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PROSPECTIVE

SCHEDULES

SCHEDULE 1

Section 1(5).

THE LEGAL SERVICES OVERSIGHT
COMMISSIONER FOR NORTHERN IRELAND*Status*

- 1.—(1) The person for the time being holding the office of Legal Services Oversight Commissioner for Northern Ireland shall by that name be a corporation sole.
- (2) The Commissioner shall not be regarded—
- (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) Any property held by the Commissioner shall not be regarded as property of, or held on behalf of, the Crown.

General powers

- 2.—(1) The Commissioner may do anything, apart from borrowing money, which the Commissioner considers is—
- (a) appropriate for facilitating; or
 - (b) incidental or conducive to,
- the exercise of the Commissioner's functions.
- (2) That includes in particular—
- (a) acquiring, holding and disposing of real or personal property;
 - (b) entering into contracts.

Tenure of office

- 3.—(1) Subject to the provisions of this paragraph, a person shall hold and vacate office as the Commissioner in accordance with the terms of that person's appointment.

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(2) An appointment as the Commissioner shall be for a term of 3 years.

(3) A person who ceases to be the Commissioner on the expiration of that person's first term of office shall be eligible for re-appointment, but a person who has been re-appointed by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as the Commissioner at any time after the end of that person's second term of office.

(4) A person may at any time resign from office as the Commissioner by notice to the Department.

(5) The Department may remove a person from office as the Commissioner if satisfied that that person has—

- (a) been convicted of a criminal offence;
- (b) become bankrupt or a composition or scheme proposed by the person has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989;
- (c) without reasonable excuse, failed to discharge the functions of the Commissioner for a continuous period of 3 months; or
- (d) become unfit or unable to exercise the functions of the Commissioner.

Acting Commissioner

4.—(1) The Department may appoint a person to exercise the functions of the Commissioner where—

- (a) the Commissioner's office becomes vacant; or
- (b) the Commissioner is incapable of exercising those functions or considers that it would be inappropriate to exercise any of those functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).

(2) A person so appointed shall have the powers of the Commissioner but shall act only in accordance with the terms of that person's appointment.

(3) The Department may pay to any person so appointed such remuneration as it may determine.

Salary, etc.

5.—(1) The Department may pay to or in respect of the Commissioner—

- (a) such remuneration and allowances; and
- (b) such sums for the provision of a pension,

as the Department may determine.

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(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of that person's term of office and the Department determines that there are special circumstances that make it right for that person to receive compensation, the Department may make to that person a payment of such amount as the Department may determine.

Staff

6.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph shall be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes a reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Department.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry shall be inserted at the appropriate place— “ Employment by the Legal Services Oversight Commissioner for Northern Ireland. ”.

7. The Commissioner may make arrangements for securing the provision to the Commissioner of such assistance by persons employed in—

- (a) the civil service of the United Kingdom; or
- (b) the civil service of Northern Ireland,

as the Commissioner considers appropriate for or in connection with the exercise of the Commissioner's functions.

8. The Commissioner may, with the approval of the Department, engage the services of such other persons as the Commissioner considers necessary or expedient.

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Exercise of functions of Commissioner

9. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Seal

10. The application of the seal of the Commissioner shall be authenticated by the Commissioner's signature or by the signature of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

11. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by, or on behalf of, the Commissioner shall be received in evidence and shall, unless the contrary is proved, be taken to be such an instrument.

Property

12.—(1) Any real or personal property vested in the Commissioner shall (unless and until disclaimed or disposed of) vest in the Commissioner's successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property shall vest in the successor on his or her appointment.

Accounts

13.—(1) The Commissioner must—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must—

- (a) be in such form; and
- (b) contain such information,

as the Department may direct.

(3) The Commissioner must, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

- (a) the Department; and
- (b) the Comptroller and Auditor General.

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- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on every statement of accounts sent to him or her by the Commissioner under this paragraph; and
 - (b) send a copy of the report to the Department.
- (5) The Department must lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) In this paragraph and paragraph 14 “financial year” means—
- (a) the period beginning with the day on which the first person appointed under section 1(2) takes office and ending with the next 31st March following that date; and
 - (b) each successive period of 12 months ending with 31st March.
- (7) In this paragraph “the Comptroller and Auditor General” means the Comptroller and Auditor General for Northern Ireland.

Annual report

14.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Department a report, in such form as the Department may require, on the carrying out of the Commissioner's functions during that year.

(2) Without prejudice to the generality of sub-paragraph (1), a report sent to the Department under that sub-paragraph must contain information about the number of complaints made in relation to the members of each professional body during the year to which the report relates.

(3) The Commissioner may, in addition, report to the Department at any time on any matter relating to the discharge of the Commissioner's functions.

(4) The Department must lay a copy of every report sent to it under this paragraph before the Assembly.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

15. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place— “ Legal Services Oversight Commissioner for Northern Ireland. ”.

The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)

16. In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) there shall be inserted at the appropriate place— “ The Legal Services Oversight Commissioner for Northern Ireland. ”.

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The Freedom of Information Act 2000 (c. 36)

17. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of that Act) there shall be inserted at the appropriate place— “ The Legal Services Oversight Commissioner for Northern Ireland. ”.

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