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# Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011

2011 CHAPTER 17

An Act to make provision for a Panel to determine the salaries, allowances, pensions and gratuities payable to members and former members of the Northern Ireland Assembly; to make provision for a Northern Ireland Assembly Commissioner for Standards; and for connected purposes. [29th March 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## **PART 1**

### THE INDEPENDENT FINANCIAL REVIEW PANEL

#### *Establishment and functions*

#### **Establishment and membership of the Panel**

1.—(1) There shall be a body known as the Independent Financial Review Panel.

(2) The members of the Panel are the Chair and two other members.

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### **Functions of the Panel**

2.—(1) The functions of the Panel are to make determinations as to—

- (a) the salaries and allowances payable to members of the Assembly under section 47 of the 1998 Act; and
- (b) the pensions, gratuities and allowances payable under section 48 of that Act.

(2) The Panel shall exercise its functions with a view to achieving the objectives of—

- (a) ensuring probity, accountability and value for money with respect to the expenditure of public funds;
- (b) securing for members of the Assembly a level of remuneration which—
  - (i) fairly reflects the complexity and importance of their functions as members of the Assembly; and
  - (ii) does not, on financial grounds, deter people with the necessary commitment and ability from seeking election to the Assembly; and
- (c) securing for members of the Assembly adequate resources to enable them to exercise their functions as members of the Assembly.

(3) The Panel shall keep under review the extent to which, having regard to—

- (a) experience gained from the operation of its determinations,
- (b) changes in the functions of members of the Assembly, and
- (c) any other relevant circumstances,

its determinations appear to be achieving the objectives in subsection (2).

(4) The Panel may consider any other matter which is relevant to the discharge of its functions, either on its own initiative or at the written request of the Commission.

### *Independent status*

### **Independence and openness**

3.—(1) The Panel shall not, in the exercise of its functions, be subject to the direction or control of—

- (a) the Assembly; or
- (b) the Commission.

(2) A Panel member is not a member of the staff of the Assembly.

(3) The Panel shall—

- (a) act in such a manner that its decisions and its reasons for those decisions are readily ascertainable;

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(b) publish such information as will enable the public to be kept informed about its activities.

(4) Subsection (3) does not prevent the Panel from—

- (a) considering a matter in private,
- (b) maintaining the privacy of its consideration of that matter, or
- (c) refraining from publishing material relating to that matter,

if, in the opinion of the Panel, the nature of that matter makes it appropriate to do so.

*Appointments, etc.*

### **Appointments to the Panel**

**4.—**(1) The Chair and other Panel members shall be appointed by the Commission.

(2) Each appointment shall be for a term of 5 years from the date of the appointment.

(3) A person may not be appointed to be a Panel member if that person has already been appointed to be a Panel member on two occasions.

### **Disqualification from membership of the Panel**

**5.—**(1) Schedule 1 makes provision as to the persons who are disqualified from being appointed or serving as Panel members.

(2) The Commission may by order amend Schedule 1.

(3) An order under this section shall not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.

### **Termination of membership of the Panel**

**6.—**(1) The appointment of a person as a Panel member ceases—

- (a) on the expiry of the term for which that person was appointed;
- (b) if that person resigns by giving notice in writing to the Commission;
- (c) if that person becomes disqualified from being a Panel member; or
- (d) if the Commission dismisses that person under subsection (2).

(2) The Commission may dismiss a person from office as a Panel member if it is satisfied that—

- (a) the person has been convicted of a criminal offence;
- (b) the person has become bankrupt <sup>[F1]</sup>or is the subject of a bankruptcy restrictions order<sup>[F2]</sup>or has had a debt relief order made in respect of him

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- or is the subject of a debt relief restrictions order] or made an arrangement or composition with the person's creditors;
- (c) the person has without reasonable excuse failed to discharge the functions of a Panel member for a continuous period of 3 months beginning not earlier than 6 months before the day of dismissal;
- (d) the person is unfit or unable to carry out those functions.

#### **Textual Amendments**

- F1** Words in s. 6(2)(b) inserted (21.4.2015) by [The Insolvency \(Northern Ireland\) Order 2005 \(Consequential Amendments\) Order \(Northern Ireland\) 2015 \(S.R. 2015/159\)](#), art. 1, **Sch. para. 20**
- F2** Words in s. 6(2)(b) inserted (7.3.2016) by [The Debt Relief Act \(Northern Ireland\) 2010 \(Consequential Amendments\) Order \(Northern Ireland\) 2016 \(S.R. 2016/108\)](#), art. 1, **Sch. para. 26**

#### **Code of conduct for Panel members**

- 7.—(1) The Panel shall issue a code of conduct for its members.
- (2) The code of conduct shall in particular—
- (a) incorporate the Nolan principles or such other similar principles as may be adopted by the Panel from time to time; and
- (b) include provision about the disclosure of interests by Panel members.
- (3) The Panel shall keep the code of conduct under review.
- (4) In this section “the Nolan principles” means the 7 general principles of public life set out in the First Report of the Committee on Standards in Public Life (Cm 2850).

