

## SCHEDULES

### SCHEDULE 1

Sections 1, 7 and 10.

#### ADVISORY, CONCILIATION AND ARBITRATION SERVICE, ETC.

#### PART I

##### CONSTITUTION ETC. OF ADVISORY, CONCILIATION AND ARBITRATION SERVICE AND ITS COUNCIL

##### *The Council*

- 1 The Service shall be directed by a Council constituted in accordance with paragraphs 2 to 4 below and shall be a body corporate of which the corporators are the members of that Council.
- 2 (1) The Council shall consist of a full-time chairman appointed by the Secretary of State and, subject to sub-paragraphs (3)(6) and (4) below, nine other members appointed by the Secretary of State in accordance with sub-paragraph (2) below.
- (2) Before appointing the members of the Council (other than the chairman and any deputy chairman appointed as mentioned in sub-paragraph (3)(b) below) the Secretary of State shall—
- (a) as to three of them, consult such organisations representing employers as he considers appropriate ; and
  - (b) as to three of them, consult such organisations representing workers as he considers appropriate.
- (3) The Secretary of State may appoint up to three full-time or part-time deputy chairmen of the Council who may be appointed—
- (a) from the members appointed in accordance with subparagraph (2) above or sub-paragraph (4) below ; or
  - (b) in addition to those members.
- (4) The Secretary of State may, if he thinks fit, appoint a further two members of the Council (who shall be appointed so as to take office at the same time) and before making those appointments he shall—
- (a) as to one of them, consult such organisations representing employers as he considers appropriate ; and
  - (b) as to one of them, consult such organisations representing workers as he considers appropriate.
- 3 (1) Subject to the following provisions of this paragraph, the members, chairman and any deputy chairman of the Council shall hold and vacate office in accordance with their terms of appointment.

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- (2) A person shall not be appointed to the Council for a term exceeding five years; but previous membership shall not affect eligibility for re-appointment.
- (3) The Secretary of State may appoint persons to the Council either as full-time members or as part-time members.
- (4) The Secretary of State may, with the consent of the member concerned, vary the terms of appointment of any member of the Council so as to provide for him to serve as a full-time member instead of a part-time member or, as the case may be, as a part-time member instead of as a full-time member.
- (5) A member may at any time resign his membership, and the chairman and any deputy chairman may at any time resign his office as such, by, in each case, notice in writing addressed to the Secretary of State.
- (6) A deputy chairman appointed as mentioned in paragraph 2(3)(b) above shall on resigning his office as deputy chairman cease to be a member of the council.
- (7) If the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council; or
  - (b) has become bankrupt or made an arrangement with his creditors ; or
  - (c) is incapacitated by physical or mental illness ; or
  - (d) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
- (8) If the application of sub-paragraph (7) above to Scotland for the references in paragraph (b) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract.
- (9) If the chairman ceases to be a member of the Council, or if a deputy chairman ceases to be a member of the Council, he shall cease to be chairman or, as the case may be, a deputy chairman.
- 4 (1) The Council shall determine its own procedure, including the quorum necessary for its meetings.
- (2) If the Secretary of State has not appointed a deputy chairman the Council may choose a member to act as chairman in the absence or incapacity of the chairman.
- 5 The validity of any proceedings of the Council shall not be affected by any vacancy among the members of the Council or by any defect in the appointment of any member of the Council.

#### *Staff*

- 6 The Service may, with the approval of the Secretary of State, appoint a secretary, such an appointment shall not be made without the consent as to terms and conditions of service of the Secretary of State, and such consent shall not be given without the approval of the Minister for the Civil Service.

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7 The Service may appoint such other officers and servants as it may determine with the consent as to numbers, manner of appointment and terms and conditions of service of the Secretary of State ; and such consent shall not be given without the approval of the Minister for the Civil Service.

8 The Service shall provide for the Certification Officer and the Committee the requisite staff (from among the Service's officers and servants) and the requisite accommodation, equipment and other facilities.

