

PROSPECTIVE

SCHEDULES

SCHEDULE 1

Section 1(5).

THE LEGAL SERVICES OVERSIGHT
COMMISSIONER FOR NORTHERN IRELAND*Status*

- 1.—(1) The person for the time being holding the office of Legal Services Oversight Commissioner for Northern Ireland shall by that name be a corporation sole.
- (2) The Commissioner shall not be regarded—
- (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) Any property held by the Commissioner shall not be regarded as property of, or held on behalf of, the Crown.

General powers

- 2.—(1) The Commissioner may do anything, apart from borrowing money, which the Commissioner considers is—
- (a) appropriate for facilitating; or
 - (b) incidental or conducive to,
- the exercise of the Commissioner's functions.
- (2) That includes in particular—
- (a) acquiring, holding and disposing of real or personal property;
 - (b) entering into contracts.

Tenure of office

- 3.—(1) Subject to the provisions of this paragraph, a person shall hold and vacate office as the Commissioner in accordance with the terms of that person's appointment.

(2) An appointment as the Commissioner shall be for a term of 3 years.

(3) A person who ceases to be the Commissioner on the expiration of that person's first term of office shall be eligible for re-appointment, but a person who has been re-appointed by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as the Commissioner at any time after the end of that person's second term of office.

(4) A person may at any time resign from office as the Commissioner by notice to the Department.

(5) The Department may remove a person from office as the Commissioner if satisfied that that person has—

- (a) been convicted of a criminal offence;
- (b) become bankrupt or a composition or scheme proposed by the person has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989;
- (c) without reasonable excuse, failed to discharge the functions of the Commissioner for a continuous period of 3 months; or
- (d) become unfit or unable to exercise the functions of the Commissioner.

Acting Commissioner

4.—(1) The Department may appoint a person to exercise the functions of the Commissioner where—

- (a) the Commissioner's office becomes vacant; or
- (b) the Commissioner is incapable of exercising those functions or considers that it would be inappropriate to exercise any of those functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).

(2) A person so appointed shall have the powers of the Commissioner but shall act only in accordance with the terms of that person's appointment.

(3) The Department may pay to any person so appointed such remuneration as it may determine.

Salary, etc.

5.—(1) The Department may pay to or in respect of the Commissioner—

- (a) such remuneration and allowances; and
- (b) such sums for the provision of a pension,

as the Department may determine.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of that person's term of office and the Department determines that there are special circumstances that make it right for that person to receive compensation, the Department may make to that person a payment of such amount as the Department may determine.

Staff

6.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph shall be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes a reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Department.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry shall be inserted at the appropriate place— “ Employment by the Legal Services Oversight Commissioner for Northern Ireland. ”.

7 The Commissioner may make arrangements for securing the provision to the Commissioner of such assistance by persons employed in—

- (a) the civil service of the United Kingdom; or
- (b) the civil service of Northern Ireland,

as the Commissioner considers appropriate for or in connection with the exercise of the Commissioner's functions.

8 The Commissioner may, with the approval of the Department, engage the services of such other persons as the Commissioner considers necessary or expedient.

Exercise of functions of Commissioner

9 Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Seal

10 The application of the seal of the Commissioner shall be authenticated by the Commissioner's signature or by the signature of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

11 A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by, or on behalf of, the Commissioner shall be received in evidence and shall, unless the contrary is proved, be taken to be such an instrument.

Property

12.—(1) Any real or personal property vested in the Commissioner shall (unless and until disclaimed or disposed of) vest in the Commissioner's successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property shall vest in the successor on his or her appointment.

Accounts

13.—(1) The Commissioner must—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must—

- (a) be in such form; and
- (b) contain such information,

as the Department may direct.

(3) The Commissioner must, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

- (a) the Department; and
- (b) the Comptroller and Auditor General.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on every statement of accounts sent to him or her by the Commissioner under this paragraph; and
 - (b) send a copy of the report to the Department.
- (5) The Department must lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) In this paragraph and paragraph 14 “financial year” means—
- (a) the period beginning with the day on which the first person appointed under section 1(2) takes office and ending with the next 31st March following that date; and
 - (b) each successive period of 12 months ending with 31st March.
- (7) In this paragraph “the Comptroller and Auditor General” means the Comptroller and Auditor General for Northern Ireland.

Annual report

- 14.—**(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Department a report, in such form as the Department may require, on the carrying out of the Commissioner's functions during that year.
- (2) Without prejudice to the generality of sub-paragraph (1), a report sent to the Department under that sub-paragraph must contain information about the number of complaints made in relation to the members of each professional body during the year to which the report relates.
- (3) The Commissioner may, in addition, report to the Department at any time on any matter relating to the discharge of the Commissioner's functions.
- (4) The Department must lay a copy of every report sent to it under this paragraph before the Assembly.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 15** In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place— “ Legal Services Oversight Commissioner for Northern Ireland. ”.