#### **Administration and finance**

- 8 Schedule 2 makes administrative and financial provision about the Panel.

#### **Annual report**

- 9 The Panel shall, as soon as practicable after the end of each financial year, provide to the Commission a report on the performance of its functions, including the use of resources, during that financial year.

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### *Procedure*

#### **Meetings of the Panel**

**10.**—(1) Subject to section 11, the Panel shall determine its own procedure and when it is to meet.

(2) The validity of the Panel's proceedings and determinations shall not be affected by—

- (a) a vacancy among the Panel members; or
- (b) a defect in the appointment of any Panel member.

### *Determinations*

#### **Exercise of functions**

**11.**—(1) Subject to subsection (3), the Panel shall make the determinations referred to in section 2(1) only once in respect of each Assembly.

(2) Subject to subsection (3), the Panel shall not make the determinations referred to in section 2(1) in respect of an Assembly if the date of the poll for the election of that Assembly—

- (a) was directed under section 32(4) of the 1998 Act; and
- (b) occurs within one year of the date of the poll for the election of the immediately preceding Assembly.

(3) If at any time the Panel is of the opinion that it is reasonable and appropriate—

- (a) for a determination relating to pensions to be made, the Panel may make such a determination;
- (b) that due to exceptional circumstances the restriction in subsection (1) or (2) should not apply, the Panel may make determinations—
  - (i) more than once in respect of each Assembly,
  - (ii) in respect of such an Assembly as is described in subsection (2),

as the case may be.

(4) Subject to subsection (6), the Panel shall, so far as reasonably practicable, make the determinations referred to in section 2(1) before the date of the poll for the election of the Assembly in respect of which the determination is made.

(5) The Panel shall, as soon as reasonably practicable after its establishment, make the determinations referred to in section 2(1) in respect of the Assembly existing at that time.

(6) Any determination made under section 2(1) shall have the effect (whether or not expressly so provided) of revoking any determination or provision—

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- (a) made under section 47 or 48 of the 1998 Act before the coming into operation of this Part; and
- (b) relating to the same subject-matter as the determination made under section 2(1).

(7) Every determination made by the Panel shall state the date from which it is to have effect (which may be a date before the date of the determination) and shall continue in effect until revoked by a subsequent determination relating to the same subject-matter.

(8) For the purposes of subsection (3)(b), the occurrence of an election for which the poll is directed under section 32(4) of the 1998 Act does not in itself give rise to exceptional circumstances.

(9) If the Panel forms such an opinion as is referred to in subsection (3), it shall—

- (a) state in writing its reasons for having done so, and
- (b) communicate that statement to the Commission,

at the same time as it communicates to the Commission the determination to which the statement relates.

(10) The Commission shall publish any statement made under subsection (9) as if it were a determination.

### **Contents of determinations: salaries and allowances**

**12.—**(1) This section applies to any determination made under section 2(1) (a).

(2) A determination to which this section applies may make different provision for different cases (for example, provision for higher salaries to be payable to Ministers or other office holders).

(3) A determination to which this section applies shall ensure that, if a salary is payable to a member of the Assembly (“M”) as a member of either House of Parliament or as a member of the European Parliament—

- (a) if M does not hold an office within subsection (6), no salary is payable to M under section 47 of the 1998 Act;
- (b) if M holds an office within subsection (6), the salary which would otherwise be payable to M under section 47 of the 1998 Act is reduced by the appropriate amount.

(4) For the purposes of subsection (3), the appropriate amount is the amount of the salary payable under section 47 of the 1998 Act to members of the Assembly generally.

(5) For the purposes of this section—

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- (a) a person's membership of the Assembly begins on the day on which the person takes his or her seat in accordance with standing orders; and
- (b) a person's holding of an office within subsection (6) begins on the day on which the person takes up office.

(6) An office is within this subsection if the salary payable under section 47 of the 1998 Act to a member of the Assembly holding the office is higher than the salary payable under that section to members of the Assembly generally.

(7) For the purposes of this section, a person who is a member of the Assembly immediately before the Assembly is dissolved shall be treated—

- (a) if the person continues to hold office as a Minister or junior Minister, as Presiding Officer or deputy or as a member of the Commission, as if the person were a member of the Assembly until the end of the day on which he or she ceases to hold the office; and
- (b) if the person does not fall within paragraph (a) but is nominated as a candidate at the subsequent general election, as if the person were a member of the Assembly until the end of the day of the poll for that election.

