

**Changes to legislation:** There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 1. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2

#### INDEPENDENT MONITORING AUTHORITY FOR THE CITIZENS' RIGHTS AGREEMENTS

##### PART 1

###### CONSTITUTION, PROCEEDINGS ETC.

###### *Status*

- 1 (1) The IMA 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 IMA's property is not to be regarded—
  - (a) as the property of the Crown, or
  - (b) as property held on behalf of the Crown.

###### **Commencement Information**

**II** Sch. 2 para. 1 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

###### *Membership*

- 2 (1) The IMA is to consist of the following members—
  - (a) a chair (who is to be a non-executive member),
  - (b) at least 2 but not more than 6 other non-executive members,
  - (c) the chief executive (who is to be an executive member), and
  - (d) at least 1 but not more than 3 other executive members.
- (2) The Secretary of State is to appoint the non-executive members.
- (3) The non-executive members are to appoint the executive members (subject to paragraph 3).
- (4) The non-executive members may make appointments under sub-paragraph (3) only if the chair and at least 2 other non-executive members have been appointed.
- (5) The non-executive members must consult the Secretary of State before appointing the chief executive.
- (6) The Secretary of State and the non-executive members must, so far as possible, ensure that the number of non-executive members exceeds the number of executive members.

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- (7) A person may not hold office as a member of the IMA if the person is a civil servant.
- (8) The executive members are employees of the IMA.
- (9) In sub-paragraphs (3) to (6), the references to the non-executive members are to all the non-executive members for the time being.

**Commencement Information**

**I2** Sch. 2 para. 2 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Interim chief executive*

- 3 (1) The Secretary of State may appoint a person to be the IMA's chief executive until the appointment of a chief executive by the non-executive members under paragraph 2(3) first takes effect.
- (2) A chief executive appointed by the Secretary of State may incur expenditure and do other things in the name and on behalf of the IMA until the membership of the IMA is first constituted in accordance with paragraph 2(1).
- (3) In exercising the power in sub-paragraph (2), a chief executive appointed by the Secretary of State must act in accordance with any directions given by the Secretary of State.

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Requirements relating to appointment*

- 4 (1) In making appointments, the Secretary of State and the non-executive members must have regard to the desirability of the IMA's members (between them) having knowledge of conditions in the United Kingdom relating to matters in relation to which provision is made in Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement (“the relevant matters”).
- (2) The Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include—
  - (a) a member who knows about conditions in Scotland relating to the relevant matters,
  - (b) a member who knows about conditions in Wales relating to the relevant matters, and
  - (c) a member who knows about conditions in Northern Ireland relating to the relevant matters.
- (3) If the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include a member who knows about conditions in Gibraltar relating to the relevant matters.

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- (4) Before appointing a person, the Secretary of State or the non-executive members (as the case may be) must be satisfied that the person does not have a conflict of interest.
- (5) In sub-paragraph (4), “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially the discharge by the person of the person's functions as a member of the IMA.

#### Commencement Information

**I4** Sch. 2 para. 4 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Procedure for appointing members with knowledge of conditions in devolved areas etc.*

- 5 (1) This paragraph applies in relation to the appointment of non-executive members for the purposes of paragraph 4(2) and (3).
- (2) Before making an appointment, the Secretary of State must tell the relevant authority who the Secretary of State proposes to appoint and why.
- (3) If the relevant authority approves the proposed appointment within the period of one month beginning with the day on which the Secretary of State complies with sub-paragraph (2), the Secretary of State must appoint that person (subject to sub-paragraph (4)).
- (4) If that person is no longer available or the Secretary of State and the relevant authority agree, after the relevant authority has given its approval as mentioned in sub-paragraph (3), that it is no longer appropriate to appoint that person—
  - (a) the Secretary of State must propose to appoint a different person, and
  - (b) sub-paragraphs (2) and (3) apply again.
- (5) If the relevant authority does not approve the proposed appointment as mentioned in sub-paragraph (3), the Secretary of State may—
  - (a) make the proposed appointment without the approval of the relevant authority, or
  - (b) propose to appoint a different person.
- (6) If the Secretary of State proposes to appoint a different person, sub-paragraphs (2) to (5) apply again.
- (7) If the Secretary of State makes a proposed appointment without the approval of the relevant authority as mentioned in sub-paragraph (3), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with the appointment.
- (8) In this paragraph, the “relevant authority” means—
  - (a) in relation to an appointment for the purposes of paragraph 4(2)(a), the Scottish Ministers,
  - (b) in relation to an appointment for the purposes of paragraph 4(2)(b), the Welsh Ministers,
  - (c) in relation to an appointment for the purposes of paragraph 4(2)(c), the Executive Office in Northern Ireland, and
  - (d) in relation to an appointment for the purposes of paragraph 4(3), the Gibraltar Ministers.

