

## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE NORTHERN IRELAND PUBLIC SERVICES OMBUDSMAN

##### *Status*

- 1.**—(1) The person for the time being holding the office of the Northern Ireland Public Services Ombudsman is by that name a corporation sole.
- (2) The Ombudsman is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) Property held by the Ombudsman is not to be regarded as property of, or held on behalf of, the Crown.
- (4) But the Ombudsman is a Crown servant for the purposes of the Official Secrets Act 1989.

##### *Eligibility*

- 2.**—(1) A person is disqualified from being appointed as the Ombudsman if the person is a member of—
- (a) a district council,
  - (b) the Assembly,
  - (c) the House of Commons,
  - (d) the House of Lords, or
  - (e) the European Parliament.
- (2) Where a person who is the Ombudsman—
- (a) is nominated as a candidate for election to a body listed in sub-paragraph (1), or
  - (b) becomes a member of a body listed in sub-paragraph (1),
- that person ceases immediately to be the Ombudsman.

- 3.**—(1) A person is disqualified from being appointed as the Ombudsman if the person is disqualified from being a member of the Assembly.

- (2) Where a person who is the Ombudsman—
- (a) is appointed to an office which would disqualify the person from being a member of the Assembly,
  - (b) takes employment which would disqualify the person from being a member of the Assembly, or
  - (c) becomes a member of a body which would disqualify the person from being a member of the Assembly,

that person ceases immediately to be the Ombudsman.

(3) In this paragraph “disqualified from being a member of the Assembly” means disqualified from being a member of the Assembly under the Northern Ireland Assembly Disqualification Act 1975 as applied by section 36(1) of the Northern Ireland Act 1998.

(4) But references to disqualification from being a member of the Assembly do not include disqualification by virtue of being—

- (a) the Ombudsman, under Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, or
- (b) the Northern Ireland Judicial Appointments Ombudsman, under Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

**4.—**(1) A person is disqualified from being appointed as the Ombudsman if the person is—

- (a) a listed authority,
  - (b) a member, officer or member of staff of a listed authority.
- (2) A person who is the Ombudsman is disqualified from being—
- (a) a listed authority,
  - (b) a member, officer or member of staff of a listed authority.

**5.—**(1) A person is disqualified from being appointed as the Ombudsman if the person—

- (a) holds any other office,
- (b) holds employment, or
- (c) is a member of a body,

in respect of which remuneration or expenses are payable.

- (2) A person who is the Ombudsman must not—
- (a) be appointed to any other office,
  - (b) take employment, or
  - (c) become a member of a body,

in respect of which remuneration or expenses are payable.

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

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- (3) This paragraph has no effect in relation to a particular office, employment or membership if—
- (a) the person gives notice of it to the Assembly Commission—
    - (i) before becoming Ombudsman, or
    - (ii) before being appointed to the office, taking the employment, or becoming the member, as the case may be, and
  - (b) the Assembly Commission is of the opinion that the office, employment or membership would not compromise—
    - (i) the ability of the Ombudsman to discharge functions under this Act, and
    - (ii) the independence of the Ombudsman.
- (4) But—
- (a) a person is not disqualified from being appointed as Ombudsman by virtue of being the Northern Ireland Judicial Appointments Ombudsman,
  - (b) the Ombudsman is not prevented from being the Northern Ireland Judicial Appointments Ombudsman.

#### *Salary*

- 6.—(1) The Assembly Commission must by order determine the salary payable to the Ombudsman.
- (2) An order under sub-paragraph (1) may provide for the salary determined by the order to be payable from such date, whether before or after the making of the order, as may be specified in the order.
- (3) The salary must not exceed the maximum salary for the time being payable to any person employed in the civil service of Northern Ireland.
- (4) The salary must be charged on, and issued out of, the Consolidated Fund.
- (5) The salary must be abated by the amount of any pension payable in respect of any public office, in the United Kingdom or elsewhere, to which the Ombudsman had previously been appointed or elected.

#### *Pension*

- 7.—(1) The Assembly Commission must make arrangements for the provision of pension and other benefits for or in respect of persons who have held office as the Ombudsman.
- (2) Scheme regulations for a scheme under section 1 of the Public Services Pensions Act (Northern Ireland) 2014, which is a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits

to be paid in respect of persons who have been the Ombudsman, as if service in that office were service in the employment of the civil service of Northern Ireland.

(3) Any sums required for the purposes of making an arrangement under subparagraph (1) must be charged on, and issued out of, the Consolidated Fund.

(4) Any abatement under paragraph 6(5) is to be disregarded in computing the salary for the purposes of any pension payable by virtue of this paragraph.

#### *Other terms and conditions of appointment*

**8.** The Assembly Commission may determine the other terms and conditions of appointment of the Ombudsman.

#### *Removal from office*

**9.**—(1) Her Majesty may, on the passing of a resolution of the Assembly, remove the Ombudsman from office.

(2) The resolution may only be passed on the ground of the Ombudsman's—

- (a) ill health, or
- (b) misconduct.

(3) The resolution is not passed unless it has the support of a number of members of the Assembly which equals or exceeds two-thirds of the total number of seats in the Assembly.

