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## 2011 CHAPTER 17

### **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.

##### **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

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- (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;
  - (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.

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### *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 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.

#### **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—

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- (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.

### *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.

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(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—

- (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.

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### **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—

- (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;

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“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.

### **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 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).

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