

## SCHEDULES

### SCHEDULE 2

Section 20

#### NATIONAL AUDIT OFFICE

#### PART 1

#### MEMBERSHIP AND STATUS

##### *Membership*

- 1 (1) NAO is to have 9 members.
- (2) They are to be—
  - (a) 5 persons who are not employees of NAO (“non-executive members”) (see Part 2),
  - (b) the Comptroller and Auditor General (see Part 3), and
  - (c) 3 employees of NAO (“employee members”) (see Parts 4 and 5).

##### *Status*

- 2 (1) Neither NAO nor any of its members or employees is to be regarded—
  - (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) NAO’s property is not to be regarded as property of, or held on behalf of, the Crown.

#### PART 2

#### NON-EXECUTIVE MEMBERS

##### *Member to chair NAO*

- 3 (1) One of the persons who is a non-executive member of NAO is to chair it.
- (2) It is for Her Majesty by Letters Patent to appoint that person.
- (3) Her Majesty’s power is exercisable on an address of the House of Commons.
- (4) It is for the Prime Minister to move the motion for the address.
- (5) To do so the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (6) Her Majesty may by Letters Patent extend an appointment under this paragraph on the recommendation of the Prime Minister.

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- (7) To make a recommendation the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (8) An extension of an appointment counts as a separate appointment for the purposes of paragraphs 5 to 7.

#### *Appointment of other non-executive members*

- 4 (1) The other non-executive members are to be appointed by the Public Accounts Commission as follows.
- (2) If there is a vacancy, the person who chairs NAO must recommend a person to the Commission for appointment.
- (3) The Commission may—
  - (a) appoint the person who has been so recommended, or
  - (b) require the person who chairs NAO to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

#### *Period of appointment and re-appointment*

- 5 (1) An appointment under this Part of this Schedule is to be for a period of no more than 3 years.
- (2) A person may not be appointed under this Part of this Schedule more than twice.

#### *Remuneration arrangements*

- 6 (1) The Prime Minister and the person who chairs the Committee of Public Accounts may jointly make remuneration arrangements in relation to the person who chairs NAO.
- (2) Amounts payable by virtue of sub-paragraph (1) are to be charged on, and paid out of, the Consolidated Fund.
- (3) The Public Accounts Commission may make remuneration arrangements in relation to any other non-executive member.
- (4) Amounts payable by virtue of sub-paragraph (3) are to be paid by NAO.
- (5) Remuneration arrangements under this paragraph—
  - (a) may make provision for a salary, allowances and other benefits but not for a pension, and
  - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.

#### *Other terms of appointment*

- 7 (1) The Public Accounts Commission may determine other terms for an appointment under this Part of this Schedule.
- (2) These terms may include restrictions on—
  - (a) the offices or positions (including offices and positions to which persons may be appointed, or recommended for appointment, by or on behalf of the

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- Crown) that the non-executive member may hold while, or after ceasing to be, a member, and
- (b) the agreements or other arrangements (including agreements and arrangements with the Crown or bodies or other persons acting on behalf of the Crown) to which the non-executive member may be a party while, or after ceasing to be, a member.

#### *Consultation*

- 8 Before making any arrangements under paragraph 6 or a determination under paragraph 7, the Commission must consult any person with oversight of public appointments whom the Commission thinks it is appropriate to consult.

#### *Termination of appointments*

- 9 (1) The person who chairs NAO may resign by giving written notice to the Prime Minister.
- (2) Any other non-executive member may resign by giving written notice to the Public Accounts Commission.
- 10 (1) Her Majesty may terminate the appointment of the person who chairs NAO on an address of both Houses of Parliament.
- (2) The Public Accounts Commission may terminate the appointment of any other non-executive member by giving the member written notice if—
- (a) the member has been absent from meetings of NAO without NAO's permission for a period of more than 3 months,
  - (b) the member has become bankrupt or has made an arrangement with creditors,
  - (c) the member's estate has been sequestrated in Scotland or the member has entered into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) as the debtor or has, under Scots law, made a composition or arrangement with, or granted a trust deed for, the member's creditors,
  - (d) the member is unfit to continue the appointment because of misconduct,
  - (e) the member has failed to comply with the terms of the appointment, or
  - (f) the member is otherwise unable, unfit or unwilling to carry out the member's functions.

### **PART 3**

#### **CHIEF EXECUTIVE**

- 11 The Comptroller and Auditor General is to be the chief executive (but not an employee) of NAO.

**PART 4**

## EMPLOYEE MEMBERS

*Appointment*

- 12 (1) The employee members are to be appointed by the non-executive members as follows.
- (2) If there is a vacancy, the Comptroller and Auditor General must recommend a person to the non-executive members for appointment.
- (3) The non-executive members may—
- (a) appoint that person, or
  - (b) require the Comptroller and Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Terms of appointment*

- 13 (1) The terms of an employee member's appointment are to be determined by the non-executive members.
- (2) The terms may include remuneration arrangements which—
- (a) may make provision for a salary, allowances and other benefits but, subject to sub-paragraph (4), not a pension, and
  - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- (3) Amounts payable by virtue of sub-paragraph (2) are to be paid by NAO (subject to sub-paragraph (4)).
- (4) If the employee is a participant in a pension scheme under the terms of the person's employment with NAO, the remuneration arrangements may make provision for the person's service as an employee member to be treated, for the purposes of the scheme, as if it were service as an employee of NAO.

