

Changes to legislation: Constitutional Reform Act 2005, SCHEDULE 12 is up to date with all changes known to be in force on or before 01 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 12

Section 61

THE JUDICIAL APPOINTMENTS COMMISSION

PART 1

THE COMMISSIONERS

The Commissioners

- 1
- The Commission consists of—

(a) a chairman, and

[^{F1}(b) such number of other Commissioners as the Lord Chancellor may specify by regulations made with the agreement of the Lord Chief Justice,]

appointed by Her Majesty on the recommendation of the Lord Chancellor.

Textual Amendments

F1 Sch. 12 para. 1(b) substituted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 13 para. 17**; S.I. 2013/2200, art. 2(c)

- 2
- (1) The chairman must be a lay member.

^{F2}(2)

^{F2}(2A)

^{F2}(3)

^{F2}(4)

^{F2}(5)

Textual Amendments

F2 Sch. 12 para. 2(2)-(5) omitted (4.9.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 13 para. 18**; S.I. 2013/2200, art. 2(c)

- 3
- A person must not be appointed as a Commissioner if he is employed in the civil service of the State.

[^{F3}3A The number of Commissioners who are holders of judicial office must be less than the number of Commissioners (including the chairman) who are not holders of judicial office.

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Textual Amendments

F3 Sch. 12 paras. 3A-3C inserted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 19](#); [S.I. 2013/2200](#), art. 2(c)

- 3B (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision about the composition of the Commission.
- (2) The power to make regulations under this paragraph is to be exercised so as to ensure that the Commission's members include—
- (a) holders of judicial office,
 - (b) persons practising or employed as lawyers, and
 - (c) lay members.
- (3) Regulations under this paragraph may (in particular)—
- (a) make provision about the number, maximum number or minimum number of Commissioners of a particular description;
 - (b) make provision about eligibility for appointment as a Commissioner, eligibility for appointment as the chairman or eligibility for appointment as a Commissioner of a particular description.

Textual Amendments

F3 Sch. 12 paras. 3A-3C inserted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 19](#); [S.I. 2013/2200](#), art. 2(c)

- 3C The Lord Chancellor may by regulations made with the agreement of the Lord Chief Justice—
- (a) define “lay member”, in relation to the Commission, for the purposes of this Part of this Act;
 - (b) define “holder of judicial office” for the purposes of paragraphs 3A, 3B(2)(a), 11 and 20(5).]

Textual Amendments

F3 Sch. 12 paras. 3A-3C inserted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 19](#); [S.I. 2013/2200](#), art. 2(c)

F4

Textual Amendments

F4 Sch. 12 paras. 4-6 omitted (4.9.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 18](#); [S.I. 2013/2200](#), art. 2(c)

F45

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Textual Amendments
F4 Sch. 12 paras. 4-6 omitted (4.9.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 18](#); S.I. 2013/2200, art. 2(c)

^{F4}6

Textual Amendments
F4 Sch. 12 paras. 4-6 omitted (4.9.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 18](#); S.I. 2013/2200, art. 2(c)

- [^{F5}6A (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision for or in connection with the selection or nomination of persons to be recommended for appointment under paragraph 1.
- (2) Regulations under this paragraph may (in particular)—
- (a) provide for selection or nomination to be by a person, or body, specified in or appointed under the regulations;
 - (b) make provision about selection procedure, including—
 - (i) provision for a selector to determine the selector's own procedure or for selection procedure to be otherwise determined under the regulations;
 - (ii) provision as to matters to which a selector is to, or may or may not, have regard;
 - (iii) provision requiring that selection is carried out with a view to ensuring that there is a Commissioner with special knowledge of a particular geographical area or of a particular matter;
 - (c) make provision for the payment to selectors of remuneration, fees or expenses.

Textual Amendments
F5 Sch. 12 paras. 6A, 6B substituted for Sch. 12 paras. 7-10 (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 20](#); S.I. 2013/2200, art. 2(c)

6B The powers to make regulations under this Part of this Schedule are to be exercised with a view to ensuring, so far as may be practicable, that the Commissioners who are lay members include at any time at least one person who appears to have special knowledge of Wales.]