#### *Resignation*

**10.** Her Majesty may remove the Ombudsman from office upon request from the Ombudsman.

#### *Restrictions on subsequent employment*

**11.**—(1) When a person ceases to be the Ombudsman, that person must not, without the consent of the Assembly Commission—

- (a) become a listed authority,
- (b) be appointed or elected to a listed authority, other than a listed authority which is a district council,
- (c) become a member, officer or member of staff of a listed authority,
- (d) provide services to a listed authority,
- (e) be appointed or elected by a listed authority to any office or post.

(2) This restriction ends on the expiry of the financial year following the financial year in which the person ceased to be the Ombudsman.

### *Acting Ombudsman*

**12.—**(1) This paragraph applies where the office of the Ombudsman is vacant.

(2) Her Majesty may, on the nomination of the Assembly, appoint an acting Ombudsman at any time during the period of 12 months beginning with the date on which the vacancy arose.

(3) The acting Ombudsman is to be regarded as the Ombudsman except—

- (a) for the purposes of section 3(1) to (4),
- (b) that the salary payable under paragraph 6 may be of a different amount to that payable to the Ombudsman,
- (c) that the pension arrangements under paragraph 7 may be different to arrangements in respect of the Ombudsman,
- (d) that the terms and conditions of appointment under paragraph 8 may be different to the terms and conditions of appointment of the Ombudsman.

(4) The acting Ombudsman holds office until either—

- (a) the appointment of a new Ombudsman, or
- (b) the expiry of the period of 12 months beginning on the date on which the vacancy arose,

whichever comes first.

(5) A person who is disqualified from being appointed as the Ombudsman is disqualified from being appointed as the acting Ombudsman.

(6) A person appointed as acting Ombudsman may have previously held office as the Ombudsman.

(7) A person appointed as acting Ombudsman is not disqualified from being appointed as the Ombudsman by virtue of that fact.

(8) A person appointed as acting Ombudsman is also to be regarded as holding office as Ombudsman for the purposes of section 9A(2) of the Justice (Northern Ireland) Act 2002 (Northern Ireland Judicial Appointments Ombudsman).

### *General powers*

**13.** The Ombudsman may do anything (including acquire or dispose of property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of the Ombudsman's functions.

### *Delegation of functions*

**14.—**(1) Any function of the Ombudsman may be performed by any member of staff of the Ombudsman authorised by the Ombudsman for that purpose.

(2) Any function of the Ombudsman may be performed by any other person authorised by the Ombudsman for that purpose if—

- (a) that other person is suitably qualified to do so, and
- (b) there are special circumstances which make it proper to do so.

### *Staff*

**15.**—(1) The Ombudsman may—

- (a) appoint staff,
- (b) determine the terms and conditions of their employment, and
- (c) make arrangements in respect of salary and pensions for them.

(2) In exercising powers under sub-paragraph (1), the Ombudsman must have regard to the desirability of keeping the terms and conditions of employment, salary and pensions broadly in line with those applying to persons employed in the civil service of Northern Ireland.

(3) No member of staff of the Ombudsman is to be regarded—

- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

(4) But each member of staff is a Crown servant for the purposes of the Official Secrets Act 1989.

(5) Scheme regulations for a scheme under section 1 of the Public Services Pensions Act (Northern Ireland) 2014, which is a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits to be paid in respect of persons who have been staff of the Ombudsman, as if they were employed in the civil service of Northern Ireland.

### *Advisers*

**16.**—(1) The Ombudsman may obtain advice from any person who, in the opinion of the Ombudsman, is qualified to give it, to assist in the discharge of the Ombudsman's functions.

(2) The Ombudsman may pay to any person from whom advice is obtained under sub-paragraph (1) such fees or allowances as the Ombudsman may determine.

(3) In exercising powers under this paragraph, the Ombudsman must have regard to the desirability of keeping the fees and allowances broadly in line with those paid by the civil service of Northern Ireland.

*Expenses*

- 17.** The expenses of the office of the Ombudsman must be defrayed out of money appropriated by Act of the Assembly, but this is subject to—
- (a) paragraph 18, and
  - (b) section 64 of the Local Government Act (Northern Ireland) 2014 (expenditure of Ombudsman under that Act).

*Budget estimates*

**18.—(1)** The Ombudsman must, for each financial year other than the first, prepare an estimate of the use of resources (within the meaning of the Government Resources and Accounts Act (Northern Ireland) 2001) by the office of the Ombudsman.

(2) That estimate must be submitted to the committee established under section 66 of the Northern Ireland Act 1998.

(3) In considering that estimate, that committee must have regard to the advice of the Department of Finance and Personnel.

(4) That estimate must, subject to any modifications agreed between that committee and the Ombudsman, be laid before the Assembly by that committee.

*Accounts and audit*

**19.—(1)** The Ombudsman must publish—

- (a) the certified accounts of the office of the Ombudsman, and
- (b) the report of the Comptroller and Auditor General on those accounts.

(2) In this paragraph “certified accounts” and “report” mean the accounts and report laid by the Department of Finance and Personnel before the Assembly in accordance with section 10 of the Government Resources and Accounts Act (Northern Ireland) 2001.

*Meaning of ‘financial year’*

**20.** For the purposes of this Schedule—

- (a) a financial year is a period of 12 months ending on the 31st March, but
- (b) the first financial year is the period beginning with the day on which the Ombudsman is appointed and ending on 31 March 2017.