

SCHEDULES

SCHEDULE 13

Section 1252

SUPPLEMENTARY PROVISIONS WITH RESPECT TO DELEGATION ORDER

Operation of this Schedule

- 1 (1) This Schedule has effect in relation to a body designated by a delegation order under section 1252 as follows—
 - (a) paragraphs 2 to 12 have effect in relation to the body where it is established by the order;
 - (b) paragraphs 2 and 6 to 11 have effect in relation to the body where it is an existing body;
 - (c) paragraph 13 has effect in relation to the body where it is an existing body that is an unincorporated association.
- (2) In their operation in accordance with sub-paragraph (1)(b), paragraphs 2 and 6 apply only in relation to—
 - (a) things done by or in relation to the body in or in connection with the exercise of functions transferred to it by the delegation order, and
 - (b) functions of the body which are functions so transferred.
- (3) Any power conferred by this Schedule to make provision by order is a power to make provision by an order under section 1252.

Status

- 2 The body is not to be regarded as acting on behalf of the Crown and its members, officers and employees are not to be regarded as Crown servants.

Name, members and chairman

- 3 (1) The body is to be known by such name as may be specified in the delegation order.
- (2) The body is to consist of such persons (not being less than eight) as the Secretary of State may appoint after such consultation as he thinks appropriate.
- (3) The chairman of the body is to be such person as the Secretary of State may appoint from among its members.
- (4) The Secretary of State may make provision by order as to—
 - (a) the terms on which the members of the body are to hold and vacate office;
 - (b) the terms on which a person appointed as chairman is to hold and vacate the office of chairman.

Status: This is the original version (as it was originally enacted).

Financial provisions

- 4 (1) The body must pay to its chairman and members such remuneration, and such allowances in respect of expenses properly incurred by them in the performance of their duties, as the Secretary of State may determine.
- (2) As regards any chairman or member in whose case the Secretary of State so determines, the body must pay or make provision for the payment of—
- (a) such pension, allowance or gratuity to or in respect of that person on his retirement or death, or
 - (b) such contributions or other payment towards the provision of such a pension, allowance or gratuity,
- as the Secretary of State may determine.
- (3) Where—
- (a) a person ceases to be a member of the body otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation,
- the body must make a payment to him by way of compensation of such amount as the Secretary of State may determine.

Proceedings

- 5 (1) The delegation order may contain such provision as the Secretary of State considers appropriate with respect to the proceedings of the body.
- (2) The delegation order may, in particular—
- (a) authorise the body to discharge any functions by means of committees consisting wholly or partly of members of the body;
 - (b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of any member.

Fees

- 6 (1) The body may retain fees payable to it.
- (2) The fees must be applied for—
- (a) meeting the expenses of the body in discharging its functions, and
 - (b) any purposes incidental to those functions.
- (3) Those expenses include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper performance of its functions.
- (4) In prescribing the amount of fees in the exercise of the functions transferred to it the body must prescribe such fees as appear to it sufficient to defray those expenses, taking one year with another.
- (5) Any exercise by the body of the power to prescribe fees requires the approval of the Secretary of State.

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

- (6) The Secretary of State may, after consultation with the body, by order vary or revoke any regulations prescribing fees made by the body.

Legislative functions

- 7 (1) Regulations or an order made by the body in the exercise of the functions transferred to it must be made by instrument in writing, but not by statutory instrument.
- (2) The instrument must specify the provision of this Part of this Act under which it is made.
- (3) The Secretary of State may by order impose such requirements as he thinks necessary or expedient as to the circumstances and manner in which the body must consult on any regulations or order it proposes to make.
- (4) Nothing in this Part applies to make regulations or an order made by the body subject to negative resolution procedure or affirmative resolution procedure.
- 8 (1) Immediately after an instrument is made it must be printed and made available to the public with or without payment.
- (2) A person is not to be taken to have contravened any regulation or order if he shows that at the time of the alleged contravention the instrument containing the regulation or order had not been made available as required by this paragraph.
- 9 (1) The production of a printed copy of an instrument purporting to be made by the body on which is endorsed a certificate signed by an officer of the body authorised by it for the purpose and stating—
- (a) that the instrument was made by the body,
 - (b) that the copy is a true copy of the instrument, and
 - (c) that on a specified date the instrument was made available to the public as required by paragraph 8,
- is evidence (or, in Scotland, sufficient evidence) of the facts stated in the certificate.
- (2) A certificate purporting to be signed as mentioned in sub-paragraph (1) is to be deemed to have been duly signed unless the contrary is shown.
- (3) Any person wishing in any legal proceedings to cite an instrument made by the body may require the body to cause a copy of it to be endorsed with such a certificate as is mentioned in this paragraph.