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

- 16** In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) there shall be inserted at the appropriate place— “ The Legal Services Oversight Commissioner for Northern Ireland. ”.

The Freedom of Information Act 2000 (c. 36)

17 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of that Act) there shall be inserted at the appropriate place— “ The Legal Services Oversight Commissioner for Northern Ireland. ”.

SCHEDULE 2

Section 12(2).

THE BAR COMPLAINTS COMMITTEE

Membership

1 The Bar Complaints Committee is to consist of the following members—

- (a) a chair appointed by the Benchers;
- (b) such number of other members appointed by the Benchers as the Benchers think fit.

2 The Benchers must consult the Legal Services Oversight Commissioner about the manner in which members of the Bar Complaints Committee are to be appointed.

3 The Benchers must consult the Legal Services Oversight Commissioner before appointing members of the Bar Complaints Committee.

4.—(1) In appointing members of the Bar Complaints Committee, the Benchers must ensure that—

- (a) a majority of the members of the Committee are lay persons; and
- (b) none of the members of the Committee are members of the General Council of the Bar.

(2) The chair of the Bar Complaints Committee must be a lay person.

(3) In this Schedule a reference to a lay person is a reference to a person who is not and has never been a solicitor or barrister.

Terms of office

5.—(1) Subject to the provisions of this Schedule, a member of the Bar Complaints Committee shall hold and vacate office in accordance with the terms of that member's appointment.

(2) A person shall not be appointed as a member for more than 5 years at a time, and a person appointed to fill a casual vacancy shall hold office for the remainder of the term of the person in whose place that person is appointed.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

(3) A person who ceases to be a member on the expiration of that person's first term as a member shall be eligible for re-appointment, but a person who has been re-appointed as a member by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as a member at any time after the end of that person's second term as a member.

(4) A member may at any time—

- (a) resign by giving notice to the Benchers;
- (b) be removed from office by the Benchers.

(5) The Benchers may not under sub-paragraph (4)(b) remove a member (including the chair) from office unless the Benchers are satisfied that the member has—

- (a) failed to handle complaints in accordance with a plan submitted to the Legal Services Oversight Commissioner under section 2(1)(g);
- (b) failed to comply with any recommendation made by the Legal Services Oversight Commissioner in relation to the handling of complaints;
- (c) been convicted of a criminal offence;
- (d) become bankrupt or a composition or scheme proposed by the member has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989;
- (e) without reasonable excuse failed to exercise that member's functions for a continuous period of 6 months;
- (f) become unfit or unable to exercise that member's functions.

(6) The chair may only be removed from office under sub-paragraph (4)(b) with the consent of the Legal Services Oversight Commissioner.

(7) The Benchers must consult the chair and the Legal Services Oversight Commissioner before removing a member (other than the chair) under sub-paragraph (4)(b).

(8) A member (including the chair) may only be removed from office under sub-paragraph (4)(b) for a reason mentioned in sub-paragraph (5)(a) or (b) with the consent of the Legal Services Oversight Commissioner.

Remuneration, etc. of members

6.—(1) The Benchers must make arrangements for the payment to the members of the Bar Complaints Committee of such remuneration and allowances (if any) as the Benchers may determine.

(2) If—

- (a) a person ceases to be a member of the Committee; and

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

(b) it appears to the Benchers that there are special circumstances which make it right that that person should receive compensation, the Benchers may make arrangements for that person to be paid such amount as the Benchers may determine.

Arrangements for assistance

7.—(1) The Bar Complaints Committee may make arrangements with such persons as it considers appropriate for assistance to be provided to it.

(2) Arrangements may include the paying of fees to such persons.

Sub-committees

8.—(1) The Bar Complaints Committee may establish sub-committees.

(2) Subject to the following provisions of this paragraph, the Committee may authorise a sub-committee to exercise, on behalf of the Committee, such of the Committee's functions, in such circumstances, as the Committee may determine.

(3) Only members of the Committee may be members of a sub-committee.

(4) A majority of the members of a sub-committee must be lay persons.

Proceedings

9 Subject to the provisions of this Schedule and Part 2 and any rules made under that Part, the Bar Complaints Committee may regulate its own procedure and the procedure of its sub-committees, including quorum.

SCHEDULE 3

Section 30(3).

THE SOLICITORS COMPLAINTS COMMITTEE

Membership

1 The Solicitors Complaints Committee is to consist of the following members—

(a) a chair appointed by the Law Society;

(b) such number of other members appointed by the Law Society as the Law Society thinks fit.

2 The Law Society must consult the Legal Services Oversight Commissioner about the manner in which members of the Committee are to be appointed.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

3 The Law Society must consult the Legal Services Oversight Commissioner before appointing members of the Solicitors Complaints Committee.