*Termination of appointments*

- 14 The appointment of an employee member terminates—
- (a) if the terms of the member's appointment provide for it to expire at the end of a period, at the end of that period, and
  - (b) in any event, when the member ceases to be an employee of NAO.
- 15 An employee member may resign by giving written notice to the non-executive members.
- 16 The non-executive members may terminate the appointment of an employee member by giving the member written notice if—
- (a) the member has been absent from meetings of NAO without NAO's permission for a period of more than 3 months,
  - (b) the member has become bankrupt or has made an arrangement with creditors,

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- (c) the member's estate has been sequestrated in Scotland or the member has entered into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) as the debtor or has, under Scots law, made a composition or arrangement with, or granted a trust deed for, the member's creditors,
- (d) the member is unfit to continue the appointment because of misconduct,
- (e) the member has failed to comply with the terms of the appointment, or
- (f) the member is otherwise unable, unfit or unwilling to carry out the member's functions.

## PART 5

### EMPLOYEES

- 17 (1) NAO may employ staff.
- (2) In determining the terms of employment of any staff, NAO must have regard to the desirability of keeping the terms broadly in line with those applying to civil servants.
- (3) A person who is an employee of NAO may not hold any office or position to which a person may be appointed, or recommended for appointment, by or on behalf of the Crown.

## PART 6

### PROCEDURAL RULES

#### *General*

- 18 NAO must make rules for the purpose of regulating NAO's procedure.

#### *Quorum for NAO meetings*

- 19 If the rules provide for a quorum for any meetings of NAO, the quorum cannot be met unless a majority of the members present are non-executive members.

#### *Committees*

- 20 (1) The rules may include—
- (a) provision for the setting up of committees of NAO and for those committees to set up sub-committees, and
  - (b) provision regulating the procedures of those committees and sub-committees.
- (2) An employee of NAO who is not an employee member may be a member of a committee or sub-committee.
- (3) A person who is neither a member of NAO nor an employee of NAO may be a member of a committee or sub-committee, provided that no functions of NAO are delegated to the committee or sub-committee (see paragraph 23).

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## PART 7

### OTHER MATTERS

#### *Powers*

- 21 NAO may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

#### *Validity*

- 22 The validity of anything done by NAO, the non-executive members or any committee or sub-committee is not affected by—
- (a) a vacancy, or
  - (b) a defective appointment.

#### *Delegation of functions*

- 23 (1) NAO may delegate functions to any of its members, employees or committees.
- (2) A committee may delegate functions (including functions delegated to it) to a sub-committee.
- (3) The delegation of a function does not prevent NAO or the committee (as the case may be) from carrying out the function itself.
- (4) Functions under the following provisions may not be delegated—
- (a) section 23(2) of this Act;
  - (b) paragraph 18 or 25(1) of this Schedule;
  - (c) paragraph 1(1), 3(1) or (3), 7(3), 9(1) or 10(1) to (5) of Schedule 3.

#### *NAO resource accounts*

- 24 (1) Resource accounts of the kind mentioned in section 5 of the Government Resources and Accounts Act 2000 must be prepared for NAO for each financial year by the person appointed as accounting officer under this paragraph.
- (2) The Public Accounts Commission must appoint the Comptroller and Auditor General or some other appropriate person as accounting officer.
- (3) The person appointed as accounting officer must carry out any other functions determined by the Commission.

#### *Audit of NAO*

- 25 (1) NAO must appoint an auditor for NAO for each financial year.
- (2) The approval of the Public Accounts Commission is required for the appointment (including its terms).
- (3) The auditor must be eligible for appointment as a statutory auditor by virtue of Chapter 2 of Part 42 of the Companies Act 2006.
- (4) Section 1214 (independence requirement) and section 1216 (effect of appointment of a partnership) of that Act apply as if the audit of NAO were a statutory audit.

- (5) The auditor must examine NAO's resource accounts for the financial year.
- (6) Sections 6(1) and 25(2) of the Government Resources and Accounts Act 2000 apply (with any necessary modifications) in relation to the examination as they apply in relation to an examination by the Comptroller and Auditor General of the resource accounts of a department.
- (7) On completion of the examination the auditor must—
  - (a) certify the accounts, and
  - (b) send them, together with the auditor's report on them, to the Public Accounts Commission.
- (8) The Commission must lay the accounts and report before the House of Commons.
- 26 (1) The terms of the auditor's appointment may require the auditor to carry out economy, efficiency and effectiveness examinations of the use of NAO's resources.
- (2) On completion of the examinations the auditor must prepare a report and send it to the Public Accounts Commission.
- (3) The Commission must lay the report before the House of Commons.
- 27 (1) The auditor may require access at any reasonable time to any document where the auditor reasonably thinks it necessary for the purposes of the auditor's functions under paragraph 25 or 26.
- (2) The auditor may also require any person holding or accountable for any document to provide any information or explanation that the auditor reasonably thinks necessary for those purposes.

*Documentary evidence*

- 28 (1) The application of NAO's seal is to be authenticated by the signature of—
  - (a) a member of NAO, or
  - (b) any person authorised (whether generally or specifically) for the purpose by a member of NAO.
- (2) A document purporting to be duly executed under NAO's seal or signed on its behalf—
  - (a) is to be received in evidence, and
  - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.
- (3) This paragraph does not extend to Scotland.