(8) In this section—

“deputy”, in relation to the Presiding Officer, means any deputy Presiding Officer elected under section 39 of the 1998 Act;

“junior Minister” means a person appointed as a junior Minister under section 19 of the 1998 Act;

“Minister” has the meaning given by section 7(3) of the 1998 Act.

**Modifications etc. (not altering text)**

- C1 S. 12 applied (28.3.2018) by [Northern Ireland Assembly Members \(Pay\) Act 2018 \(c. 7\)](#), ss. 1(6), 2(2)

**Contents of determinations: pensions, gratuities and allowances**

**13.—**(1) This section applies to any determination made under section 2(1) (b).

- (2) A determination to which this section applies may include provision for—
  - (a) contributions or payments towards provision for pensions, gratuities or allowances;
  - (b) the establishment and administration (whether by the Commission or otherwise) of one or more pension schemes.

(3) Where any salary payable to a person under section 47 of the 1998 Act is not payable because of either or both of sections 47A and 47B of that Act, any

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provision made under this section for the payment of pensions which has effect in relation to that person shall apply as if the salary were payable.

#### **Availability of determinations**

**14.**—(1) Every determination made by the Panel under this Part shall be in writing.

(2) As soon as reasonably practicable after any determination has been made—

- (a) the Panel shall communicate the determination to the Commission; and
- (b) the Commission shall publish the determination in full.

#### *Miscellaneous*

#### **Meaning of “the Panel”**

**15** In this Part “the Panel” means the Independent Financial Review Panel established by section 1(1).

## **PART 2**

### **THE NORTHERN IRELAND ASSEMBLY COMMISSIONER FOR STANDARDS**

#### *Establishment and functions*

#### **Establishment of the Commissioner**

**16.**—(1) There shall be a Northern Ireland Assembly Commissioner for Standards.

(2) The person for the time being holding office as Northern Ireland Assembly Commissioner for Standards shall be, by the name of that office, a corporation sole.

#### **Functions of the Commissioner**

**17.**—(1) The functions of the Commissioner are—

- (a) where a person has made a complaint or referral to which subsection (2) applies, to investigate the complaint or referral in accordance with the provisions of this Part<sup>F3</sup>, provided the Commissioner is satisfied in the case of a complaint that it is not frivolous or vexatious or otherwise an abuse of the complaints process];



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- (b) to initiate an investigation in accordance with the provisions of this Part if the Commissioner believes that, at a relevant time, a breach of the Code of Conduct [<sup>F4</sup>or the Ministerial Code, or both,] may have occurred;
  - (c) to report to the Assembly on the outcome of any investigation under this section; and
  - (d) on the Commissioner's own initiative, or if requested by the Assembly, to give advice on any matter of general principle relating to standards of conduct of members of the Assembly [<sup>F5</sup>including Ministers].
- (2) This subsection applies to—
- (a) a complaint to the Commissioner that, at a relevant time, a breach of the Code of Conduct [<sup>F6</sup>or the Ministerial Code, or both,] has occurred;
  - (b) a referral to the Commissioner made by any person specified in the standing orders as being a person who may make referrals in relation to any matter specified in the standing orders as being a matter in respect of which the Commissioner must carry out an investigation.
- (3) In this section—
- “the Code of Conduct” means—
- (a) any code of conduct for members of the Assembly, and
  - (b) any guide to the rules relating to the conduct of members of the Assembly, which has been agreed to by the Assembly; and
- [<sup>F7</sup>the Ministerial Code” means the Ministerial Code of Conduct set out in Schedule 4 to the 1998 Act;]
- a “relevant time” means a time (whether before or after this section comes into operation) when a requirement to comply with the Code of Conduct [<sup>F8</sup>or the Ministerial Code, or both,] was in force.

#### Textual Amendments

- F3** Words in s. 17(1)(a) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(2\), 14\(2\)](#)
- F4** Words in s. 17(1)(b) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(3\), 14\(2\)](#)
- F5** Words in s. 17(1)(d) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(4\), 14\(2\)](#)
- F6** Words in s. 17(2)(a) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(5\), 14\(2\)](#)
- F7** Words in s. 17(3) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(6\), 14\(2\)](#)
- F8** Words in s. 17(3) inserted (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\), ss. 5\(7\), 14\(2\)](#)

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**Commencement Information**

**II** S. 17 in operation at 17.9.2012 by [S.R. 2012/334](#), [art. 2\(a\)](#)

*Independent status***Independence of the Commissioner**

**18.—**(1) Subject to section 24, the Commissioner shall not, in the exercise of any function, be subject to the direction or control of the Assembly.