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**Commencement Information**

**I5** Sch. 2 para. 5 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Non-executive members: terms of appointment and tenure etc.*

- 6 (1) A person holds and vacates office as a non-executive member of the IMA in accordance with the terms and conditions of the person's appointment.
- (2) The terms and conditions of a person's appointment as a non-executive member of the IMA are to be determined by the Secretary of State, subject to the following provisions of this Schedule.
- (3) The chair is to be appointed for a period of up to 5 years.
- (4) Any other non-executive member of the IMA is to be appointed for a period of up to 4 years.
- (5) A non-executive member may resign by giving notice in writing to the Secretary of State.
- (6) The Secretary of State may by notice in writing remove a person from office as a non-executive member of the IMA on any of the grounds mentioned in sub-paragraph (7), but must consult the other non-executive members before doing so.
- (7) The grounds are—
- (a) that the person has been absent from the IMA's meetings for a continuous period of more than 6 months without the IMA's permission;
  - (b) that, in the opinion of the Secretary of State, the person has a conflict of interest (within the meaning of paragraph 4(5)) which prevents the person carrying out the functions of the office;
  - (c) that the person has been convicted of a criminal offence;
  - (d) that, in the opinion of the Secretary of State, the person is unable, unwilling or unfit to carry out the functions of the office;
  - (e) any other grounds specified in the person's terms of appointment.

**Commencement Information**

**I6** Sch. 2 para. 6 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Remuneration of non-executive members*

- 7 (1) The IMA must pay its non-executive members such remuneration as the Secretary of State may determine.
- (2) The IMA must pay, or make provision for paying, to or in respect of any person who is or has been a non-executive member such sums as the Secretary of State may determine in respect of allowances and gratuities.
- (3) Sub-paragraph (4) applies where—
- (a) a person ceases to hold office as a non-executive member other than by reason of their term of office expiring, and

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- (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation.
- (4) The IMA must make a payment to the person of such amount as the Secretary of State may determine.

**Commencement Information**

**I7** Sch. 2 para. 7 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Staffing of the IMA*

- 8
- (1) The IMA may—
    - (a) appoint employees (in addition to the executive members), and
    - (b) make such other arrangements for the staffing of the IMA as it considers appropriate.
  - (2) The terms and conditions of appointment as an employee are to be determined—
    - (a) in the case of employees other than a chief executive appointed by the Secretary of State, by the IMA with the approval of the Secretary of State, or
    - (b) in the case of a chief executive appointed by the Secretary of State, by the Secretary of State.
  - (3) The IMA must pay its employees such remuneration—
    - (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
    - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
  - (4) The IMA must pay, or make provision for paying, to or in respect of a person who is or has been an employee of the IMA, such sums in respect of pensions, allowances and gratuities—
    - (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
    - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
  - (5) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”
  - (6) The IMA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase in the sums payable out of money provided by Parliament which is attributable to the provision of pensions by virtue of section 1 of the 1972 Act or section 1 of the Public Service Pensions Act 2013 in respect of employees of the IMA.
  - (7) In relation to executive members of the IMA, references in sub-paragraphs (2) to (4) to the IMA determining something with the approval of the Secretary of State are to

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be read as references to the non-executive members determining that thing with the approval of the Secretary of State.

