

*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)

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 2

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

##### Textual Amendments

- F1** Sch. 2 substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 20, [Sch. 1](#) (with art. 21, Sch. 2)

#### Section 10

##### *THE HEALTH AND SAFETY EXECUTIVE*

- 1 The Executive shall consist of—
- (a) the Chair of the Executive, and
  - (b) at least seven and no more than [<sup>F2</sup> twelve ]other members (referred to in this Schedule as “ members ”).

##### Textual Amendments

- F2** Word in [Sch. 2 para. 1\(b\)](#) substituted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 15\(2\)](#); S.I. 2014/251, art. 4

- 2 (1) The Secretary of State shall appoint the Chair of the Executive.
- (2) [<sup>F3</sup>Subject to sub-paragraph (3A), ]The Secretary of State shall appoint the other members of the Executive according to sub-paragraph (3).
- (3) The Secretary of State—
- (a) shall appoint three members after consulting such organisations representing employers as he considers appropriate;
  - (b) shall appoint three members after consulting such organisations representing employees as he considers appropriate;
  - (c) shall appoint one member after consulting such organisations representing local authorities as he considers appropriate; and
  - (d) may appoint up to four other members after consulting, as he considers appropriate—
    - (i) the Scottish Ministers,
    - (ii) the Welsh Ministers, or
    - (iii) such organisations as he considers appropriate, including professional bodies, whose activities are concerned with matters

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relating to the general purposes of this Part [<sup>F4</sup>, building safety, building standards or fire safety.]

- [<sup>F5</sup>(3A) The Office for Nuclear Regulation may appoint a member from among the non-executive members of the Office for Nuclear Regulation (“an ONR member”).
- (3B) The Office for Nuclear Regulation must notify the Executive and the Secretary of State whenever it appoints an ONR member.]
- (4) Service as the Chair or as another member of the Executive is not service in the civil service of the State.
- (5) The Secretary of State, with the approval of the Chair, may appoint one of the other members appointed under sub-paragraph (2) to be the deputy chair of the Executive.

**Textual Amendments**

- F3** Words in Sch. 2 para. 2(2) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(3); S.I. 2014/251, art. 4
- F4** Words in Sch. 2 para. 2(3)(d)(iii) inserted (E.W.S.) (28.6.2022) by Building Safety Act 2022 (c. 30), s. 170(5), Sch. 1 para. 8(2); S.I. 2022/561, reg. 3(a)
- F5** Sch. 2 para. 2(3A), (3B) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(4); S.I. 2014/251, art. 4

*TERMS OF APPOINTMENT OF THE EXECUTIVE*

- 3 Subject to paragraphs 4 [<sup>F6</sup>, 4A ]and 5, a person shall hold and vacate office as the Chair or as another member according to the terms of the instrument appointing him to that office.

**Textual Amendments**

- F6** Word in Sch. 2 para. 3 inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(5); S.I. 2014/251, art. 4

- 4 The Chair or any other member of the Executive [<sup>F7</sup>, other than an ONR member,] may at any time resign his office by giving notice in writing to the Secretary of State.

**Textual Amendments**

- F7** Words in Sch. 2 para. 4 inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(6); S.I. 2014/251, art. 4

- [<sup>F8</sup>4A (1) An ONR member may at any time resign from office by giving notice in writing to the Office for Nuclear Regulation.
- (2) An ONR member ceases to be a member of the Executive upon ceasing to be a non-executive member of the Office for Nuclear Regulation.
- (3) The Office for Nuclear Regulation may remove an ONR member from office by giving notice in writing.
- (4) The Office for Nuclear Regulation must notify the Executive and the Secretary of State whenever an ONR member—

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- (a) resigns from office,
- (b) ceases to be a non-executive member of the Office for Nuclear Regulation, or
- (c) is removed from office.]

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**Textual Amendments**

**F8** Sch. 2 para. 4A inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(7); S.I. 2014/251, art. 4

- 5 The Secretary of State may remove a Chair or other member [F9], other than an ONR member, ]who—
- (a) has been absent from meetings of the Executive for a period longer than six months without the permission of the Executive;
  - (b) has become bankrupt or [F10]has had a debt relief order (under Part 7A of the Insolvency Act 1986) made in respect of him or] has made an arrangement with his creditors;
  - (c) in Scotland, has had his estate sequestrated or has made a trust deed for creditors or a composition contract;
  - (d) has become incapacitated by physical or mental illness; or
  - (e) is otherwise, in the opinion of the Secretary of State, unable or unfit to carry out his functions.

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**Textual Amendments**

**F9** Words in Sch. 2 para. 5 inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(8); S.I. 2014/251, art. 4

**F10** Words in Sch. 2 para. 5(b) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, Sch. 2 para. 6 (with art. 5)

*REMUNERATION OF MEMBERS*

- 6 (1) The Executive shall pay [F11]—
- (a) to each member, other than an ONR member, such remuneration, and
  - (b) to each member such travelling and other allowances,
- as may be determined by the Secretary of State.]
- (2) The Executive shall pay to, or in respect of, any member [F12] other than an ONR member ], such sums by way of pension, superannuation allowances and gratuities as the Secretary of State may determine.
- (3) Where a person ceases to be a member [F13] other than an ONR member ]otherwise than on the expiry of his term of office, and the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Executive shall pay to him such amount by way of compensation as the Secretary of State may determine.
- [F14](4) Where—
- (a) a member appointed under paragraph 4(4)(a) of Schedule 7 to the Energy Act 2013 to be a member of the Office for Nuclear Regulation (the “HSE member of the ONR”)—

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- (i) ceases to be the HSE member of the ONR otherwise than on the expiry of his or her term of office as HSE member of the ONR, but
  - (ii) does not cease to be a member of the Executive, and
  - (b) it appears to the Executive that there are special circumstances that make it right for that person to receive compensation,
- the Executive may pay the member such amount by way of compensation as the Secretary of State may determine.]

