

SCHEDULES

SCHEDULE 15

Section 114

THE OFFICE FOR LEGAL COMPLAINTS

Membership

- 1 (1) The OLC is to consist of the following members—
 - (a) a chairman appointed by the Board with the approval of the Lord Chancellor, and
 - (b) at least 6, but not more than 8, other persons appointed by the Board after consultation with the chairman.
- (2) The Lord Chancellor may by order amend sub-paragraph (1) by substituting, for the limit on the maximum number of persons for the time being specified in paragraph (b) of that sub-paragraph, a different limit.
- 2 (1) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are lay persons.
- (2) The chairman must be a lay person.
- (3) In this Schedule a reference to a “lay person” is a reference to a person who has never been—
 - (a) an authorised person in relation to an activity which is a reserved legal activity,
 - (b) an advocate in Scotland,
 - (c) a solicitor in Scotland,
 - (d) a member of the Bar of Northern Ireland, or
 - (e) a solicitor of the Court of Judicature of Northern Ireland.
- (4) For the purposes of sub-paragraph (3), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been—
 - (a) a barrister,
 - (b) a solicitor,
 - (c) a public notary,
 - (d) a licensed conveyancer,
 - (e) granted a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive,
 - (f) a registered patent attorney, within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48),
 - (g) a registered trade mark attorney, within the meaning of the Trade Marks Act 1994 (c. 26), or
 - (h) granted a right of audience or right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts

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and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation).

- (5) For the purpose of sub-paragraph (4)—
“appointed day” means the day appointed for the coming into force of section 13;
“licensed conveyancer” has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61).
- 3 (1) An ombudsman may be a member (but not chairman) of the OLC.
- (2) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are not ombudsmen.
- 4 In appointing members of the OLC, the Board must have regard to the desirability of securing that the OLC includes members who (between them) have experience in or knowledge of—
- (a) the handling of complaints,
 - (b) the provision of legal services,
 - (c) legal education and legal training,
 - (d) consumer affairs,
 - (e) civil or criminal proceedings and the working of the courts,
 - (f) the maintenance of the professional standards of persons who provide legal services,
 - (g) non-commercial legal services,
 - (h) the differing needs of consumers, and
 - (i) the provision of claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)).

Terms of appointment and tenure of members

- 5 A member of the OLC is to hold and vacate office in accordance with the terms and conditions of the member’s appointment (subject to this Schedule).
- 6 (1) A member of the OLC must be appointed for a fixed period.
- (2) The period for which a member is appointed must not exceed 5 years.
- (3) A person who has held office as a member may be re-appointed once only, for a further period (whether consecutive or not) not exceeding 5 years.
- 7 If a member of the OLC who is a lay person becomes a person within paragraph (a) to (e) of paragraph 2(3), that person ceases to be a member of the OLC.
- 8 (1) A member may at any time—
- (a) resign from office by giving notice to the Board;
 - (b) be removed from office by the Board.
- (2) The Board may not under sub-paragraph (1)(b) remove a member (including the chairman) from office unless the Board is satisfied that the member—
- (a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
 - (b) has been convicted of an offence,
 - (c) is an undischarged bankrupt, or

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- (d) is otherwise unfit to hold the office or unable to discharge its functions.
- (3) The chairman may be removed from office under sub-paragraph (1)(b) only with the consent of the Lord Chancellor.
- (4) The Board must consult the chairman before removing a member (other than the chairman) under sub-paragraph (1)(b).
- (5) The Board may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (2) more than 3 months after the end of the period mentioned in that paragraph.
- 9 The chairman ceases to be chairman upon ceasing to be a member of the OLC.

Remuneration etc of members

- 10 The chairman and other members of the OLC are to be paid by the Board in accordance with provision made by or under their terms of appointment.
- 11 The terms of appointment of the chairman or any other member may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.
- 12 If the Board thinks there are circumstances that make it right for a person ceasing to hold office as chairman or another member to receive compensation, the OLC may pay that person such compensation as the Board may determine.

Staff

- 13 The OLC may appoint such staff as it considers appropriate to assist in the performance of its functions.
- 14 Staff appointed under paragraph 13 are to be—
- (a) appointed on terms and conditions determined by the OLC, and
 - (b) paid by the OLC in accordance with provision made by or under the terms of appointment.
- 15 A member of staff appointed under paragraph 13 may be a member (but not chairman) of the OLC.
- 16 The terms and conditions on which an ombudsman, or any member of staff appointed under paragraph 13, is appointed may provide for the OLC to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.
- 17 The OLC may pay compensation for loss of employment to or in respect of an ombudsman (or former ombudsman), or a member (or former member) of staff appointed under paragraph 13.

Arrangements for assistance

- 18 (1) The OLC may make arrangements with such persons as it considers appropriate for assistance to be provided to it or to an ombudsman.
- (2) Arrangements may include the paying of fees to such persons.

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- (3) The persons with whom the OLC may make arrangements include approved regulators; and the arrangements it may make include arrangements for assistance to be provided to an ombudsman in relation to the investigation and consideration of a complaint.