Textual Amendments
F5 Sch. 12 paras. 6A, 6B substituted for Sch. 12 paras. 7-10 (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 20](#); S.I. 2013/2200, art. 2(c)

Vice-chairman

- 11 (1) The [^{F6}most senior of the holders of judicial office who are Commissioners] is vice-chairman of the Commission.

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- (2) For the purposes of sub-paragraph (1) [^{F7}seniority is to be determined in accordance with regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.]
- (3) In the absence of the chairman, the vice-chairman may exercise the chairman's functions [^{F8}other than—
- (a) any functions as a member of a commission convened under section 26(5) or (5A) or of a panel appointed under section 70(1), 75B(1) or 79(1) (including functions of chairing such a commission or panel), and
 - (b) any functions specified in regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.]

Textual Amendments

- F6** Words in *Sch. 12 para. 11(1)* substituted (4.9.2013) by *Crime and Courts Act 2013* (c. 22), s. 61(3), **Sch. 13 para. 21(2)**; S.I. 2013/2200, art. 2(c)
- F7** Words in *Sch. 12 para. 11(2)* substituted (4.9.2013) by *Crime and Courts Act 2013* (c. 22), s. 61(3), **Sch. 13 para. 21(3)**; S.I. 2013/2200, art. 2(c)
- F8** Words in *Sch. 12 para. 11(3)* substituted (4.9.2013) by *Crime and Courts Act 2013* (c. 22), s. 61(3), **Sch. 13 para. 21(4)**; S.I. 2013/2200, art. 2(c)

Term of office etc. of Commissioners

- 12 (1) A Commissioner must be appointed for a fixed period.
- (2) But an appointment is subject to paragraphs 13 to 15.
- [^{F9}13 (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision about the periods for which a Commissioner may be appointed or hold office.
- (2) Regulations under this paragraph may (in particular) make provision about—
- (a) the number of times a person may be appointed as a Commissioner;
 - (b) the length of any particular appointment;
 - (c) the total length of a person's appointments or the total period for which a person may hold office as a Commissioner.]

Textual Amendments

- F9** *Sch. 12 para. 13* substituted (4.9.2013) by *Crime and Courts Act 2013* (c. 22), s. 61(3), **Sch. 13 para. 22**; S.I. 2013/2200, art. 2(c)

- 14 [^{F10}(1) The Lord Chancellor may by regulations made with the agreement of the Lord Chief Justice—
- (a) provide for a Commissioner to cease to be a Commissioner on ceasing, or on ceasing for a particular reason, to be eligible for appointment as a Commissioner;
 - (b) provide for a Commissioner other than the chairman to cease to be a Commissioner on ceasing, or on ceasing for a particular reason, to be eligible for appointment as a Commissioner of a particular description;
 - (c) provide for the chairman—

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- (i) to cease to be the chairman without ceasing to be a Commissioner, or
 - (ii) to cease to be the chairman and cease to be a Commissioner,
- on ceasing, or on ceasing for a particular reason, to be eligible for appointment as the chairman;
- (d) confer power to disapply or suspend the operation of provision under paragraph (a), (b) or (c) in individual cases.]
- (4) A Commissioner ceases to be a Commissioner if he becomes employed in the civil service of the State.

Textual Amendments

F10 Sch. 12 para. 14(1) substituted for Sch. 12 para. 14(1)(2) (4.9.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 13 para. 23; S.I. 2013/2200, art. 2(c)

- 15 (1) A Commissioner may at any time—
- (a) resign his office by notice in writing addressed to Her Majesty;
 - (b) be removed from office by Her Majesty on the recommendation of the Lord Chancellor.
- (2) The Lord Chancellor may not under sub-paragraph (1) recommend that a Commissioner be removed from office unless he is satisfied that the Commissioner—
- (a) has failed without reasonable excuse to discharge the functions of his office for a continuous period of at least six months,
 - (b) has been convicted of an offence,
 - (c) is an undischarged bankrupt ^{F11} or a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)], or
 - (d) is otherwise unfit to hold his office or unable to discharge its functions.
- (3) A recommendation on the ground mentioned in sub-paragraph (2)(a) may not be made more than 3 months after the end of the period mentioned there.

