

SCHEDULE

(introduced by section 19)

SCOTTISH FOOD COMMISSION: CONSTITUTION AND OPERATION

PART 1

STATUS

Incorporation

- 1 The Commission is a body corporate.

Exclusion of Crown status

- 2 The Commission is not to be regarded as a servant or agent of the Crown, or having any status, immunity or privilege of the Crown, nor are its members or its staff to be regarded as civil servants.

PART 2

POWERS

General powers

- 3 The Commission may do anything which appears to it to be—
- (a) necessary or expedient for the purposes of, or in connection with, the exercise of its functions, or
 - (b) otherwise conducive to the exercise of its functions.

PART 3

PROCEDURE

Committees and sub-committees

- 4 The Commission may establish committees and sub-committees.

Regulation of procedure

- 5 The Commission may regulate its own procedure (including quorum) and that of its committees and sub-committees.

Authority to perform functions

- 6 The Commission may authorise any of its—
- (a) members,
 - (b) committees,
 - (c) sub-committees, or

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(d) staff,
to exercise such of its functions (and to such extent) as it may determine.

- 7 The giving of authority under paragraph 6 by the Commission does not—
- (a) affect the Commission’s responsibility for the exercise of its functions, or
 - (b) prevent the Commission from exercising the function itself.

Validity of things done

- 8 The validity of anything done by the Commission, its committees or sub-committees is not affected by—
- (a) a vacancy in its membership,
 - (b) a defect in the appointment of a member,
 - (c) the disqualification of a member after appointment.

PART 4

ACCOUNTABILITY

Corporate plan

- 9 (1) The Commission must submit a corporate plan to the Scottish Ministers.
- (2) Sub-paragraph (1) must be complied with as soon as reasonably practicable after the day this paragraph comes into force.
- (3) The corporate plan must set out how the Commission intends to exercise its functions.
- (4) The corporate plan may include such other material as the Commission considers appropriate.
- (5) The Scottish Ministers must—
- (a) approve the corporate plan,
 - (b) approve the corporate plan with any modifications they consider appropriate, or
 - (c) decline to approve the corporate plan.
- (6) Where the Scottish Ministers intend to approve the corporate plan with modifications, they must consult the Commission before doing so.
- (7) If sub-paragraph (5)(b) or (c) applies, the Commission must, as soon as reasonably practicable, modify the corporate plan and submit the modified plan to the Scottish Ministers.
- (8) Sub-paragraphs (5) to (7) apply to the corporate plan as modified.
- (9) As soon as reasonably practicable after it is approved by the Scottish Ministers—
- (a) the Commission must publish the corporate plan, and
 - (b) the Scottish Ministers must lay a copy of the corporate plan before the Scottish Parliament.
- (10) The Commission—
- (a) may revise the corporate plan at any time, and

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(b) must revise the corporate plan when required to do so by the Scottish Ministers.

(11) Sub-paragraphs (1) and (3) to (10) apply to a revised corporate plan as they apply to the first corporate plan.

Accounts and audit

- 10 (1) The Commission must—
- (a) keep proper accounts and accounting records,
 - (b) prepare in respect of each financial year a statement of accounts, and
 - (c) send a copy of the statement to the Auditor General for Scotland for auditing.
- (2) The Commission must comply with any directions which the Scottish Ministers give it in relation to the matters mentioned in sub-paragraphs (1)(a) and (b).

Annual report

- 11 The Commission must, as soon as reasonably practicable after each financial year—
- (a) prepare and make publicly available a report of its activities during the year,
 - (b) send a copy of the report to the Scottish Ministers, and
 - (c) lay a copy of the report before the Scottish Parliament.

PART 5

MEMBERS

Commission composition

- 12 (1) The Commission is to consist of—
- (a) a member to chair it, and
 - (b) at least 2 but no more than 4 other members.
- (2) The Scottish Ministers may by regulations amend sub-paragraph (1)(b) so as to alter the maximum number of members.

