

SCHEDULES

SCHEDULE 13

Section 46(6).

SUPPLEMENTARY PROVISIONS WITH RESPECT TO DELEGATION ORDER

Introductory

- 1 The following provisions have effect in relation to a body established by a delegation order under section 46; and any power to make provision by order is to make provision by order under that section.

Status

- 2 The body shall not be regarded as acting on behalf of the Crown and its members, officers and employees shall not be regarded as Crown servants.

Name, members and chairman

- 3 (1) The body shall be known by such name as may be specified in the delegation order.
- (2) The body shall consist of such persons (not being less than eight) as the Secretary of State may appoint after such consultation as he thinks appropriate; and the chairman of the body shall be such person as the Secretary of State may appoint from amongst its members.
- (3) The Secretary of State may make provision by order as to the terms on which the members of the body are to hold and vacate office and as to the terms on which a person appointed as chairman is to hold and vacate the office of chairman.

Financial provisions

- 4 (1) The body shall pay to its chairman and members such remuneration, and such allowances in respect of expenses properly incurred by them in the performance of their duties, as the Secretary of State may determine.
- (2) As regards any chairman or member in whose case the Secretary of State so determines, the body shall pay or make provision for the payment of—
- (a) such pension, allowance or gratuity to or in respect of that person on his retirement or death, or
 - (b) such contributions or other payment towards the provision of such a pension, allowance or gratuity,
- as the Secretary of State may determine.
- (3) Where a person ceases to be a member of the body 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 him to receive compensation, the body shall make a payment to him by way of compensation of such amount as the Secretary of State may determine.

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Proceedings

- 5 (1) The delegation order may contain such provision as the Secretary of State considers appropriate with respect to the proceedings of the body.
- (2) The order may, in particular—
- (a) authorise the body to discharge any functions by means of committees consisting wholly or partly of members of the body;
 - (b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of any member.

Fees

- 6 (1) The body may retain fees payable to it.
- (2) The fees shall be applied for meeting the expenses of the body in discharging its functions and for any purposes incidental to those functions.
- (3) Those expenses include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper performance of its functions.
- (4) In prescribing the amount of fees in the exercise of the functions transferred to it the body shall prescribe such fees as appear to it sufficient to defray those expenses, taking one year with another.
- (5) Any exercise by the body of the power to prescribe fees requires the approval of the Secretary of State; and the Secretary of State may, after consultation with the body, by order vary or revoke any regulations made by it prescribing fees.

Legislative functions

- 7 (1) Regulations made by the body in the exercise of the functions transferred to it shall be made by instrument in writing, but not by statutory instrument.
- (2) The instrument shall specify the provision of this Part of this Act under which it is made.
- (3) The Secretary of State may by order impose such requirements as he thinks necessary or expedient as to the circumstances and manner in which the body must consult on any regulations it proposes to make.
- 8 (1) Immediately after an instrument is made it shall be printed and made available to the public with or without payment.
- (2) A person shall not be taken to have contravened any regulation if he shows that at the time of the alleged contravention the instrument containing the regulation had not been made available as required by this paragraph.
- 9 (1) The production of a printed copy of an instrument purporting to be made by the body on which is endorsed a certificate signed by an officer of the body authorised by it for the purpose and stating—
- (a) that the instrument was made by the body,
 - (b) that the copy is a true copy of the instrument, and

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- (c) that on a specified date the instrument was made available to the public as required by paragraph 8,
is prima facie evidence or, in Scotland, sufficient evidence of the facts stated in the certificate.
- (2) A certificate purporting to be signed as mentioned in sub-paragraph (1) shall be deemed to have been duly signed unless the contrary is shown.
- (3) Any person wishing in any legal proceedings to cite an instrument made by the body may require the body to cause a copy of it to be endorsed with such a certificate as is mentioned in this paragraph.

Report and accounts

- 10 (1) The body shall at least once in each year for which the delegation order is in force make a report to the Secretary of State on the discharge of the functions transferred to it and on such other matters as the Secretary of State may by order require.
- (2) The Secretary of State shall lay before Parliament copies of each report received by him under this paragraph.
- (3) The Secretary of State may, with the consent of the Treasury, give directions to the body with respect to its accounts and the audit of its accounts and it is the duty of the body to comply with the directions.
- (4) A person shall not be appointed auditor of the body unless he is eligible for appointment as a company auditor under section 25.

Other supplementary provisions

- 11 (1) The transfer of a function to a body established by a delegation order does not affect anything previously done in the exercise of the function transferred; and the resumption of a function so transferred does not affect anything previously done in exercise of the function resumed.
- (2) The Secretary of State may by order make such transitional and other supplementary provision as he thinks necessary or expedient in relation to the transfer or resumption of a function.
- (3) The provision that may be made in connection with the transfer of a function includes, in particular, provision—
- (a) for modifying or excluding any provision of this Part of this Act in its application to the function transferred;
 - (b) for applying to the body established by the delegation order, in connection with the function transferred, any provision applying to the Secretary of State which is contained in or made under any other enactment;
 - (c) for the transfer of any property, rights or liabilities from the Secretary of State to that body;
 - (d) for the carrying on and completion by that body of anything in process of being done by the Secretary of State when the order takes effect;
 - (e) for the substitution of that body for the Secretary of State in any instrument, contract or legal proceedings.

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- (4) The provision that may be made in connection with the resumption of a function includes, in particular, provision—
- (a) for the transfer of any property, rights or liabilities from that body to the Secretary of State;
 - (b) for the carrying on and completion by the Secretary of State of anything in process of being done by that body when the order takes effect;
 - (c) for the substitution of the Secretary of State for that body in any instrument, contract or legal proceedings.
- 12 Where a delegation order is revoked, the Secretary of State may by order make provision—
- (a) for the payment of compensation to persons ceasing to be employed by the body established by the delegation order; and
 - (b) as to the winding up and dissolution of the body.