**Commencement Information**

**I8** Sch. 2 para. 8 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Procedure*

- 9 (1) The IMA may regulate its own procedure, subject to the following.
- (2) The IMA must establish and maintain a register of members' interests.
- (3) The IMA must publish entries recorded in the register.
- (4) A meeting of the IMA is not quorate unless—
- (a) at least half the members appointed for the time being are present, and
  - (b) a majority of the members present are non-executive members.
- (5) The IMA's procedures must include arrangements for dealing with conflicts of interests (within the meaning of paragraph 4(5)) of members.
- (6) The arrangements must oblige each member—
- (a) to declare all financial interests,
  - (b) to declare any other personal interest relevant to the exercise of a function, and
  - (c) to withdraw from the exercise of any function to which an interest of a sort mentioned in paragraph (a) or (b) is relevant, unless the IMA is satisfied that the interest will not influence the exercise of the function.
- (7) The validity of any proceedings of the IMA, or of its committees or sub-committees, is not affected by a vacancy or a defective appointment.

**Commencement Information**

**I9** Sch. 2 para. 9 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Discharge of functions*

- 10 (1) The IMA may authorise a committee, member or employee of the IMA to do anything the IMA may do apart from approving an annual report to be provided as mentioned in paragraph 31.
- (2) A committee of the IMA may authorise the following to do anything which the committee may do under sub-paragraph (1)—
- (a) a sub-committee,
  - (b) a member of the committee,
  - (c) a member of the IMA, or
  - (d) an employee of the IMA.
- (3) Committees and sub-committees may include employees of the IMA who are not members of it.

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**Commencement Information**

**I10** Sch. 2 para. 10 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Seal and evidence*

- 11 (1) The application of the IMA's seal must be authenticated by the signature of—
- (a) the chief executive of the IMA, or
  - (b) some other person authorised for that purpose by the IMA.
- (2) A document purporting to be duly executed under the IMA's seal 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 shown.
- (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland.

**Commencement Information**

**I11** Sch. 2 para. 11 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Funding*

- 12 The Secretary of State must pay to the IMA such sums as the Secretary of State considers appropriate for the purpose of enabling the IMA to exercise its functions.

**Commencement Information**

**I12** Sch. 2 para. 12 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Operational independence*

- 13 In exercising functions in respect of the IMA, the Secretary of State must have regard to the need to protect—
- (a) its operational independence, and
  - (b) its ability to make impartial assessments when exercising its functions.

**Commencement Information**

**I13** Sch. 2 para. 13 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Accounts and audit*

- 14 (1) The IMA must—
- (a) keep proper accounts and proper records in relation to them, and
  - (b) prepare a statement of accounts in respect of each financial year.

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- (2) Each statement of accounts must comply with any directions given by the Secretary of State as to—
- (a) its content and form;
  - (b) the methods and principles to be applied in preparing it;
  - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The IMA must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts, and
  - (b) lay a copy of each statement and the report on the statement before Parliament within the period of 4 months beginning with the day on which the Comptroller and Auditor General receives the statement.
- (5) In this Schedule, “financial year” means—
- (a) the period beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1) and ending with—
    - (i) the first 31 March after that day, if that results in the first financial year being a period of 6 months or more, or
    - (ii) otherwise, the second 31 March after that day, and
  - (b) each successive period of 12 months.

**Commencement Information**

**I14** Sch. 2 para. 14 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

*Annual plan*

- 15 (1) The IMA—
- (a) must prepare, for each financial year, a plan for the exercise during that year of its functions (“the annual plan”), and
  - (b) may revise the annual plan.
- (2) The IMA must send the proposed annual plan or any revision of it to the Secretary of State.
- (3) The first annual plan must—
- (a) be completed within the period of three months beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1), and
  - (b) relate to the remainder of the financial year that begins with that day.
- (4) Each subsequent annual plan must be sent to the Secretary of State not later than one month before the beginning of the financial year to which the plan relates.



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**Commencement Information**

**I15** Sch. 2 para. 15 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

*Public records*

- 16 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I16** Sch. 2 para. 16 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

*Investigation by the Parliamentary Commissioner*

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I17** Sch. 2 para. 17 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

*House of Commons disqualification*

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I18** Sch. 2 para. 18 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Northern Ireland Assembly disqualification*

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I19** Sch. 2 para. 19 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

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*Freedom of information*

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I20** Sch. 2 para. 20 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(ii)

*Public sector equality duty*

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), after the group of entries under the heading “Broadcasting”, insert—

*“Citizens' rights*

The Independent Monitoring Authority for the Citizens' Rights Agreements.”

**Commencement Information**

**I21** Sch. 2 para. 21 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(ii)

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