Textual Amendments

F11 Words in Sch. 12 para. 15(2)(c) 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. 52(2) (with art. 5)

Salary, allowances and expenses

- 16 (1) The Commission may—
- (a) pay to each Commissioner such remuneration, fees or expenses as the Lord Chancellor may determine;
 - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been a Commissioner.
- (2) If—
- (a) a person ceases to hold office as a Commissioner other than on the expiry of his term of appointment, and

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- (b) it appears to the Lord Chancellor that there are special circumstances that would warrant the payment of compensation to him,
 the Lord Chancellor may direct the Commission to make to or in respect of that person a payment of such amount as the Lord Chancellor may determine.

Code of Conduct

- 17 The Lord Chancellor may issue and from time to time revise a code of conduct to be observed by the Commissioners.

[^{F12}Regulations

Textual Amendments

- F12** Sch. 12 para. 17A and cross-heading inserted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 13 para. 24](#); [S.I. 2013/2200, art. 2\(c\)](#)

- 17A Regulations under this Part of this Schedule may—
 (a) make different provision for different purposes;
 (b) include transitional or transitory provision or savings.]

PART 2

THE COMMISSION

Status of the Commission and its property

- 18 (1) The Commission is not to be regarded—
 (a) as the servant or agent of the Crown, or
 (b) as enjoying any status, immunity or privilege of the Crown.
 (2) The property of the Commission is not to be regarded as property of, or property held on behalf of, the Crown.

Powers

- 19 (1) The Commission may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.
 (2) But the Commission may not borrow money except with the agreement of the Lord Chancellor.
 (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (1).

Committees

- 20 (1) The Commission may establish committees.
 (2) A committee of the Commission may establish sub-committees.

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- (3) A person may not be a member of a committee or sub-committee unless he is a Commissioner.
- (4) The Commission may delegate functions to a committee, and a committee may delegate functions (including functions delegated to them) to a sub-committee.
- (5) The function of making a selection under this Part of this Act may be delegated only to a committee or sub-committee whose members include at least one ^{F13}who is a holder of judicial office and at least one lay member.
- (6) In sub-paragraphs (2) to (5) references to a committee do not include references to a selection panel appointed under section 70 ^{F14}, 75B] or 79.

Textual Amendments

- F13** Words in Sch. 12 para. 20(5) substituted (4.9.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 25](#); [S.I. 2013/2200](#), art. 2(c)
- F14** Word in [Sch. 12 para. 20\(6\)](#) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 80](#); [S.I. 2013/2200](#), art. 3(e) (with savings in [S.I. 2013/2192](#), regs. 48, 49)

Procedure and proceedings

- 21 (1) The Commission may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) But the quorum of a committee or sub-committee to which the Commission's function of making a selection under this Part of this Act has been delegated must not be less than 3.
- (3) The validity of proceedings of the Commission or a committee or sub-committee is not affected by—
- (a) a vacancy among the members, or
 - (b) a defect in the appointment of a member.

Staff

- 22 (1) The Commission—
- (a) must appoint a chief executive, and
 - (b) may appoint such other staff as it considers necessary to assist in the performance of its functions.
- (2) The Commission must not appoint a person as chief executive unless the Lord Chancellor approves the appointment.
- (3) Staff are to be—
- (a) appointed on terms and conditions determined by the Commission, and approved by the Lord Chancellor, and
 - (b) paid by the Commission in accordance with provision made by or under the terms of appointment.
- (4) In determining the terms and conditions the Commission must have regard to the desirability of keeping remuneration and the other terms and conditions broadly in line with those applying to employment in the civil service of the State.

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- (5) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which a scheme under section 1 of the Act may apply), at the end of the list of “Royal Commissions and other Commissions” insert— “ Judicial Appointments Commission. ”
- (6) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (7) Staff of the Commission are not to be regarded as—
 - (a) servants or agents of the Crown, or
 - (b) enjoying any status, immunity or privilege of the Crown.

