SCHEDULES

SCHEDULE 5

THE IMMIGRATION SERVICES COMMISSIONER

PART II

COMMISSIONER'S STATUS, REMUNERATION AND STAFF ETC

Status

11 (1) The Commissioner is to be a corporation sole.

(2) The Commissioner and the members of the Commissioner's staff are not to be regarded as the servants or agents of the Crown or as having any status, privilege or immunity of the Crown.

Period of office

12 (1) The Commissioner—

(a) is to hold office for a term of five years; but

(b) may resign at any time by notice in writing given to the Secretary of State.

(2) The Secretary of State may dismiss the Commissioner—

(a) on the ground of incapacity or misconduct; or

(b) if he is satisfied—

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

(ii) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors.

(3) The Commissioner is eligible for re-appointment when his term of office ends.

Terms and conditions of appointment

13 Subject to the provisions of this Schedule, the Commissioner is to hold office on such terms and conditions as the Secretary of State may determine.

Remuneration, expenses and pensions

14 (1) There is to be paid to the Commissioner such remuneration and expenses as the Secretary of State may determine.

(2) The Secretary of State may pay, or provide for the payment of, such pensions, allowances or gratuities to or in respect of the Commissioner as he may determine.

Compensation

15 If a person ceases to be the Commissioner, otherwise than when his term of office ends, and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Secretary of State may make a payment to him of such amount as the Secretary of State may determine.

Deputy Commissioner

16 (1) The Secretary of State must appoint a person to act as Deputy Commissioner.

(2) During any vacancy in the office of Commissioner, or at any time when he is unable to discharge his functions, the Deputy Commissioner may act in his place.

(3) Paragraphs 11(2) and 12 to 15 apply to the Deputy Commissioner as they apply to the Commissioner.

Staff

17 (1) Subject to obtaining the approval of the Secretary of State as to numbers and terms and conditions of service, the Commissioner may appoint such staff as he considers appropriate.

(2) Subject to obtaining the approval of the Secretary of State, the Commissioner may pay, or provide for the payment of, such pensions, allowances or gratuities (including by way of compensation for loss of office or employment) to or in respect of his staff as he considers appropriate.

(3) Any functions of the Commissioner may, to the extent authorised by him, be performed by the Deputy Commissioner or any of his staff.

(4) The Employers' Liability (Compulsory Insurance) Act 1969 is not to require insurance to be effected by the Commissioner.

Expenditure

18 The Secretary of State may pay to the Commissioner—

(a) any expenses incurred or to be incurred by the Commissioner in respect of his staff; and

(b) with the approval of the Treasury, such other sums for enabling the Commissioner to perform his functions as the Secretary of State thinks fit.

Receipts

19 (1) Subject to any general or specific directions given to him by the Secretary of State, sums received by the Commissioner in the exercise of his functions must be paid to the Secretary of State.

(2) Sums received by the Secretary of State under this paragraph must be paid into the Consolidated Fund.

(3) The approval of the Treasury is required for any direction given under this paragraph.

Accounts and records

20 (1) The Commissioner must—

(a) keep proper accounts and proper records in relation to his accounts;

(b) prepare a statement of accounts for each financial year; and

(c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General on or before the specified date.

(2) The statement of accounts must be in such form as the Secretary of State may, with the approval of the Treasury, direct.

(3) The Comptroller and Auditor General must—

(a) examine, certify and report on each statement received by him under this paragraph; and

(b) lay copies of each statement and of his report before each House of Parliament.

(4) "Financial year" means the period of 12 months beginning with 1st April.

(5) "Specified date" means—

(a) 31st August next following the end of the year to which the statement relates; or

(b) such earlier date after the end of that year as the Treasury may direct.

Annual report

21 (1) The Commissioner must, as soon as is practicable after the end of each financial year, report to the Secretary of State on the performance of his functions in that year.

(2) The report must, in particular, set out the Commissioner's opinion as to the extent to which each designated professional body has provided effective regulation of its members in their provision of immigration advice or immigration services.

(3) The Secretary of State must lay a copy of the report before each House of Parliament.

(4) "Financial year" has the same meaning as in paragraph 20.

Proof of instruments

22 A document purporting to be an instrument issued by the Commissioner and to be signed by or on behalf of the Commissioner is to be received in evidence and treated as such an instrument unless the contrary is shown.

Disqualification for House of Commons

23 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), insert at the appropriate place—

"The Immigration Services Commissioner

The Deputy Immigration Services Commissioner".

Disqualification for Northern Ireland Assembly

24 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership), insert at the appropriate place—

"The Immigration Services Commissioner

The Deputy Immigration Services Commissioner".

The Parliamentary Commissioner Act 1967 (c. 13)

25 In Schedule 2 of the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation) insert, at the appropriate place, "The Immigration Services Commissioner".