Appointment of members

- 13 (1) The Scottish Ministers are to appoint—
- (a) the chairing member, and
 - (b) the ordinary members.
- (2) Appointments are to be made in accordance with regulations made by the Scottish Ministers.
- (3) A person may be appointed more than once.
- (4) A person who is disqualified from being a member may not be appointed (see paragraph 17).
- (5) Regulations under sub-paragraph (2) may in particular—

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- (a) specify qualifications and experience that a person must have in order to be appointed,
 - (b) require appointments to be made so that a board includes a member who fulfils criteria specified in the regulations,
 - (c) require that regard is had when making appointments to the desirability of a board including a member who fulfils criteria specified in the regulations.
- (6) Criteria, for the purpose of sub-paragraph (5)(b) and (c), may include criteria about a person's—
- (a) having certain qualifications or experiences,
 - (b) holding a certain office,
 - (c) being representative of certain interests.

Members' tenure and other terms and conditions

- 14 (1) A person's membership of the Commission continues until the end of the period of appointment (subject to paragraph 16).
- (2) In sub-paragraph (1), "the period of appointment" means the period specified by the Scottish Ministers on appointing the person as a member.
- (3) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.

Members' remuneration, allowances and pensions

- 15 (1) The Scottish Ministers may—
- (a) pay members of the Commission remuneration and allowances (including expenses),
 - (b) pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of the Commission.
- (2) The arrangements referred to in sub-paragraph (1)(b) may include—
- (a) making payments towards the provision of those pensions, allowances and gratuities,
 - (b) providing and maintaining schemes for the payment of those pensions, allowances and gratuities.
- (3) The reference in sub-paragraph (1)(b) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.

Early termination of membership

- 16 (1) A person's membership of the Commission ends if—
- (a) the person resigns by written notice given to the Scottish Ministers,
 - (b) the person becomes disqualified from being a member (see paragraph 17), or
 - (c) the Scottish Ministers give the person written notice that the person is removed from the Commission.
- (2) The Scottish Ministers may remove a member of the Commission by virtue of sub-paragraph (1)(c) only if they consider that the member is—

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- (a) unfit to continue to be a member, or
- (b) unable to exercise the member's functions.

Disqualification from membership

- 17 (1) A person is disqualified from being a member of the Commission if the person is—
- (a) disqualified from being a member by virtue of section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000,
 - (b) disqualified from being the director of a company registered under the Companies Act 2006 in Great Britain.
- (2) The Scottish Ministers may by regulations modify this paragraph to add or remove descriptions of persons disqualified from being a member of the Commission.
- (3) Regulations under sub-paragraph (2) may not repeal sub-paragraph (1)(a).

PART 6

STAFF

Appointment of staff

- 18 The Commission may appoint staff.

Staff terms and conditions

- 19 Staff appointed by the Commission are appointed on such terms and conditions as the Scottish Ministers approve.

Staff pensions, allowances and gratuities

- 20 (1) The Commission may pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of its staff.
- (2) But the Commission may not make those payments or arrangements without the Scottish Ministers' approval.
- (3) The arrangements referred to in sub-paragraph (1) may include—
- (a) making payments toward the provision of pensions, allowances and gratuities,
 - (b) providing and maintaining schemes for the payment of pensions, allowances and gratuities.
- (4) The reference in sub-paragraph (1) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.

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PART 7

APPLICATION OF LEGISLATION RELATING TO PUBLIC BODIES

Amendment of public bodies' legislation

- 21 (1) In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies), after the entry relating to the Scottish Fiscal Commission insert— “The Scottish Food Commission”.
- (2) In the Freedom of Information (Scotland) Act 2002, in Part 7 of schedule 1 (non-ministerial office holders in the Scottish Administration), after paragraph 85ZA insert—
“85ZAA The Scottish Food Commission”.
- (3) In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2 (the specified authorities), under the heading “Executive bodies”, after the entry relating to the Scottish Fiscal Commission insert— “The Scottish Food Commission”.
- (4) In the Public Services Reform (Scotland) Act 2010, in schedule 8 (listed public bodies), after the entry relating to the Scottish Fiscal Commission insert— “The Scottish Food Commission”.
- (5) In the Public Records (Scotland) Act 2011, in the schedule, under the heading “Others” after the entry relating to the Scottish Fire and Rescue Service insert— “The Scottish Food Commission”.
- (6) In the Procurement Reform (Scotland) Act 2014, in Part 3 of the schedule (contracting authorities: others), after paragraph 50 insert—
“50A The Scottish Food Commission”.