Arrangements for assistance

- 23 (1) The Commission may make arrangements with such persons as it considers appropriate for assistance to be provided to it.
- (2) Arrangements may include the paying of fees to such persons.
- (3) No arrangements may be made under this paragraph unless approved by the Lord Chancellor.

Appointments and arrangements by the Lord Chancellor

- 24 (1) The Lord Chancellor may appoint a person to serve as chief executive until the first appointment under paragraph 22(1)(a) takes effect.
- (2) A chief executive serving under sub-paragraph (1) may incur expenditure and do other things (including appointing staff and making arrangements for assistance under paragraph 23) in the name and on behalf of the Commission—
 - (a) before the membership of the Commission is first constituted in accordance with paragraph 1, and
 - (b) thereafter, until the Commission determines otherwise.
- (3) A chief executive's powers under sub-paragraph (2) are exercisable subject to any directions given to him by the Lord Chancellor.
- 25 (1) The Lord Chancellor may—
 - (a) appoint persons to serve as members of the Commission's staff;
 - (b) make arrangements in the name and on behalf of the Commission for other assistance to be provided to the Commission.
- (2) The Lord Chancellor may not exercise his powers under sub-paragraph (1) later than—
 - (a) the end of 3 years after the day on which the Commission is first constituted in accordance with paragraph 1, or
 - (b) such earlier time as the Commission may determine.
- (3) If there is a chief executive of the Commission the Lord Chancellor may not exercise his powers under sub-paragraph (1) without the agreement of the chief executive.

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Power to transfer staff to employment of the Commission

- 26 (1) The Lord Chancellor may by regulations provide for the employment of any relevant person to be transferred to the Commission.
- (2) A relevant person is any person who, immediately before the date prescribed in regulations under sub-paragraph (1), is—
- (a) employed in the civil service of the State, and
 - (b) providing assistance to the Commission in pursuance of arrangements made under paragraph 23 or 25.
- (3) But a person is not a relevant person if—
- (a) his employment in the civil service ends on the day immediately before the date referred to in sub-paragraph (2), or
 - (b) he is withdrawn from work with the Commission with effect from that date.
- (4) Before making any regulations under this paragraph the Lord Chancellor must consult such organisations as appear to him to represent the interests of persons likely to be affected by the regulations.
- (5) The Lord Chancellor may only exercise his power under sub-paragraph (1)—
- (a) before the membership of the Commission is first constituted in accordance with paragraph 1, and
 - (b) with the agreement of the Commission, during the period of 3 years beginning with the day on which the Commission is first constituted in accordance with that paragraph.

Commencement Information

- II** [Sch. 12 para. 26](#) partly in force; [Sch. 12 para. 26](#) not in force at Royal Assent see [s. 148](#); [Sch. 12 para. 26](#) in force for specified purposes at 1.10.2005 by [S.I. 2005/2505](#), [art. 2\(b\)](#); [Sch. 12 para 26](#) in force at 3.4.2006 in so far as not already in force by [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 15](#)

Delegation

- 27 (1) The Commission may delegate functions to—
- (a) any of its staff,
 - (b) any person with whom arrangements are made under paragraph 23 or 25, or
 - (c) any person providing assistance to the Commission in pursuance of such arrangements.
- (2) A committee, a sub-committee or the chief executive may delegate functions (including functions delegated to them or him) to any of the persons listed at sub-paragraph (1).
- (3) Sub-paragraphs (1) and (2) do not apply to the functions of the Commission, or of a selection panel appointed under section 70 [^{F15}, 75B] or 79, of making a selection under this Part of this Act.