(2) The Commissioner is not a member of the staff of the Assembly.

*Appointment, etc.***Appointment of the Commissioner**

**19.—**(1) The Commissioner shall be appointed by resolution of the Assembly.

(2) The Commissioner shall be appointed for a term of 5 years.

(3) A person may not be appointed as the Commissioner if that person has already held office as the Commissioner.

(4) The Assembly shall make arrangements for—

(a) ensuring that any person to be appointed as Commissioner has been identified by fair and open competition;

(b) determining any criteria for appointment; and

(c) determining the terms and conditions on which such appointment, when made, is to have effect.

(5) The Assembly may delegate to the Commission any of the functions referred to in subsection (4).

**Disqualification from being appointed or serving as the Commissioner**

**20.—**(1) Schedule 3 makes provision as to the persons who are disqualified from being appointed or serving as the Commissioner.

(2) The Commission may by order amend Schedule 3.

(3) An order under this section shall not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.

**Termination of the Commissioner's appointment**

**21.—**(1) The appointment of a person as Commissioner ceases—

(a) on the expiry of the term for which that person was appointed;

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- (b) if that person resigns by giving notice in writing to the Presiding Officer;
- (c) if that person becomes disqualified from serving as the Commissioner; or
- (d) if the Assembly dismisses that person under subsection (2).

(2) The Assembly may by resolution dismiss a person from office as the Commissioner.

(3) A resolution under subsection (2) shall not be passed without the support of a number of members of the Assembly which equals or exceeds two thirds of the total number of members voting on the resolution.

### **Further provision about the Commissioner**

**22** Schedule 4 makes further provision about the Commissioner.

### **Appointment of an Acting Commissioner**

**23.**—(1) When the office of the Commissioner is vacant or the Commissioner is, for any reason, unable to act, the Assembly may appoint a person to discharge any function of that office until such time as may be specified by the terms and conditions of such appointment; and a person so appointed is referred to in this section as an “Acting Commissioner”.

(2) There may be more than one Acting Commissioner at any one time.

(3) The Assembly may delegate to the Commission any matter connected with the appointment of an Acting Commissioner, including the terms of such appointment (but not the appointment itself).

(4) The Commissioner and an Acting Commissioner may each discharge the functions of the Commissioner at the same time in relation to different investigations or requests for advice.

(5) A person who is disqualified from being appointed or serving as the Commissioner is disqualified from being appointed or serving as an Acting Commissioner.

(6) The appointment of a person as an Acting Commissioner ceases in any of the circumstances specified (in relation to the Commissioner) in section 21.

(7) Anything done by an Acting Commissioner in accordance with the provisions of this Act and an appointment made under subsection (1) shall be valid as if it had been done by the Commissioner.

(8) Sections 18, 22 and 24 to 34 shall apply to the discharge by an Acting Commissioner of the function which that Acting Commissioner was appointed to discharge as if references in those sections to the Commissioner were references to an Acting Commissioner.

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*Procedure, etc.*

**Directions to the Commissioner**

**24.**—(1) The Commissioner shall comply with any directions given by the Assembly under this section.

(2) Directions given under this section may include provision—

- (a) as to the general procedure to be followed by the Commissioner in the exercise of the Commissioner's functions; and
- (b) requiring the Commissioner—
  - (i) to comply with such principles, codes of conduct and other statements of standards or ethics as the Assembly may specify; and
  - (ii) to register such financial and other interests on such occasions and in such manner as the Assembly may require.

(3) A direction under this section may not—

- (a) prevent the Commissioner from carrying out any specific investigation in accordance with this Part;
- (b) limit the scope of any such investigation;
- (c) direct the Commissioner as to how any such investigation is to be carried out or reported to the Assembly;
- (d) interfere with the exercise of the Commissioner's discretion in relation to any specific investigation; or
- (e) otherwise interfere with the exercise of the Commissioner's functions under this Part in respect of any specific investigation.

*Investigations*

**Investigations by the Commissioner**

**25** The Commissioner shall determine the procedure for and timing of—

- (a) any specific investigation; and
- (b) the report to the Assembly on the outcome of that investigation.

**Commencement Information**

**I2** S. 25 in operation at 17.9.2012 by S.R. 2012/334, art. 2(b)

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## Further investigations

**26** Following receipt of a report from the Commissioner the Assembly may request the Commissioner to carry out such further investigation as may be specified in the request, and the Commissioner shall report to the Assembly—

- (a) on the outcome of the further investigation; or
- (b) that on considering the request the Commissioner has concluded that the further investigation would be unnecessary and the reasons for that conclusion.

