
Status: Point in time view as at 21/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Commissioner for Older People Act (Northern Ireland) 2011. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1(4).

The Commissioner for Older People for Northern Ireland

Status

- 1.—(1) The person for the time being holding the office of Commissioner for Older People for Northern Ireland is by that name to be a corporation sole.
- (2) The Commissioner is not to be regarded—
 - (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) The property held by the Commissioner is not to 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) co-operating with other bodies exercising functions relating to older persons or their interests (whether in the United Kingdom or elsewhere);
 - (b) acquiring, holding and disposing of real or personal property;
 - (c) entering into contracts.

Tenure of office

- 3.—(1) Subject to the provisions of this paragraph, a person holds and vacates office as the Commissioner in accordance with the terms of that person's appointment.
- (2) An appointment as the Commissioner is for a term of 4 years.

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(3) A person who ceases to be the Commissioner on the expiration of that person's first term of office is eligible for re-appointment, but a person who has been re-appointed by virtue of this sub-paragraph is not 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 First Minister and deputy First Minister.

(5) The First Minister and deputy First Minister acting jointly 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 [^{F1}or is the subject of a bankruptcy restrictions order] or made an arrangement or composition with that person's creditors;
- (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.

Textual Amendments

- F1** Words in [Sch. 1 para. 3\(5\)\(b\)](#) 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. 18](#)

Salary, etc.

4.—(1) The Office may pay to or in respect of the Commissioner—

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

as the Office may determine.

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

(3) A determination of the Office under this paragraph requires the approval of the Department of Finance and Personnel.

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Staff

5.—(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 are to 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 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 Office and the Department of Finance and Personnel.

(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 (NI 10) can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry is inserted at the appropriate place— “ Employment by the Commissioner for Older People for Northern Ireland. ”.

Exercise of functions of Commissioner

6 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

7 The application of the seal of the Commissioner must 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

8 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 is to be received in evidence and, unless the contrary is proved, taken to be such an instrument.

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Property

9.—(1) Any real or personal property vested in the Commissioner must (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 must vest in the successor on that person's appointment.

Funding

10.—(1) The Office may make grants to the Commissioner of such amounts as it may determine.

(2) Subject to sub-paragraph (3), the Commissioner must pay to the Office all sums received by the Commissioner in the course of, or in connection with, the carrying out of the functions of the Commissioner.

(3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Office may, with the approval of the Department of Finance and Personnel, direct.

(4) Any sums received by the Office under sub-paragraph (2) must be paid into the Consolidated Fund.

Accounts

11.—(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 Office may, with the approval of the Department of Finance and Personnel, direct.

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

- (a) the Office, and
- (b) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General must—

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- (a) examine, certify and report on every statement of accounts sent to the Comptroller and Auditor General by the Commissioner under this paragraph, and
 - (b) send a copy of the Comptroller and Auditor General's report to the Office.
- (5) The Office 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 12 “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 twelve months ending with 31st March.

Annual report

12.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Office a report on the carrying out of the functions of the Commissioner during that year.

(2) A report under this paragraph in respect of any year must give details of the steps taken by the Commissioner in that year for the purpose of complying with the Commissioner's duty under section 3(8).

(3) The Office must—

- (a) lay a copy of every report sent to it under this paragraph before the Assembly; and
- (b) send a copy of every such report to the Secretary of State.

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

13 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert, at the appropriate place— “ Commissioner for Older People for Northern Ireland ”.

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

14 In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) insert, at the appropriate place—

“The Office of the Commissioner for Older People for Northern Ireland”.

The Freedom of Information Act 2000 (c. 36)

15 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 Commissioner for Older People for Northern Ireland ”.

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SCHEDULE 2

Section 4(4).

Investigation under section 4(4)

Commencement Information

II Sch. 2 in operation at 1.12.2012 by S.R. 2012/388, art. 2(x)

Interpretation

1 In this Schedule any reference to an investigation is a reference to an investigation in relation to which the Commissioner has made a determination under section 4(4).

Commencement Information

I2 Sch. 2 para. 1 in operation at 1.12.2012 by S.R. 2012/388, art. 2(x)

Conduct of investigation

2.—(1) In determining whether to conduct or discontinue an investigation, the Commissioner may act in accordance with the Commissioner's own discretion.

(2) Where the Commissioner determines under section 4(4) to conduct an investigation the Commissioner must—

- (a)** produce terms of reference for the investigation;
- (b)** send notice of the proposed investigation and a copy of the terms of reference to any relevant authority concerned and such other bodies or persons as the Commissioner thinks fit; and
- (c)** afford to every such authority an opportunity to comment on the matter being investigated and to give oral or other evidence respecting those matters.

(3) An investigation must be conducted in private.

(4) Except as otherwise provided by this Act, the procedure for conducting an investigation is such as the Commissioner considers appropriate in the circumstances of the case; and, in particular, it is for the Commissioner to determine whether any person may be represented by counsel or solicitor or otherwise in the investigation.

(5) The Commissioner may for the purposes of an investigation obtain information from such persons and in such manner, and make such enquiries, as the Commissioner thinks fit.

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(6) Subject to sub-paragraph (7), in conducting an investigation the Commissioner is not obliged to hold any hearing, and no person is entitled as of right to be heard by the Commissioner.