*Supplemental*

9 The Service shall maintain offices in such of the major centres of employment in Great Britain as it thinks fit for the purpose of discharging its functions under any enactment.

10 (1) The fixing of the common seal of the Service shall be authenticated by the signature of the secretary of the Service or some other person authorised by the Service to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Service shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

11 (1) The functions of the Service and of its officers and servants shall be performed on behalf of the Crown, but, subject to paragraph 35 below, the Service shall not be subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise any of its functions under any enactment.

(2) For the purposes of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 and the Crown Suits (Scotland) Act 1857 shall apply to the Service as if it were a government department within the meaning of the said Act of 1947 or, as the case may be, a public department within the meaning of the said Act of 1857.

12 Nothing in section 9 of the Statistics of Trade Act 1947 (restriction on the disclosure of information obtained under that Act) shall prevent or penalise the disclosure to the Service for the purpose of the exercise of any of its functions, of information obtained under that Act by any government department.

13 (1) The Service shall, as soon as practicable after the end of each calendar year, make a report to the Secretary of State on its activities and the activities of the Central Arbitration Committee during that year.

(2) The Certification Officer shall, as soon as practicable after the end of each calendar year, make a report of his activities during that year to the Service and to the Secretary of State.

(3) The Secretary of State shall lay before each House of Parliament a copy of every report received by him under sub-paragraph (1) or sub-paragraph (2) above and shall arrange for it to be published.

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## PART II

### CENTRAL ARBITRATION COMMITTEE

#### *Constitution*

- 14 (1) The Committee shall consist of a chairman appointed by the Secretary of State after consultation with the Service and other members appointed by the Secretary of State in accordance with sub-paragraph (2) below.
- (2) The members of the Committee (apart from the chairman) shall be appointed by the Secretary of State from persons nominated by the Service as experienced in industrial relations and shall include some persons whose experience is as representatives of employers and some persons whose experience is as representatives of workers.
- (3) The Secretary of State may, after consultation with the Service, appoint one or more deputy chairmen of the Committee in addition to the existing members of the Committee.
- 15 (1) Subject to the following provisions of this paragraph, the members, chairman and any deputy chairman of the Committee shall hold and vacate office in accordance with their terms of appointment.
- (2) A person shall not be appointed to the Committee for a term exceeding five years ; but previous membership shall not affect eligibility for re-appointment.
- (3) The Secretary of State may, with the consent of the member concerned, vary the terms of appointment of any member of the Committee so as to provide for him to serve as a full-time member instead of a part-time member or, as the case may be, as a part-time member instead of as a full-time member.
- (4) A member may at any time resign his membership, and the chairman and any deputy chairman may at any time resign his office as such, by, in each case, notice in writing addressed to the Secretary of State.
- (5) If the Secretary of State is satisfied that a member—
- (a) has become bankrupt or made an arrangement with his creditors ; or
  - (b) is incapacitated by physical or mental illness ; or
  - (c) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
- (6) In the application of sub-paragraph (5) above to Scotland for the references in paragraph (a) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract.
- (7) If the chairman ceases to be a member of the Committee, or if a deputy chairman ceases to be a member of the Committee, he shall cease to be chairman or, as the case may be, a deputy chairman.
- 16 (1) At any time when the chairman of the Committee is absent or otherwise incapable of acting, or there is a vacancy in the office of chairman, and the Committee has a deputy chairman or deputy chairmen—

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- (a) the deputy chairman, if there is only one ; or
  - (b) if there is more than one deputy chairman, such one of them as they may agree or, in default of agreement, as the Secretary of State may direct,
- may perform any of the functions of the chairman of the Committee.

- (2) At any time when every person who is chairman or deputy chairman of the Committee is absent or otherwise incapable of acting, or there is no such person, such member of the Committee as the Secretary of State may direct, may perform any of the functions of the chairman of the Committee.