### Commencement Information

**I3** S. 26 in operation at 17.9.2012 by S.R. 2012/334, art. 2(b)

## Reports

**27.—(1)** A report made by the Commissioner under this Part may not include any specific recommendation for the imposition of a sanction on a member of the Assembly [<sup>F9</sup>or Minister] but may otherwise make such recommendations as the Commissioner thinks fit.

(2) A report made by the Commissioner under this Part shall be in writing.

(3) The Assembly shall publish a report made by the Commissioner under this Part as soon as reasonably practicable after—

- (a) receipt of the report; or
- (b) if later, receipt of a report under section 26 which relates to the same matter under investigation and which is not followed by a further request under that section.

(4) The Assembly is not bound by the facts found, nor the conclusions reached, by the Commissioner in any report.

### Textual Amendments

**F9** Words in s. 27(1) inserted (22.3.2021) by Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021 (c. 3), ss. 5(8), 14(2)

### Commencement Information

**I4** S. 27 in operation at 17.9.2012 by S.R. 2012/334, art. 2(b)

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### *Investigatory powers of the Commissioner*

#### **Power to call for witnesses and documents**

**28.—**(1) In carrying out any investigation under this Part the Commissioner may require any person—

- (a) to attend before the Commissioner for the purpose of giving evidence, or
- (b) to produce to the Commissioner documents in the custody or under the control of that person,

relating to the investigation.

(2) The Commissioner may not impose such a requirement upon any person whom the Assembly could not require, under section 44 of the 1998 Act, to attend its proceedings for the purpose of giving evidence or to produce any document for the same purpose.

(3) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in proceedings in a court in Northern Ireland.

(4) For the purposes of this section—

- (a) a person shall be taken to comply with a requirement to produce a document if that person produces a copy of the document or an extract of the relevant part of the document;
- (b) “document” means anything in which information is recorded in any form; and
- (c) references to producing a document are to producing the information recorded in it in a visible and legible form.

(5) The Commissioner may agree the payment to persons giving evidence, or producing documents relating to an investigation (whether or not as the result of a requirement imposed under this section), of such reasonable allowances and expenses as the Commissioner may determine.

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#### **Commencement Information**

**I5** [S. 28](#) in operation at 17.9.2012 by [S.R. 2012/334](#), [art. 2\(c\)](#)

#### **Witnesses and documents: notice**

**29.—**(1) The Commissioner shall impose any requirement under section 28 on a person by giving that person notice in writing specifying—

- (a) the time and place at which the person is to attend and the particular matters relating to which the person is required to give evidence;

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- (b) the documents, or types of documents, which the person is to produce, the date by which they are to be produced and the particular matters to which they are to relate.
- (2) Notice under subsection (1) shall be given—
- (a) in the case of an individual, by sending it in accordance with subsection (3) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address;
  - (b) in any other case, by sending it in accordance with subsection (3) addressed to the person at the person's registered or principal office.
- (3) A notice is sent in accordance with this subsection if it is sent—
- (a) by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)); or
  - (b) by a postal service which provides for its delivery by post to be recorded.

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**Commencement Information**

**I6** S. 29 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

**Witnesses: oaths**

- 30** The Commissioner may—
- (a) administer an oath to any person giving evidence to the Commissioner; and
  - (b) require that person to take an oath.

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**Commencement Information**

**I7** S. 30 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

**Offences**

- 31.—(1)** Subject to section 28(3), a person to whom a notice has been given under section 29(1) who—
- (a) refuses or fails to attend before the Commissioner as required by the notice,
  - (b) refuses or fails, when attending before the Commissioner as required by the notice, to answer any question concerning any matter specified in the notice,
  - (c) intentionally alters, suppresses, conceals or destroys any document required to be produced by the notice, or
  - (d) refuses or fails to produce any such document,

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is guilty of an offence.

(2) Any person who refuses to take an oath when required to do so under section 30 is guilty of an offence.

(3) It is a defence for a person charged with an offence under subsection (1) (a), (b) or (d) or subsection (2) to prove that the person had a reasonable excuse for the refusal or failure.

(4) A person guilty of an offence under this section is liable on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; or
- (b) to imprisonment for a period not exceeding 3 months.

**Commencement Information**

**18** S. 31 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

**Protection from defamation actions**

**32.—**(1) For the purposes of the law of defamation, any statement made in pursuance of the purposes of this Part—

- (a) by the Commissioner shall have absolute privilege; and
- (b) to the Commissioner shall have qualified privilege.