#### **Textual Amendments**

- F11** Words in Sch. 2 para. 6(1) substituted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(10); S.I. 2014/251, art. 4
- F12** Words in Sch. 2 para. 6(2) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(11); S.I. 2014/251, art. 4
- F13** Words in Sch. 2 para. 6(3) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(12); S.I. 2014/251, art. 4
- F14** Sch. 2 para. 6(4) inserted (10.3.2014) by Energy Act 2013 (c. 32), s. 156(1), Sch. 12 para. 15(13); S.I. 2014/251, art. 3(f)(i)

#### *PROCEEDINGS OF THE EXECUTIVE*

- 7 (1) The Executive may regulate its own procedure.
- (2) The validity of any proceedings of the Executive shall not be affected by any vacancy among the members or by any defect in the appointment of a member.
- (3) The Executive shall consult with the Secretary of State before making or revising its rules and procedures for dealing with conflicts of interest.
- (4) The Executive shall from time to time publish a summary of its rules and procedures.

#### *STAFF*

- 8 (1) The Executive shall, with the consent of the Secretary of State, appoint a person to act as Chief Executive on such terms and conditions as the Secretary of State may determine.
- (2) The Executive shall appoint such other staff to the service of the Executive as it may determine, with the consent of the Secretary of State as to numbers of persons appointed and as to the terms and conditions of their service.
- (3) The Executive shall pay to the Minister for the Civil Service at such times as that Minister may direct, such sums as the Minister may determine in respect of any increase attributable to this paragraph in the sums payable out of monies provided by Parliament under the Superannuation Act 1972.
- (4) A person appointed to the staff of the Executive may not at the same time be a member of the Executive.
- (5) Service as a member of staff of the Executive is service in the civil service of the State.

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#### PERFORMANCE OF FUNCTIONS

- 9 (1) Subject to sub-paragraphs (2) to (4), anything authorised or required to be done by the Executive (including exercising the powers under this paragraph) may be done by—
- (a) such members of the Executive or members of staff of the Executive as the Executive considers fit to authorise for that purpose, whether generally or specifically; or
  - (b) any committee of the Executive which has been so authorised.
- (2) Sub-paragraph (1)(b) does not apply to a committee whose members include a person who is neither a member of the Executive nor a member of staff of the Executive.
- (3) The Executive—
- (a) shall authorise such of its members of staff as it considers fit to authorise for that purpose, to perform on its behalf those of its functions which consist of the enforcement of the relevant statutory provisions in any particular case; but
  - (b) shall not authorise any member or committee of the Executive to make decisions concerning the enforcement of the relevant statutory provisions [F15, or the building enactments,] in any particular case.
- (4) The Executive shall not authorise any person to legislate by subordinate instrument.
- (5) The Executive shall publish any authorisations which it makes under this paragraph.

#### Textual Amendments

**F15** Words in [Sch. 2 para. 9\(3\)\(b\)](#) inserted (E.W.S.) (28.6.2022) by [Building Safety Act 2022 \(c. 30\), s. 170\(5\), Sch. 1 para. 8\(3\)](#); [S.I. 2022/561, reg. 3\(a\)](#)

#### ACCOUNTS AND REPORTS

- 10 (1) It shall be the duty of the Chief Executive—
- (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 November next following the accounting year to which the statement relates.
- (2) The Comptroller and the Auditor General shall examine, certify and report on each statement referred to in sub-paragraph (1)(c) and shall lay copies of each statement and his report before each House of Parliament.
- (3) As soon as possible after the end of the accounting year, the Executive shall make to the Secretary of State a report on the performance of the Executive's functions during the year.
- (4) The Secretary of State shall lay the report referred to in sub-paragraph (3) before each House of Parliament.
- (5) In this paragraph, “accounting year” means the period of 12 months ending with 31st March in any year; but the first accounting year of the Executive shall, if the

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Secretary of State so directs, be of such other period not exceeding 2 years as may be specified in the direction.

*SUPPLEMENTAL*

- 11 The Secretary of State shall not make any determination or give his consent under paragraph 6 or 8 of this Schedule except with the approval of the Minister for the Civil Service.
- 12 (1) The fixing of the common seal of the Executive shall be authenticated by the signature of the Chair or some other person authorised by the Executive to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Executive [<sup>F16</sup>or signed on its behalf] shall be received in evidence and shall be deemed to be so executed [<sup>F17</sup>or signed] unless the contrary is proved.
- (3) This paragraph does not apply to Scotland.]

**Textual Amendments**

- F16** Words in Sch. 2 para. 12(2) inserted (E.W.S.) (28.6.2022) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(5), [Sch. 1 para. 8\(4\)\(a\)](#); S.I. 2022/561, reg. 3(a)
- F17** Words in Sch. 2 para. 12(2) inserted (E.W.S.) (28.6.2022) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(5), [Sch. 1 para. 8\(4\)\(b\)](#); S.I. 2022/561, reg. 3(a)

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