#### *Proceedings*

- 17 (1) For the purpose of discharging any of its functions under this or any other enactment, the Committee shall, subject to sub-paragraph (2) below, consist of the chairman and such other members as the chairman may direct.
- (2) The Committee may sit in two or more divisions constituted of such members as the chairman may direct, and in a division in which the chairman does not sit the functions of the chairman shall be performed by a deputy chairman.
- (3) The Committee may, at the discretion of the chairman, where it appears expedient to do so, call in the aid of one or more assessors, and may settle the matter wholly or partly with their assistance.
- 18 The Committee may at the discretion of the chairman sit in private where it appears expedient to do so.
- 19 If in any case the Committee cannot reach a unanimous decision on its award the chairman shall decide the matter acting with the full powers of an umpire, or, in Scotland, an oversman.
- 20 Subject to paragraphs 17 to 19 above, the Committee shall determine its own procedure.
- 21 The validity of any proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of any member of the Committee.

#### *Awards*

- 22 The Committee may correct in any award any clerical mistake or error arising from an accidental slip or omission.
- 23 (1) If any question arises as to the interpretation of an award of the Committee, any party to the award may apply to the Committee for a decision on that question.
- (2) The Committee shall decide the question after hearing the parties or, if the parties consent, without a hearing, and shall notify the parties of the decision.
- 24 Decisions of the Committee in the exercise of any of its functions conferred by any enactment shall be published.

#### *Supplemental*

- 25 For the purpose of assisting the Service in the discharge of its duty under paragraph 13(1) above, the Committee shall, as soon as practicable after the end of each calendar year, transmit to the Service an account of its activities during that year.

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26 Part I of the Arbitration Act 1950 shall not apply to any proceedings of the Committee.

27 The functions of the Committee shall be performed on behalf of the Crown, but the Committee shall not be subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise any of its functions under any enactment.

### PART III

#### SUPPLEMENTARY PROVISIONS

##### *Remuneration and allowances*

28 The Service shall pay to—

- (a) members of the Council of the Service ;
- (b) members of the Central Arbitration Committee ; and
- (c) the Certification Officer and any assistant certification officer,

such remuneration and travelling and other allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service.

29 The Service may pay to—

- (a) persons appointed under section 2(2) above who are not officers or servants of the Service ; and
- (b) arbitrators or arbiters appointed by the Service under any provision of this Act or any other enactment,

such fees and travelling and other allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service.

##### *Sums payable on retirement*

30 The Secretary of State may pay, or make provision for paying, to, or in respect of, any holder of an office mentioned in paragraph 28 above, such pension, allowance or gratuity on the death or retirement of that office-holder as he may, with the approval of the Minister for the Civil Service, determine.

31 Where a person ceases to be the holder of an office mentioned in paragraph 28 above 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 Secretary of State may make him a payment of such amount as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

32 The Service shall pay to the Minister for the Civil Service, at such times in each accounting year as may be determined by that Minister subject to any directions of the Treasury, sums of such amounts as he may so determine for the purpose of this paragraph as being equivalent to the increase during that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of the Service in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

*Expenses*

- 33 The Secretary of State shall pay to the Service such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling the Service to perform its functions.

*Accounts*

- 34 It shall be the duty of the Service to keep proper accounts and proper records in relation to the accounts.
- 35 (1) The Service shall prepare in respect of each accounting year a statement of accounts, in particular showing separately any sums disbursed to or on behalf of the Committee or the Certification Officer in consequence of the foregoing provisions of this Schedule, in such form as the Secretary of State may direct with the approval of the Treasury.
- (2) The Service shall, not later than 30th November following the end of the accounting year to which the statement relates, send copies of the statement to the Secretary of State and to the Comptroller and Auditor General, and the Comptroller and Auditor General shall examine, certify and report on each such statement and shall lay copies of each statement and of his report before each House of Parliament.
- (3) In this paragraph " accounting year " means the period of 12 months ending with 31st March in any year except that the first accounting year of the Service shall, if the Secretary of State so directs, be such period shorter or longer than 12 months (but not longer than two years) as is specified in the direction.