(2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

**Commencement Information**

**19** S. 32 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

**Restriction on disclosure of information**

**33.—**(1) Subject to subsection (2), the Commissioner, or any person who has (at any time and in any capacity) assisted the Commissioner in the discharge of functions under this Act, shall not disclose any information contained in any complaint or referral, or any information which is furnished to or obtained by the Commissioner or such person in the course of, or for the purposes of, an investigation under this Part.

(2) Such information may be disclosed for the purpose of—

- (a) enabling or assisting the Commissioner to discharge any function imposed or conferred on the Commissioner by virtue of any provision of—
  - (i) this Part;



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- (ii) any other statutory provision;
  - (iii) the standing orders of the Assembly; or
  - (iv) any direction or other requirement imposed by the Assembly; or
- (b) the investigation or prosecution of any offence or suspected offence.

**Commencement Information**

**110** S. 33 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

## PART 3

### SUPPLEMENTARY PROVISIONS

#### *Miscellaneous*

#### **Transitional provisions**

**34.**—(1) This section applies to any complaint or matter which on the day on which section 17 comes into operation—

- (a) has been referred to the Assembly Commissioner for Standards; and
- (b) is, or but for the provisions of this Part would be, the subject of an investigation by that Commissioner under Standing Order 69A.

(2) On the day on which section 17 comes into operation, any complaint or matter to which this section applies shall be transferred to the Commissioner and—

- (a) shall be deemed to have been referred to the Commissioner under section 17; and
- (b) Part 2 shall apply to any such matter.

(3) All information which has been obtained by or made available to the Assembly Commissioner for Standards in connection with a complaint or matter to which this section applies shall be transferred or made available to the Commissioner and shall be treated as if it had been received by the Commissioner on a referral under section 17.

(4) In this section “Assembly Commissioner for Standards” means the Assembly Commissioner for Standards established under Standing Order 69A(1).

#### **Orders**

**35** The Commission shall be a rule-making authority for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).

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### **Consequential amendments**

**36** The amendments in Schedule 5 (being amendments consequential on the provisions of this Act) shall have effect.

### **Interpretation: general**

**37.—(1)** In this Act—

“the 1998 Act” means the Northern Ireland Act 1998 (c. 47);

“the Commission” means the Northern Ireland Assembly Commission;

“the Commissioner” means the Northern Ireland Assembly Commissioner for Standards established by section 16;

“the Presiding Officer” means the Presiding Officer of the Assembly elected under section 39 of the 1998 Act; and

“staff of the Assembly” means staff appointed by the Commission under paragraph 2(1) of Schedule 5 to the 1998 Act.

(2) “Standing Order 69A” means Standing Order 69A of the standing orders of the Assembly as amended on 29 June 2010 and includes any provision in the standing orders of the Assembly amending or replacing Standing Order 69A.

### **Commencement**

**38.—(1)** The following provisions come into operation on the day on which this Act receives Royal Assent—

(a) Part 1 and Schedules 1 and 2;

(b) in Part 2, sections 16, 18 to 24 and Schedules 3 and 4;

(c) this Part and Schedule 5.

(2) The other provisions of this Act come into operation on such day or days as the Commission may by order appoint.

### **Short title**

**39** This Act may be cited as the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011.

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## SCHEDULES

### SCHEDULE 1

Section 5.

#### DISQUALIFICATION FROM MEMBERSHIP OF THE PANEL

**1** The following persons are disqualified from being appointed or serving as Panel members—

- (a) a member of the Assembly;
- (b) a family member of a member of the Assembly;
- (c) a candidate for election to the Assembly;
- (d) a former member of the Assembly;
- (e) a member of the European Parliament, the House of Commons, the House of Lords, the Scottish Parliament, the National Assembly for Wales, Dáil Éireann (House of Representatives of Ireland) or the Seanad Éireann (Senate of Ireland);
- (f) a councillor;
- (g) a person employed by a political party;
- (h) a person employed by a member of the Assembly;
- (i) a member of the staff of the Assembly;
- (j) a former member of the staff of the Assembly;
- (k) a person employed by a Northern Ireland department;
- (l) a person who has been employed by a Northern Ireland department at any time in the two years prior to the date when the appointment is to take effect;
- (m) a person employed by a district council;
- (n) a person who has been employed by a district council at any time in the two years prior to the date when the appointment is to take effect;
- (o) the Northern Ireland Assembly Commissioner for Standards;
- (p) the Comptroller and Auditor General for Northern Ireland;
- (q) the Attorney General for Northern Ireland; and
- (r) a person who has been the Attorney General for Northern Ireland at any time in the 5 years prior to the date when the appointment is to take effect.