Report and accounts

- 10 (1) The body must, at least once in each calendar year for which the delegation order is in force, make a report to the Secretary of State on—
- (a) the discharge of the functions transferred to it, and
 - (b) such other matters as the Secretary of State may by order require.
- (2) The delegation order may modify sub-paragraph (1) as it has effect in relation to the calendar year in which the order comes into force or is revoked.
- (3) The Secretary of State must lay before Parliament copies of each report received by him under this paragraph.
- (4) The following provisions of this paragraph apply as follows—

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

- (a) sub-paragraphs (5) and (6) apply only where the body is established by the order, and
 - (b) sub-paragraphs (7) and (8) apply only where the body is an existing body.
- (5) The Secretary of State may, with the consent of the Treasury, give directions to the body with respect to its accounts and the audit of its accounts.
- (6) A person may only be appointed as auditor of the body if he is eligible for appointment as a statutory auditor.
- (7) Unless the body is a company to which section 394 (duty to prepare individual company accounts) applies, the Secretary of State may, with the consent of the Treasury, give directions to the body with respect to its accounts and the audit of its accounts.
- (8) Whether or not the body is a company to which section 394 applies, the Secretary of State may direct that any provisions of this Act specified in the directions are to apply to the body, with or without any modifications so specified.

Other supplementary provisions

- 11 (1) The transfer of a function to a body designated by a delegation order does not affect anything previously done in the exercise of the function transferred; and the resumption of a function so transferred does not affect anything previously done in exercise of the function resumed.
- (2) The Secretary of State may by order make such transitional and other supplementary provision as he thinks necessary or expedient in relation to the transfer or resumption of a function.
- (3) The provision that may be made in connection with the transfer of a function includes, in particular, provision—
- (a) for modifying or excluding any provision of this Part of this Act in its application to the function transferred;
 - (b) for applying to the body designated by the delegation order, in connection with the function transferred, any provision applying to the Secretary of State which is contained in or made under any other enactment;
 - (c) for the transfer of any property, rights or liabilities from the Secretary of State to that body;
 - (d) for the carrying on and completion by that body of anything in the process of being done by the Secretary of State when the order takes effect;
 - (e) for the substitution of that body for the Secretary of State in any instrument, contract or legal proceedings.
- (4) The provision that may be made in connection with the resumption of a function includes, in particular, provision—
- (a) for the transfer of any property, rights or liabilities from that body to the Secretary of State;
 - (b) for the carrying on and completion by the Secretary of State of anything in the process of being done by that body when the order takes effect;
 - (c) for the substitution of the Secretary of State for that body in any instrument, contract or legal proceedings.

- 12 Where a delegation order is revoked, the Secretary of State may by order make provision—
- (a) for the payment of compensation to persons ceasing to be employed by the body established by the delegation order;
 - (b) as to the winding up and dissolution of the body.
- 13 (1) This paragraph applies where the body is an unincorporated association.
- (2) Any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.
- (3) In sub-paragraph (2) “relevant proceedings” means proceedings brought in or in connection with the exercise of any transferred function.
- (4) In relation to proceedings brought as mentioned in sub-paragraph (2), any reference in paragraph 11(3)(e) or (4)(c) to the body replacing or being replaced by the Secretary of State in any legal proceedings is to be read with the appropriate modifications.