

SCHEDULES

1

Article 3(2).

THE INDEPENDENT COMMISSION FOR POLICE COMPLAINTS FOR NORTHERN IRELAND

PART I GENERAL

Constitution of the Commission

1.—(1) The Commission shall consist of a chairman, two deputy chairmen and at least 4 other members, all appointed by the Secretary of State.

(2) Persons may be appointed as whole-time or part-time members of the Commission.

(3) The members of the Commission shall not include any person who is or has been a member of a police force in any part of the British Islands.

Incorporation and status of the Commission

2.—(1) The Commission shall be a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply, subject to the provisions of this Schedule.

(2) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

Members

3.—(1) Subject to the following provisions of this Schedule, a person shall hold an office to which he is appointed under paragraph 1 in accordance with the terms of his appointment.

(2) A person shall not be appointed to such an office for more than 3 years at a time.

(3) A person may at any time resign such an office.

(4) The Secretary of State may at any time remove a person from such an office if satisfied that—

(a) he has without reasonable excuse failed to carry out his duties for a continuous period of 3 months beginning not earlier than 6 months before that time; or

(b) he has been convicted of a criminal offence; or

(c) he has become bankrupt or made an arrangement with his creditors; or

(d) he is incapacitated by physical or mental illness; or

(e) he is otherwise unable or unfit to perform his duties.

Status: This is the original version (as it was originally made).

(5) A person who has resigned such an office or whose term of office has expired shall be eligible for re-appointment.

4. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of persons appointed to office under paragraph 1 or any of them as, with the consent of the Treasury, he may determine.

5. Where a person ceases to hold such an office 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 that person to receive compensation, the Secretary of State may, with the consent of the Treasury, direct the Commission to make to that person a payment of such amount as, with the consent of the Treasury, the Secretary of State may determine.

6. In part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—

“The Independent Commission for Police Complaints for Northern Ireland”.

Staff

7.—(1) The Commission may, after consultation with the Secretary of State, appoint such officers and servants as the Commission thinks fit, subject to the approval of the Treasury as to numbers and as to remuneration and other terms and conditions of service.

(2) The Commission may make arrangements for administrative, secretarial or other assistance to be provided for the Commission by officers of the civil service of Northern Ireland or of the United Kingdom.

8.—(1) Employment by the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act, at the end of the list of “Other Bodies” there shall be added—

“The Independent Commission for Police Complaints for Northern Ireland”.

(2) Where a person who is employed by the Commission and is by reference to that employment a participant in a scheme under section 1 of the said Act of 1972 is appointed to an office under paragraph 1, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by paragraph 4.

9. The Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 shall not require insurance to be effected by the Commission.

Proceedings

10.—(1) Subject to the provisions of this Order, the arrangements for the proceedings of the Commission (including the quorum for meetings) shall be such as the Commission may determine.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge, under the general direction of the Commission, of any of the Commission's functions by a committee or by one or more of the members, officers or servants of the Commission.

11. The validity of any proceedings of the Commission shall not be affected—

(a) by any defect in the appointment of the chairman, a deputy chairman or any other member;
or

(b) by any vacancy in the office of chairman or deputy chairman or among the other members.

Finance

12. The Secretary of State shall pay to the Commission expenses incurred or to be incurred by the Commission under paragraphs 5 and 7 and, with the consent of the Treasury, shall pay to the Commission such sums as the Secretary of State thinks fit for enabling the Commission to meet other expenses.

13.—(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 financial 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 August next following the financial 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 paragraph and shall lay copies of each statement and of his report before each House of Parliament.

(3) In this paragraph “Comptroller and Auditor General” has the meaning assigned to it by Schedule 1 to the Interpretation Act 1978.

PART II

TRANSITIONAL

Interpretation

14. In this part—

“the appointed day” means the day appointed by order under Article 1(2) for the coming into operation of Article 3;

“the Board” means the Police Complaints Board for Northern Ireland;

“terms and conditions of employment” includes terms and conditions relating to superannuation benefit.

Information received by Police Complaints Board for Northern Ireland

15.—(1) No information received by the Board in connection with any complaint shall be disclosed by any person who has been a member, officer or servant of the Board except—

(a) to the Secretary of State or to a member, officer or servant of the Commission or, so far as may be necessary for the proper discharge of the functions of the Commission, to other persons; or

(b) for the purposes of any criminal, civil or disciplinary proceedings.

(2) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Transfer of staff

16.—(1) On the appointed day there shall be transferred to the employment of the Commission all officers and servants who immediately before that day were employed by the Board.

Status: This is the original version (as it was originally made).

(2) A person transferred under sub-paragraph (1) shall, so long as he continues in the employment of the Commission and until he is served with a statement in writing by the Commission setting out his new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the appointed day.

(3) The new terms and conditions referred to in sub-paragraph (2) shall be such that—

- (a) as long as a person transferred under paragraph (1) is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day, the scale of his salary or remuneration; and
- (b) the other terms and conditions of his employment; are taken as a whole not less favourable than those he enjoyed immediately before the appointed day.

(4) A written statement given in accordance with section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 shall not be regarded as a statement of new terms and conditions of employment for the purposes of sub-paragraph (2) unless the statement so indicates.

(5) A person transferred under sub-paragraph (1) shall not be taken to have been dismissed from his employment by the Board by reason of redundancy and, for the purposes of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 and the Industrial Relations (Northern Ireland) Orders 1976 to 1982, his period of employment by the Board shall count as a period of employment by the Commission and the transfer shall not break the continuity of the period of employment.

(6) Any question arising in relation to a person as to—

- (a) whether he was employed as mentioned in sub-paragraph (1);
- (b) whether he is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day; or
- (c) whether his terms and conditions of employment taken as a whole are less favourable than those he enjoyed immediately before that day, shall, if not otherwise determined, be referred for determination by an industrial tribunal whose decision shall be final.

(7) The Secretary of State may make regulations providing for the payment by the Commission, on such terms and subject to such conditions as may be specified in the regulations, of compensation to, or in respect of, any person transferred under sub-paragraph (1) who suffers subsequent to his transfer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to any provision of this Order or who on grounds which the Secretary of State considers reasonable is unable or unwilling to accept employment with the Commission.

(8) Regulations under sub-paragraph (7) may include provision—

- (a) as to the manner in which, the time within which and the person to whom any claim for compensation is to be made;
- (b) for the determination by an industrial tribunal of questions arising under the regulations.

(9) Regulations under sub-paragraph (7) have effect from a date earlier than that on which the regulations are made but not so as to place any person in a worse position than he would have been in if the regulations had effect only from the date of the making thereof.

Transfer of property, rights and liabilities

17.—(1) On the appointed day all property, rights and liabilities which immediately before that day were property, rights and liabilities of the Board shall vest in the Commission by virtue of this paragraph and without further assurance.

(2) Stamp duty shall not be chargeable on this Order.

Proceedings

18. Proceedings in any court to which the Board is a party and which are pending immediately before the appointed day may be continued on and after that day by the Commission.

Payments to former members of Police Complaints Board for Northern Ireland

19. Where a person—

- (a) ceases to be a member of the Board by reason of its abolition; and
- (b) does not become a member of the Commission, the Secretary of State may, with the consent of the Treasury, make to the person a payment of such amount as, with the consent of the Treasury, the Secretary of State may determine.

General

20. An order under Article 1(2) may make such other transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions of part II and this Schedule thereby brought into operation.