving the Secretary of State a notice in writing signed by that person and stating that he resigns that office.
- 3
  - (1) If a member becomes or ceases to be the chairman or deputy chairman, the Secretary of State may vary the terms of the instrument appointing him to be a member so as to alter the date on which he is to vacate office as a member.
  - (2) If the chairman or deputy chairman ceases to be a member he shall cease to be chairman or deputy chairman, as the case may be.
- 4
  - (1) If the Secretary of State is satisfied that a member—
    - (a) has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission; or
    - (b) has become bankrupt or made an arrangement with his creditors; or
    - (c) is incapacitated by physical or mental illness; or
    - (d) is otherwise unable or unfit to discharge the functions of a member,the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
  - (2) In the application of the preceding sub-paragraph to Scotland for the references in paragraph (b) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to sequestration of a member's estate having been awarded and to a member's having made a trust deed for behoof of his creditors or a composition contract.

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*Remuneration etc. of members*

- 5       The Commission may pay to each member such remuneration and allowances as the Secretary of State may determine.
- 6       The Commission may pay or make provision for paying, to or in respect of any member, such sums by way of pension, superannuation allowances and gratuities as the Secretary of State may determine.
- 7       Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission may make to him a payment of such amount as the Secretary of State may determine.

*Proceedings*

- 8       The quorum of the Commission and the arrangements relating to meetings of the Commission shall be such as the Commission may determine.
- 9       The validity of any proceedings of the Commission shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

*Staff*

- 10       It shall be the duty of the Executive to provide for the Commission such officers and servants as are requisite for the proper discharge of the Commission's functions; and any reference in this Act to an officer or servant of the Commission is a reference to an officer or servant provided for the Commission in pursuance of this paragraph.
- 11       The Executive may appoint such officers and servants as it may determine with the consent of the Secretary of State as to numbers and terms and conditions of service.
- 12       The Commission shall pay to the Minister for the Civil Service, at such times in each accounting year as may be determined by that Minister subject to any directions of the Treasury, sums of such amounts as he may so determine for the purposes of this paragraph as being equivalent to the increase during that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of the Executive in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

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### *Performance of functions*

- 13 The Commission may authorise any member of the Commission or any officer or servant of the Commission or of the Executive to perform on behalf of the Commission such of the Commission's functions (including the function conferred on the Commission by this paragraph) as are specified in the authorisation.

### *Accounts and reports*

- 14 (1) It shall be the duty of the Commission—
- (a) to keep proper accounts and proper records in relation to the accounts;
  - (b) to prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
  - (c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of November next following the accounting year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this Schedule and shall lay copies of each statement and of his report before each House of Parliament.
- 15 It shall be the duty of the Commission to make to the Secretary of State, as soon as possible after the end of each accounting year, a report on the performance of its functions during that year; and the Secretary of State shall lay before each House of Parliament a copy of each report made to him in pursuance of this paragraph.

### *Supplemental*

- 16 The Secretary of State shall not make a determination or give his consent in pursuance of paragraph 5, 6, 7 or 11 of this Schedule except with the approval of the Minister for the Civil Service.

#### **Modifications etc. (not altering text)**

**C1** Sch. 2 para. 16: transfer of functions (1.4.1995) by virtue of S.I. 1995/269, art. 3, Sch. para. 10

- 17 The fixing of the common seal of the Commission shall be authenticated by the signature of the secretary of the Commission or some other person authorised by the Commission to act for that purpose.
- 18 A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

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- 19        In the preceding provisions of this Schedule—
- (a) “accounting year” means the period of twelve months ending with 31st March in any year except that the first accounting year of the Commission shall, if the Secretary of State so directs, be such period shorter or longer than twelve months (but not longer than two years) as is specified in the direction; and
  - (b) “the chairman”, “a deputy chairman” and “a member” mean respectively the chairman, a deputy chairman and a member of the Commission.
- 20        (1) The preceding provisions of this Schedule (except paragraphs 10 to 12 and 15) shall have effect in relation to the Executive as if—
- (a) for any reference to the Commission there were substituted a reference to the Executive;
  - (b) for any reference to the Secretary of State in paragraphs 2 to 4 and 19 and the first such reference in paragraph 7 there were substituted a reference to the Commission;
  - (c) for any reference to the Secretary of State in paragraphs 5 to 7 (except the first such reference in paragraph 7) there were substituted a reference to the Commission acting with the consent of the Secretary of State;
  - (d) for any reference to the chairman there were substituted a reference to the director, and any reference to the deputy chairman were omitted;
  - (e) in paragraph 14(1)(c) for the words from “Secretary” to “following” there were substituted the words “Commission by such data as the Commission may direct after the end of”.
- (2) It shall be the duty of the Commission to include in or send with the copies of the statement sent by it as required by paragraph 14(1)(c) of this Schedule copies of the statement sent to it by the Executive in pursuance of the said paragraph 14(1)(c) as adapted by the preceding sub-paragraph.
- (3) The terms of an instrument appointing a person to be a member of the Executive shall be such as the Commission may determine with the approval of the Secretary of State and the Minister for the Civil Service.

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