(7) If at any time during the course of an investigation it appears to the Commissioner that there may be grounds for making any report or recommendation that may adversely affect any relevant authority or person, the Commissioner must afford to that authority or person—

- (a) an opportunity to give oral or other evidence; and
- (b) an opportunity of testing by cross-examination any evidence which may affect that authority or person.

(8) The Commissioner may, if the Commissioner thinks fit, pay to any person who attends or supplies information for the purposes of a formal investigation—

- (a) sums in respect of expenses properly incurred by that person;
 - (b) allowances by way of compensation for the loss of that person's time,
- in accordance with such scales and subject to such conditions as the Office may determine.

(9) An investigation does not affect—

- (a) any action taken by a relevant authority or by any department or Minister with respect to that authority; or
- (b) any power or duty of that authority, department or Minister to take further action with respect to any matters subject to the investigation.

Commencement Information

I3 Sch. 2 para. 2 in operation at 1.12.2012 by [S.R. 2012/388](#), art. 2(x)

Report on investigation

3.—(1) Where the Commissioner has conducted an investigation pursuant to a determination under section 4(4), the Commissioner must prepare a report on the outcome of the investigation and send it to—

- (a) any relevant authority concerned and, where the report contains recommendations as to action to be taken by any other relevant authority, that relevant authority; and
- (b) such other bodies or persons as the Commissioner thinks appropriate.

(2) Apart from identifying any relevant authority concerned, a report under this paragraph must not—

- (a) mention the name of any person; or

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- (b) contain any particulars which, in the Commissioner's opinion, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

unless the Commissioner determines that it is necessary to do so (whether for the purposes of sub-paragraph (3) or otherwise).

(3) A report under this paragraph may include recommendations as to action to be taken by a relevant authority mentioned in the report; and any such recommendations must be accompanied by the Commissioner's reasons for making them.

(4) Where a report contains a recommendation as to action to be taken by a relevant authority, the authority must—

- (a) consider the recommendation; and
- (b) determine what action (if any) to take in response to the recommendation.

Commencement Information

I4 Sch. 2 para. 3 in operation at 1.12.2012 by [S.R. 2012/388](#), art. 2(x)

Further action following report on investigation

4.—(1) Where the Commissioner has made a report under paragraph 3 which contains a recommendation in respect of a relevant authority, the Commissioner may by notice require that authority to provide the Commissioner within 3 months of the date of the notice with—

- (a) such information as will enable the Commissioner to determine whether the authority has complied with the recommendation or will be complying with it; or
- (b) a statement of the authority's reason for not complying with the recommendation.

(2) A notice under sub-paragraph (1) must include a statement that a failure by the authority to respond within the period mentioned in that sub-paragraph may be published in such manner as the Commissioner considers appropriate.

(3) If, on receipt of a response from the authority, the Commissioner considers that—

- (a) the action taken or proposed to be taken by the authority to comply with the recommendation is inadequate; or
- (b) the authority's reason for not complying with the recommendation is inadequate,

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the Commissioner may send to the authority concerned a further notice setting out the inadequacy and requiring the authority to reconsider the matter and respond within one month of the date of the notice.

(4) A notice under sub-paragraph (3) must include a statement that a failure by the authority—

(a) to provide what the Commissioner considers to be a satisfactory response; or

(b) to provide any response within the period mentioned in that sub-paragraph, may be published in such manner as the Commissioner considers appropriate.

(5) The Commissioner must include in the register maintained under section 16(5) details of—

(a) recommendations (together with the reasons for them) contained in reports made under paragraph 3;

(b) action taken by the Commissioner under sub-paragraphs (1) and (3); and

(c) the results of any such action.

Commencement Information

I5 Sch. 2 para. 4 in operation at 1.12.2012 by [S.R. 2012/388](#), art. 2(x)

SCHEDULE 3

Section 26(1).

Relevant authorities

The following bodies and persons are relevant authorities by virtue of section 26(1) (c)—

Health and social care

1 A general health care provider, that is to say—

(a) an individual undertaking to provide general medical services or general dental services under Part 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14);

(b) a person (whether an individual or a body) undertaking to provide general ophthalmic services or pharmaceutical services under Part 6 of that Order; or

(c) an individual performing personal medical services or personal dental services in accordance with arrangements made under Article 15B of that

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Order (except as employees of, or otherwise on behalf of, a health and social care body or an independent provider).

2 An independent provider, that is to say a person (whether an individual or a body)—

- (a) providing services of any kind under arrangements with a health and social care body or a general health care provider; and
- (b) not being a health and social care body or a general health care provider.

3 Any person carrying on or managing any of the following within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9)—

- (a) a residential care home, nursing home or independent hospital in which older persons are accommodated;
- (b) an independent clinic;
- (c) an independent medical agency or domiciliary care agency;
- (d) a day care setting.

Education

4 The governing body of an institution of further education, within the meaning of the Further Education (Northern Ireland) Order 1997 (NI 15).

Others

5 The ombudsman scheme operator as defined by section 225(2) of the Financial Services and Markets Act 2000 (c. 8).

6 The Office of Qualifications and Examinations Regulation.

7 The Police Ombudsman for Northern Ireland.

8 The Northern Ireland Judicial Appointments Commission.

9 The Northern Ireland Judicial Appointments Ombudsman.

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