

SCHEDULES

SCHEDULE 1

Section 1

THE SMALL BUSINESS COMMISSIONER

Status

- 1 The Commissioner is a corporation sole.

Appointment of Commissioner

- 2 The Commissioner is to be appointed by the Secretary of State.

Deputy Commissioners

- 3 The Secretary of State may appoint one or more Deputy Commissioners.
- 4 The Commissioner may delegate any of the Commissioner's functions to a Deputy Commissioner.

Term of office etc

- 5 A person holds and vacates office as the Commissioner or a Deputy Commissioner in accordance with the terms of the appointment, but—
- (a) the initial term of office may not be more than 4 years,
 - (b) a person may be appointed for no more than 2 further terms of office (whether as the Commissioner or a Deputy Commissioner),
 - (c) a further term may not be more than 3 years,
 - (d) the person may resign by giving written notice to the Secretary of State, and
 - (e) the Secretary of State may dismiss the person if satisfied that the person is unable, unwilling or unfit to perform his or her functions.

Remuneration

- 6 The Secretary of State may pay to or in respect of the person holding office as the Commissioner or a Deputy Commissioner—
- (a) remuneration;
 - (b) allowances;
 - (c) sums by way of or in respect of pensions.

Commissioner and Deputy Commissioners not civil servants

- 7 Service as the Commissioner or a Deputy Commissioner is not service in the civil service of the state.

Acting as Commissioner during vacancy etc

- 8 (1) The nominated person is to act as Commissioner—
- (a) during any vacancy in the office of Commissioner, or
 - (b) if the Commissioner is disqualified.
- (2) “The nominated person” means—
- (a) if there is only one Deputy Commissioner who is not disqualified, that Deputy Commissioner,
 - (b) if there is more than one Deputy Commissioner who is not disqualified, such of them as the Secretary of State appoints to act as Commissioner, or
 - (c) if neither paragraph (a) nor (b) applies, a member of the Commissioner’s staff appointed under paragraph 11, or seconded under paragraph 12, who is appointed by the Secretary of State to act as Commissioner.
- (3) For the purposes of this paragraph a person is “disqualified” if the person is absent, subject to suspension or unable to act (whether as a result of arrangements under paragraph 9 or otherwise).

Conflicts of interest

- 9 (1) The Commissioner must make procedural arrangements for dealing with any conflict of interest affecting—
- (a) the Commissioner,
 - (b) a Deputy Commissioner,
 - (c) a member of staff acting as the Commissioner under paragraph 8(2)(c), or
 - (d) any other staff working for the Commissioner.
- (2) The Commissioner must consult the Secretary of State before making or revising the arrangements.
- (3) The Commissioner must publish a summary of the arrangements.

Validity of acts

- 10 A defect in appointment does not affect the validity of things done by the Commissioner, a Deputy Commissioner or a member of staff acting as the Commissioner under paragraph 8(2)(c).

Staff

- 11 (1) The Commissioner may appoint staff.
- (2) Staff are to be appointed on terms and conditions determined by the Commissioner.
- (3) The terms and conditions on which a member of staff is appointed may provide for the Commissioner to pay to or in respect of the member of staff—
- (a) remuneration;
 - (b) allowances;
 - (c) sums by way of or in respect of pensions.
- (4) Service as a member of the Commissioner’s staff appointed under sub-paragraph (1) is not service in the civil service of the state.

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

- 12 (1) The Commissioner may make arrangements for persons to be seconded to the Commissioner to serve as members of the Commissioner's staff.
- (2) The arrangements may include provision for payments by the Commissioner to the person with whom the arrangements are made or directly to seconded staff (or both).
- (3) A period of secondment to the Commissioner does not affect the continuity of a person's employment with the employer from whose service he or she is seconded (and, in particular, nothing in paragraph 11(4) affects such a person's continuity of service in the civil service of the state).
- 13 Before appointing staff under paragraph 11 or making arrangements under paragraph 12(1), the Commissioner must obtain the approval of the Secretary of State as to the Commissioner's policies on—
- (a) the number of staff to be appointed or seconded;
 - (b) payments to be made to or in respect of staff;
 - (c) the terms and conditions on which staff are to be appointed or seconded.

Financial and other assistance from the Secretary of State

- 14 (1) The Secretary of State may make payments and provide other financial assistance to the Commissioner.
- (2) The Secretary of State may—
- (a) provide staff in accordance with arrangements made by the Secretary of State and the Commissioner under paragraph 12;
 - (b) provide premises, facilities or other assistance to the Commissioner.

Application of seal and proof of documents

- 15 (1) The application of the Commissioner's seal must be authenticated by the signature of—
- (a) the Commissioner, or
 - (b) a person who has been authorised by the Commissioner for that purpose (whether generally or specially).
- (2) A document purporting to be duly executed under the seal—
- (a) is to be received in evidence, and
 - (b) is to be treated as duly executed unless the contrary is shown.

Incidental powers

- 16 The Commissioner may do anything that is calculated to facilitate the carrying out of the Commissioner's functions or is conducive or incidental to the carrying out of those functions.

Exemption from liability for damages

- 17 (1) The following are exempt from liability in damages for anything done or omitted in the exercise or purported exercise of their functions—
- (a) the Commissioner,
 - (b) a Deputy Commissioner,
 - (c) a member of staff acting as the Commissioner under paragraph 8(2)(c), and

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(d) any other staff working for the Commissioner.

(2) But sub-paragraph (1) does not apply—

- (a) if the act or omission is shown to have been 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 (acts of public authorities).

Parliamentary Commissioner Act 1967

- 18 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert—
“Small Business Commissioner.”

House of Commons Disqualification Act 1975

- 19 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert—
“Small Business Commissioner or Deputy Small Business Commissioner.”

Northern Ireland Assembly Disqualification Act 1975

- 20 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert—
“Small Business Commissioner or Deputy Small Business Commissioner.”

Freedom of Information Act 2000

- 21 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities), at the appropriate place insert—
“Small Business Commissioner.”