

*Status: Point in time view as at 24/06/2008.*

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## SCHEDULES

### SCHEDULE 3

Section 5.

#### THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION

##### *Constitution and administration*

- 1 (1) The Commission shall consist of members appointed by the Lord Chancellor.
- (2) The Lord Chancellor shall appoint one of the members as chairman.
- (3) A member shall hold and vacate office in accordance with the terms of his appointment.
- (4) A member may resign at any time by notice in writing to the Lord Chancellor.
- 2 The Lord Chancellor may appoint officers and servants for the Commission.
- 3 The Lord Chancellor—
  - (a) may pay sums by way of remuneration, allowances, pensions and gratuities to or in respect of members, officers and servants,
  - (b) may pay compensation to a person who ceases to be a member of the Commission if the Lord Chancellor thinks it appropriate because of special circumstances, and
  - (c) may pay sums in respect of expenses of the Commission.

##### *Procedure*

- 4 (1) The Commission shall sit at such times and in such places as the Lord Chancellor may direct [<sup>F1</sup> after consulting the following—
  - (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland].
- (2) The Commission may sit in two or more divisions.
- (3) At each sitting of the Commission—
  - (a) three members shall attend,
  - (b) one of the members shall be a person who holds or has held high judicial office (within the meaning of the <sup>M1</sup>Appellate Jurisdiction Act 1876), and
  - (c) the chairman or another member nominated by him shall preside and report the Commission's decision.
- [<sup>F2</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

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- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F1** Words in Sch. 3 para. 4(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(2\)](#); S.I. 2006/1014, [art. 2\(1\)](#), Sch. 1
- F2** Sch. 3 para. 4(4)-(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(3\)](#); S.I. 2006/1014, [art. 2\(1\)](#), Sch. 1

#### Marginal Citations

- M1** 1876 c. 59.

- 5 (1) The Lord Chancellor may make rules—
- (a) regulating the exercise of the right of appeal to the Commission;
  - (b) prescribing practice and procedure to be followed in relation to proceedings before the Commission;
  - (c) providing for proceedings before the Commission to be determined without an oral hearing in specified circumstances;
  - (d) making provision about evidence in proceedings before the Commission (including provision about the burden of proof and admissibility of evidence);
  - (e) making provision about proof of the Commission's decisions.
- (2) In making the rules the Lord Chancellor shall, in particular, have regard to the need to secure—
- (a) that decisions which are the subject of appeals are properly reviewed, and
  - (b) that information is not disclosed contrary to the public interest.
- (3) The rules shall make provision permitting organisations to be legally represented in proceedings before the Commission.
- (4) The rules may, in particular—
- (a) provide for full particulars of the reasons for proscription or refusal to deproscribe to be withheld from the organisation or applicant concerned and from any person representing it or him;
- [<sup>F3</sup>(aa) provide for full particulars of the reasons for—
- (i) the making of an order under section 3(6), or
  - (ii) a refusal to provide for a name to cease to be treated as a name for an organisation,
- to be withheld from the organisation or applicant concerned and from any person representing it or him;]

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- (b) enable the Commission to exclude persons (including representatives) from all or part of proceedings;
  - (c) enable the Commission to provide a summary of evidence taken in the absence of a person excluded by virtue of paragraph (b);
  - (d) permit preliminary or incidental functions to be discharged by a single member;
  - (e) permit proceedings for permission to appeal under section 6 to be determined by a single member;
  - (f) make provision about the functions of persons appointed under paragraph 7;
  - (g) make different provision for different parties or descriptions of party.
- (5) Rules under this paragraph—
- (a) shall be made by statutory instrument, and
  - (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (6) In this paragraph a reference to proceedings before the Commission includes a reference to proceedings arising out of proceedings before the Commission.

#### Textual Amendments

**F3** Sch. 3 para. 5(4)(aa) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), s. 22(11); S.I. 2006/1013, art. 2

- 6
- (1) This paragraph applies to—
    - (a) proceedings brought by an organisation before the Commission, and
    - (b) proceedings arising out of proceedings to which paragraph (a) applies.
  - (2) Proceedings shall be conducted on behalf of the organisation by a person designated by the Commission (with such legal representation as he may choose to obtain).
  - (3) In [<sup>F4</sup>paragraph 5] of this Schedule a reference to an organisation includes a reference to a person designated under this paragraph.

#### Textual Amendments

**F4** Words in Sch. 3 para. 6(3) substituted (2.10.2000) by [2000 c. 23](#), s. 82, [Sch. 4 para. 12\(2\)](#) (with s. 82(3)); S.I. 2000/2543, art. 3

- 7
- (1) The relevant law officer may appoint a person to represent the interests of an organisation or other applicant in proceedings in relation to which an order has been made by virtue of paragraph 5(4)(b).
  - (2) The relevant law officer is—
    - (a) in relation to proceedings in England and Wales, the Attorney General,
    - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
    - (c) in relation to proceedings in Northern Ireland, the Attorney General for Northern Ireland.
  - (3) A person appointed under this paragraph must—

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- (a) have a general qualification for the purposes of section 71 of the <sup>M2</sup>Courts and Legal Services Act 1990 (qualification for legal appointments),
  - (b) be an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the <sup>M3</sup>Solicitors (Scotland) Act 1980, or
  - (c) be a member of the Bar of Northern Ireland.
- (4) A person appointed under this paragraph shall not be responsible to the organisation or other applicant whose interests he is appointed to represent.
- (5) In [<sup>F5</sup>paragraph 5] of this Schedule a reference to a representative does not include a reference to a person appointed under this paragraph.

**Textual Amendments**

**F5** Words in Sch. 3 para. 7(5) substituted (2.10.2000) by 2000 c. 23, s. 82, Sch. 4 para. 12(2) (with s. 82(3)); S.I. 2000/2543, art. 3

**Marginal Citations**

**M2** 1990 c. 41.

**M3** 1980 c. 46.

<sup>F6</sup>8 . . . . .

**Textual Amendments**

**F6** Sch. 3 para. 8 repealed (2.10.2000) by 2000 c. 23, s. 82, Sch. 5 (with s. 82(3)); S.I. 2000/2543, art. 3

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