Committees

- 19 (1) The OLC may establish committees.
- (2) Any committee so established may establish sub-committees.
- (3) Only members of the OLC may be members of a committee or sub-committee.
- (4) A majority of the members of a committee or sub-committee must be lay persons.

Proceedings

- 20 (1) The OLC 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 must not be less than 3.
- (3) The OLC must publish any rules of procedure made under this paragraph.
- (4) This paragraph is without prejudice to any other power the OLC has under this Act to make rules.
- 21 The validity of any act of the OLC is not affected—
- (a) by a vacancy in the office of chairman or amongst the other members, or
 - (b) by a defect in the appointment or any disqualification of a person as chairman or another member of the OLC.

Delegation of functions

- 22 (1) The OLC may authorise—
- (a) the chairman or any other member of the OLC,
 - (b) a committee or sub-committee of the OLC,
 - (c) an ombudsman, or
 - (d) a member of the OLC's staff appointed under paragraph 13,
- to exercise, on behalf of the OLC, such of its functions, in such circumstances, as it may determine.
- (2) Sub-paragraph (1) does not apply to—
- (a) the OLC's functions under section 118(1) (annual report),
 - (b) the OLC's functions under section 122 (appointment of Chief Ombudsman and assistant ombudsmen),
 - (c) the OLC's functions under paragraph 20 or 23 of this Schedule, or
 - (d) any power or duty the OLC has to make rules under this Part of this Act.
- (3) A committee may delegate functions (including functions delegated to the committee) to—
- (a) a sub-committee,
 - (b) the chairman or any other member of the OLC,

- (c) an ombudsman, or
- (d) a member of the OLC's staff appointed under paragraph 13.

Budget

- 23 (1) The OLC must, before the start of each financial year, adopt an annual budget which has been approved by the Board.
- (2) The OLC may, with the approval of the Board, vary the budget for a financial year at any time after its adoption.
- (3) The annual budget must include an indication of—
- (a) the distribution of resources deployed in the operation of the ombudsman scheme, and
 - (b) the amounts of income of the OLC arising or expected to arise from the operation of the scheme.

Land

- 24 (1) During the initial 5 year period, the OLC must not acquire or dispose of an interest in land, except with the approval of the Lord Chancellor.
- (2) The initial 5 year period is the period of 5 years beginning with the day on which the appointment of the first Interim Chief Executive under paragraph 10 of Schedule 22 takes effect or the day on which the first appointment of a member of the OLC takes effect, whichever first occurs.

Borrowing

- 25 (1) The OLC must not borrow money, except—
- (a) with the consent of the Board, or
 - (b) in accordance with a general authorisation given by the Board.
- (2) The Board may not consent or give a general authorisation for the purposes of subparagraph (1), except with the consent of the Lord Chancellor.

Accounts

- 26 (1) The OLC must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Lord Chancellor, with the approval of the Treasury, as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.

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- (3) The OLC must give a copy of each statement of accounts to the Board before the end of the month of August next following the financial year to which the statement relates.
- (4) The Board must give a copy of each statement received under sub-paragraph (3)—
 - (a) to the Lord Chancellor, and
 - (b) to the Comptroller and Auditor General.
- (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts which is received under sub-paragraph (4), and
 - (b) give a copy of the Comptroller and Auditor General’s report to the Lord Chancellor.
- (6) In respect of each financial year, the Lord Chancellor must lay before Parliament a document consisting of—
 - (a) a copy of the statement of accounts for that year, and
 - (b) a copy of the Comptroller and Auditor General’s report on that statement.
- (7) “Financial year” means—
 - (a) the period beginning with the day on which the OLC is established and ending with the next following 31 March, and
 - (b) each successive period of 12 months.

Status

- 27 (1) The OLC 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) Accordingly—
 - (a) the OLC’s property is not to be regarded as property of or held on behalf of the Crown, and
 - (b) the staff appointed under paragraph 13 are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

Application of seal and proof of instruments

- 28 The application of the seal of the OLC is to be authenticated by the signature of any member of the OLC, or of its staff, who has been authorised (whether generally or specifically) by the OLC for the purpose.
- 29 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 OLC by any person who has been authorised (whether generally or specifically) by the OLC for the purpose.
- 30 A document purporting to be duly executed under the seal of the OLC, or signed on its behalf—
 - (a) is to be received in evidence, and

- (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Disqualification

- 31 (1) 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 Office for Legal Complaints.”
- (2) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert—
“The Chief Ombudsman or an assistant ombudsman appointed under section 122 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme).”
- (3) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert—
“The Office for Legal Complaints.”
- (4) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert—
“The Chief Ombudsman or an assistant ombudsman appointed under section 122 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme).”

Freedom of information

- 32 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 Office for Legal Complaints.”

Public records

- 33 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert—
“The Office for Legal Complaints.”

Exemption from liability in damages

- 34 (1) This paragraph applies to—
(a) the OLC,
(b) a member of the OLC,
(c) an ombudsman, and
(d) a member of the OLC’s staff appointed under paragraph 13.
- (2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions conferred on the person concerned by or by virtue of this or any other enactment.

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- (3) But sub-paragraph (2) does not apply—
- (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).