**2** For the purposes of paragraph 1(c), a person becomes a candidate for election to the Assembly on the day on which that person becomes a candidate within the

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meaning of section 118A(1) and (2) of the Representation of the People Act 1983 (c. 2) as applied to the Assembly by Article 3 of the Northern Ireland Assembly (Elections) Order 2001 (SI 2001/2599).

**3** In this Schedule—

“civil partner” has the same meaning as in section 1 of the Civil Partnership Act 2004 (c. 33);

“cohabitant” means either member of a couple consisting [<sup>F10</sup> of two people who are living together as if spouses of each other];

“councillor” means a member of a district council;

“family member” means—

- (a) parent, child, grandparent or grandchild;
- (b) brother, sister, uncle, aunt, nephew or niece (whether of the full or half blood);
- (c) spouse or any person related to a spouse in any of the ways set out in subparagraphs (a) or (b);
- (d) civil partner or any person related to a civil partner in any of the ways set out in sub-paragraphs (a) or (b); and
- (e) cohabitant or any person related to a cohabitant in any of the ways set out in sub-paragraphs (a) or (b); and

“political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

**Textual Amendments**

**F10** Words in Sch. 1 para. 3 substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **166(a)** (with regs. 6-9)

SCHEDULE 2

Section 8.

PANEL: ADMINISTRATIVE AND FINANCIAL ARRANGEMENTS

*Terms and conditions*

**1** Subject to sections 4 and 6, the Commission shall determine the terms and conditions of appointment applicable to each Panel member.

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### *Administrative support and accommodation*

2.—(1) The Commission shall provide the Panel, or ensure that the Panel is provided, with such administrative support, including staff, services and accommodation, as the Panel may reasonably require to enable it to discharge its functions.

(2) From time to time, and in any case before providing any support under subparagraph (1), the Commission shall consult the Panel about such support so as to secure that such provision (and in particular the duties of the staff of the Assembly and the separation of the Panel's work from the business of the Assembly or of the Commission) does not call into question the Panel's independence.

### *Funding*

3 The Commission shall—

- (a) pay such sums as are payable in accordance with the Panel members' terms and conditions of appointment; and
- (b) pay any expenses properly incurred by the Panel.

## SCHEDULE 3

Section 20.

### DISQUALIFICATION FROM BEING APPOINTED OR SERVING AS THE COMMISSIONER

1 The following persons are disqualified from being appointed or serving as the Commissioner—

- (a) a member of the Assembly;
- (b) a family member of a member of the Assembly;
- (c) a candidate for election to the Assembly;
- (d) a person who has been a member of the Assembly at any time in the 5 years prior to the date when the appointment is to take effect;
- (e) a member of the European Parliament, the House of Commons, the House of Lords, the Scottish Parliament, the National Assembly for Wales, Dáil Éireann (House of Representatives of Ireland) or the Seanad Éireann (Senate of Ireland);
- (f) a person who has been a member of the European Parliament, the House of Commons, the House of Lords, the Scottish Parliament, the National Assembly for Wales, Dáil Éireann (House of Representatives of Ireland) or the Seanad Éireann (Senate of Ireland) at any time in the 5 years prior to the date when the appointment is to take effect;
- (g) a councillor;

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- (h) a person who has been a councillor at any time in the 5 years prior to the date when the appointment is to take effect;
- (i) a person employed by a political party;
- (j) a person who has been employed by a political party at any time in the 5 years prior to the date when the appointment is to take effect;
- (k) a person employed by a member of the Assembly;
- (l) a person who at any time in the 5 years prior to the date when the appointment is to take effect has been employed by a member of the Assembly;
- (m) a member of the staff of the Assembly;
- (n) a person who has been a member of the staff of the Assembly at any time in the two years prior to the date when the appointment is to take effect;
- (o) a person employed by a district council;
- (p) a person who has been employed by a district council at any time in the two years prior to the date when the appointment is to take effect;
- (q) a person employed by a Northern Ireland department;
- (r) a person who has been employed by a Northern Ireland department at any time in the two years prior to the date when the appointment is to take effect;
- (s) the Attorney General for Northern Ireland; and
- (t) a person who has been the Attorney General for Northern Ireland at any time in the 5 years prior to the date when the appointment is to take effect.

**2** For the purposes of paragraph 1(c), a person becomes a candidate for election to the Assembly on the day on which that person becomes a candidate within the meaning of section 118A(1) and (2) of the Representation of the People Act 1983 (c. 2) as applied to the Assembly by Article 3 of the Northern Ireland Assembly (Elections) Order 2001 (SI 2001/2599).