4.—(1) In appointing members of the Solicitors Complaints Committee, the Law Society must ensure that—

- (a) a majority of the members of the Committee are lay persons; and
- (b) none of the members of the Committee are members of the Council of the Law Society.

(2) The chair of the Solicitors Complaints Committee must be a lay person.

(3) In this Schedule a reference to a lay person is a reference to a person who is not and has never been a barrister or solicitor.

Terms of office

5.—(1) Subject to the provisions of this Schedule, a member of the Solicitors Complaints Committee shall hold and vacate office in accordance with the terms of that member's appointment.

(2) A person shall not be appointed as a member for more than 5 years at a time, and a person appointed to fill a casual vacancy shall hold office for the remainder of the term of the person in whose place that person is appointed.

(3) A person who ceases to be a member on the expiration of that person's first term as a member shall be eligible for re-appointment, but a person who has been re-appointed as a member by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as a member at any time after the end of that person's second term as a member.

(4) A member may at any time—

- (a) resign by giving notice to the Law Society;
- (b) be removed from office by the Law Society.

(5) The Law Society may not under sub-paragraph (4)(b) remove a member (including the chair) from office unless the Society is satisfied that the member has—

- (a) failed to handle complaints in accordance with a plan submitted to the Legal Services Oversight Commissioner under section 2(1)(g);
- (b) failed to comply with any recommendation made by the Legal Services Oversight Commissioner in relation to the handling of complaints;
- (c) been convicted of a criminal offence;
- (d) become bankrupt or a composition or scheme proposed by the member has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989;

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

(e) without reasonable excuse failed to exercise that member's functions for a continuous period of 6 months;

(f) become unfit or unable to exercise that member's functions.

(6) The chair may only be removed from office under sub-paragraph (4)(b) with the consent of the Legal Services Oversight Commissioner.

(7) The Law Society must consult the chair and the Legal Services Oversight Commissioner before removing a member (other than the chair) under sub-paragraph (4)(b).

(8) A member (including the chair) may only be removed from office under sub-paragraph (4)(b) for a reason mentioned in sub-paragraph (5)(a) or (b) with the consent of the Legal Services Oversight Commissioner.

Remuneration, etc. of members

6.—(1) The Law Society shall pay to the members of the Solicitors Complaints Committee such remuneration and allowances as the Society may determine.

(2) If—

(a) a person ceases to be a member of the Committee; and

(b) it appears to the Law Society that there are special circumstances which make it right that that person should receive compensation,

the Society may make a payment to that person of such amount as the Society may determine.

Arrangements for assistance

7.—(1) The Solicitors Complaints Committee may make arrangements with such persons as it considers appropriate for assistance to be provided to it.

(2) Arrangements may include the paying of fees to such persons.

Sub-committees

8.—(1) The Solicitors Complaints Committee may establish sub-committees.

(2) Subject to the following provisions of this paragraph, the Committee may authorise a sub-committee to exercise, on behalf of the Committee, such of the Committee's functions, in such circumstances, as the Committee may determine.

(3) Only members of the Committee may be members of a sub-committee.

(4) A majority of the members of a sub-committee must be lay persons.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

Proceedings

9 Subject to the provisions of this Schedule and Part 3 and any rules made under that Part, the Solicitors Complaints Committee may regulate its own procedure and the procedure of its sub-committees, including quorum.

SCHEDULE 4

Section 53.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

1 In Schedule 1, in Part 3, omit the entry relating to the lay observer appointed under Article 42 of the Solicitors (Northern Ireland) Order 1976.

The Solicitors (Northern Ireland) Order 1976 (NI 12)

2.—(1) In Article 3(2) (interpretation), at the appropriate place insert—
“the Legal Services Oversight Commissioner” means the Legal Services Oversight Commissioner for Northern Ireland;”.

(2) In Article 38(a) (solicitors guilty of undue delay in certain matters), omit the words “or Article 51A”.

(3) Omit Article 41A (power of Council to impose sanctions for inadequate professional services) and the cross-heading immediately preceding that Article.

(4) In Article 41B (power of Society to examine files in connection with complaints), in paragraph (1), for the words from “to the Society” to “the Society may” substitute “ to the Society alleging professional misconduct by a solicitor, the Society may ”.

(5) In Article 46 (procedure on application or complaint against solicitor), in paragraphs (1) and (2), omit the words “or a lay observer”.

(6) In Article 51 (orders of Solicitors Disciplinary Tribunal on inquiry)—

(a) omit paragraph (2);

(b) in paragraph (3)—

(i) for “Article 41A(8)” substitute “ section 38(9) of the Legal Complaints and Regulation Act (Northern Ireland) 2016 ”;

(ii) for “Article 41A” substitute “ that section ”;

(iii) omit the words “or Article 51A”;

(c) in paragraph (6), omit the words “, Article 51A”;

(d) in paragraph (8), omit the words “, Article 51A”.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

(7) Omit Article 51A (power of Tribunal to impose sanctions for inadequate professional services).