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Textual Amendments

F15 Word in [Sch. 12 para. 27\(3\)](#) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 80](#); [S.I. 2013/2200](#), art. 3(e) (with savings in [S.I. 2013/2192](#), regs. 48, 49)

Delegation and contracting out of superannuation functions

- 28 (1) Section 1(2) of the Superannuation Act 1972 (c. 11) (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another officer of the Crown etc.) has effect as if the reference to an officer of the Crown other than a Minister included a reference to the Commission's chief executive.
- (2) Any administration function conferred on the chief executive under section 1(2) of that Act (in accordance with sub-paragraph (1)) may be exercised by, or by employees of, any person authorised by the chief executive.
- (3) “Administration function” means a function of administering schemes—
- (a) made under section 1 of that Act, and
 - (b) from time to time in force.
- (4) The chief executive may, under sub-paragraph (2), authorise a person to exercise administrative functions—
- (a) to their full extent or to a specified extent;
 - (b) in all cases or in specified cases;
 - (c) unconditionally or subject to specified conditions.
- (5) An authorisation under sub-paragraph (2)—
- (a) is to be treated for all purposes as given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of Ministers and office-holders);
 - (b) may be revoked at any time by the Commission or the chief executive.

Inspection of documents

- 29 (1) The Commission must permit any person authorised by the Lord Chancellor to inspect or make copies of accounts or other documents which in the opinion of the Lord Chancellor relate to costs and expenditure of the Commission.
- (2) The Commission must provide such explanation of accounts or documents inspected or copied by any person under this paragraph as that person or the Lord Chancellor may require.

Financial provisions and directions

- 30 (1) The Lord Chancellor must pay to the Commission such sums as he may determine are appropriate for, or in connection with, the exercise by it of its functions.
- (2) The Lord Chancellor may by direction require the Commission—
- (a) not to incur costs and expenditure in excess of a specified amount without his consent;
 - (b) to follow specified procedures in relation to its costs and expenditure.

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- (3) A direction under sub-paragraph (2) may relate to all of the Commission's costs and expenditure, or to costs and expenditure of a specified description.

Accounts and audit

- 31 (1) The Commission must keep proper accounts and proper records in relation to them.
- (2) The Commission must prepare a statement of accounts in respect of each financial year.
- (3) The statement must give a true and fair view of the state of the Commission's affairs at the end of the financial year, and of its income and expenditure and cash flows in the financial year.
- (4) The statement must be in compliance with any directions given by the Lord Chancellor with the Treasury's consent as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.
- (5) The Commission must send the statement to the Lord Chancellor at such time as he may direct.
- (6) The Lord Chancellor must, on or before 31 August in any year, send to the Comptroller and Auditor General the statement prepared by the Commission for the financial year last ended.
- (7) The Comptroller and Auditor General must examine, certify and report on the statement sent to him under sub-paragraph (6) and must lay copies of it and of his report before each House of Parliament.

Reports

- 32 (1) The Commission must, as soon as practicable after the end of each financial year, provide to the Lord Chancellor a report about the performance of its functions during that year.
- (2) After consulting the Lord Chief Justice, the Lord Chancellor may by direction require the Commission to deal, in reports or a particular report under sub-paragraph (1), with matters specified in the direction.
- (3) The Commission must, as soon as practicable after a direction by the Lord Chancellor under this sub-paragraph, provide to the Lord Chancellor a report about any matter or matters specified in the direction.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report provided to him under sub-paragraph (1).
- (5) The Commission must publish any report once copies of it have been laid under sub-paragraph (4).

Documentary evidence

- 33 The application of the seal of the Commission is to be authenticated by the signature of any Commissioner or member of staff of the Commission who has been authorised (whether generally or specifically) for the purpose.

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- 34 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal, may be entered into or executed on behalf of the Commission by any person who has been authorised (whether generally or specifically) for the purpose.
- 35 A document purporting to be—
- (a) duly executed under the seal of the Commission, or
 - (b) signed on behalf of the Commission,
- is to be received in evidence and, unless the contrary is proved, taken to be executed or signed in that way.

General

- 36 (1) “Financial year” in this Schedule, means—
- (a) the period beginning with the date on which section 61 comes into force and ending with the following 31 March, and
 - (b) each successive period of twelve months.
- (2) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert— “The Judicial Appointments Commission.”.
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— “The Judicial Appointments Commission.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 132(4A) words substituted by [2015 c. 2 s. 83\(1\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(2\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(3\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(4\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(6\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(8\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(9\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(10\)\(a\)](#)
- Sch. 7 para. 4Pt. A words substituted by [2007 c. 15 s. 144\(10\)\(b\)](#)