**3** In this Schedule—

“civil partner” has the same meaning as in section 1 of the Civil Partnership Act 2004 (c. 33);

“cohabitant” means either member of a couple consisting [<sup>F11</sup>of two people who are living together as if spouses of each other];

“councillor” means a member of a district council;

“family member” means—

- (a) parent, child, grandparent or grandchild;
- (b) brother, sister, uncle, aunt, nephew or niece (whether of the full or half blood);

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- (c) spouse or any person related to a spouse in any of the ways set out in subparagraphs (a) or (b);
- (d) civil partner or any person related to a civil partner in any of the ways set out in sub-paragraphs (a) or (b); and
- (e) cohabitant or any person related to a cohabitant in any of the ways set out in sub-paragraphs (a) or (b); and

“political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

#### Textual Amendments

- F11** Words in Sch. 3 para. 3 substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **166(b)** (with regs. 6-9)

## SCHEDULE 4

Section 22.

### COMMISSIONER: FURTHER PROVISION

#### *Terms and conditions*

**1** The terms and conditions of appointment applicable to the Commissioner may include provision for superannuation benefits, pensions and gratuities.

#### *Documents*

**2.—(1)** The application of the seal of the Commissioner is to be authenticated by the signature of—

- (a) the Commissioner; or
- (b) any person authorised by the Commissioner for that purpose.

(2) A document purporting to be duly executed under the seal of the Commissioner or to be signed on the Commissioner's behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.

#### *Support and accommodation*

**3.—(1)** The Commission shall provide the Commissioner with such administrative and other support, including staff, services and accommodation,

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as the Commissioner may reasonably require for the purpose of discharging the functions imposed on the Commissioner by this Act.

(2) From time to time, and in any case before providing any support under sub-paragraph (1), the Commission shall consult the Commissioner about such support so as to secure that such provision (and in particular the duties of the staff of the Assembly and the separation of the Commissioner's work from the business of the Assembly or of the Commission) does not call into question the Commissioner's independence.

#### *Goods and services*

4.—(1) The Commissioner may, on such terms as the Commissioner may determine, secure the provision of such goods or services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.

(2) The Commissioner may enter into arrangements with any public body or holder of a public office, upon such terms as the Commissioner and such body or office holder may agree, for the provision by that body or office holder of such services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.

#### *General Powers*

5 The Commissioner may do anything (except borrow money or employ staff) which is calculated to facilitate the carrying out of the Commissioner's functions or is incidental or conducive to the carrying out of those functions.

#### *Financial Prudence*

6.—(1) The Commissioner shall, in relation to any liability which the Commission may be required to discharge under paragraph 4, 5 or 9(b) or (c), consult the Commission and must do so—

- (a) if reasonably practicable, before incurring the liability in question,
- (b) if not, as soon thereafter as is reasonably practicable.

(2) The Commissioner's duty to consult the Commission under sub-paragraph (1) may be discharged in relation to a particular liability either—

- (a) by providing the Commission with particulars of the liability in question,  
or
- (b) by notifying the Commission that liabilities may be incurred of such description and maximum total amount as may be specified in the notification.

(3) The Commissioner shall have regard to any representations which the Commission may make when consulted under sub-paragraph (1).



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### *Annual Report*

7 The Commissioner shall, as soon as practicable after the end of each financial year, lay before the Assembly a report on the Commissioner's activities, including the use of resources, during that financial year.

### *Financial Information*

8 The Commissioner shall provide the Commission with such information about the Commissioner's financial affairs and transactions as the Commission may reasonably require.

### *Funding*

9 The Commission shall—

- (a) pay such sums as are payable in accordance with the Commissioner's terms and conditions of appointment;
- (b) pay or reimburse any expenses properly incurred by the Commissioner; and
- (c) indemnify the Commissioner in respect of any payments agreed under section 28(5) or any other liabilities incurred by the Commissioner.

### *Validity of actions*

10 The validity of the exercise of any function of the Commissioner is not affected by a defect in the appointment of the Commissioner.

## SCHEDULE 5

Section 36.

### CONSEQUENTIAL AMENDMENTS

#### *The Statutory Rules (Northern Ireland) Order 1979 (NI 12)*

1 In Part 1 of Schedule 1 to that Order, after the entry relating to the Foyle, Carlingford and Irish Lights Commission, insert— “ The Northern Ireland Assembly Commission ”.

#### *The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)*

<sup>F12</sup>2 .....

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**Textual Amendments**

- F12** Sch. 5 para. 2 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016](#) (c. 4), s. 64, [Sch. 9](#) (with ss. 23, 50(3))

*The Freedom of Information Act 2000 (c. 36)*

**3** In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act) insert, at the appropriate place— “ The Independent Financial Review Panel ”.

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**Changes and effects yet to be applied to :**

- [s. 6\(2\)\(b\) words inserted by S.R. 2015/159 Sch. Pt. 1 para. 20](#)