(8) In Article 52 (effect, etc., of orders), in paragraph (2), omit sub-paragraph (d) and the word “or” preceding that sub-paragraph.

(9) In Article 73A (committees of the Council), in paragraph (5), omit “41A or”.

(10) In Schedule 1A (recognised bodies)—

(a) in paragraph 1(2)—

(i) for the words from “in relation to” to “include references to” substitute “ in relation to a complaint (other than such a complaint as is mentioned in paragraph 19(1)(a)) include references to ”;

(ii) omit the words “or application”;

(b) in paragraph 14(a) omit the words “or Article 51A”;

(c) omit paragraph 16 and the cross-heading immediately preceding it;

(d) in paragraph 17(1) for the words from “investigating” to “a recognised body” substitute “ investigating any such complaint as is mentioned in head (b), (c) or (d) of paragraph 19(1) ”;

(e) omit paragraph 18 and the cross-heading immediately preceding it;

(f) in paragraph 21 (powers of Tribunal)—

(i) in sub-paragraph (1)(d) for “Article 41A by virtue of paragraph 16” substitute “ section 38 of the Legal Complaints and Regulation Act (Northern Ireland) 2016 ”;

(ii) in sub-paragraph (3) for “paragraph 16(3) relating to a direction given under Article 41A” substitute “ section 38(9) of the Legal Complaints and Regulation Act (Northern Ireland) 2016 relating to a direction given under that section ”;

(iii) in that sub-paragraph omit the words “or paragraph 22”;

(g) omit paragraph 22 (powers of Tribunal in respect of inadequate professional services) and the cross-heading immediately preceding it;

(h) in paragraph 25 (effect, notice and recording of orders of Tribunal), in sub-paragraph (1), omit head (b) and the word “or” immediately preceding it.

The Solicitors (Amendment) (Northern Ireland) Order 1989 (NI 14)

3 In Article 16 (solicitors' discipline), omit paragraph (1).

4 Omit Article 17 (lay observers).

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

The Immigration and Asylum Act 1999 (c. 33)

5 In section 86 (designated professional bodies), in subsection (4)(d) for “lay observers appointed under Article 42 of the Solicitors (Northern Ireland) Order 1976” substitute “Legal Services Oversight Commissioner for Northern Ireland”.

6 In Schedule 5 (Immigration Services Commissioner) in paragraph 4(2)(d) for “lay observers appointed under Article 42 of the Solicitors (Northern Ireland) Order 1976” substitute “Legal Services Oversight Commissioner for Northern Ireland”.

The Freedom of Information Act 2000 (c. 36)

7 In Schedule 1 (public bodies and offices: Northern Ireland), in Part 7, omit the entry relating to the Lay Observer for Northern Ireland.

SCHEDULE 5

Section 54.

REPEALS

Short Title	Extent of Repeal
The Northern Ireland Assembly Disqualification Act 1975 (c. 25).	In Schedule 1, in Part 3, the entry relating to the lay observer appointed under Article 42 of the Solicitors (Northern Ireland) Order 1976.
The Solicitors (Northern Ireland) Order 1976 (NI 12).	In Article 38(a), the words “or Article 51A”. Article 41A and the cross-heading immediately preceding that Article. Article 42. In Article 46(1), the words “or a lay observer”. In Article 46(2), the words “or a lay observer”. In Article 51, paragraph (2). In Article 51(3), the words “or Article 51A”. In Article 51(6), the words “, Article 51A”.

Changes to legislation: There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016. (See end of Document for details)

In Article 51(8), the words “, Article 51A”.

Article 51A.

In Article 52(2), sub-paragraph (d) and the word “or” preceding it.

In Article 73A, in paragraph (5), the words “41A or”.

In Schedule 1A—

- (a) in paragraph 1(2), the words “or application”;
- (b) in paragraph 14(a), the words “or Article 51A”;
- (c) paragraph 16, and the cross-heading immediately preceding it;
- (d) paragraph 18, and the cross-heading immediately preceding it;
- (e) in paragraph 21(3), the words “or paragraph 22”;
- (f) paragraph 22, and the cross-heading immediately preceding it;
- (g) paragraph 25(1)(b) and the word “or” immediately preceding it.

The Solicitors (Amendment) (Northern Ireland) Order 1989 (NI 14). In Article 16, paragraph (1).
Article 17.

The Freedom of Information Act 2000 (c. 36). In Schedule 1, Part 7, the entry relating to the Lay Observer for Northern Ireland.

Changes to legislation:

There are currently no known outstanding effects for the Legal Complaints and Regulation Act (Northern Ireland) 2016.