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## SCHEDULES

### SCHEDULE 2

Section 9

#### THE INDEPENDENT POLICE COMPLAINTS COMMISSION

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

- C1** Sch. 2 applied (with modifications) (28.12.2005) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(3\)\(6\)](#), Sch. 2

##### *Chairman*

- 1 (1) The chairman of the Commission shall hold office as chairman of the Commission in accordance with the terms of his appointment.
- (2) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he was sentenced, be appointed as chairman of the Commission; and an appointment made in contravention of this sub-paragraph shall have no effect.
- (3) The appointment of the chairman of the Commission shall be for a term not exceeding five years; but the chairman shall be eligible for re-appointment at the end of his term of office.
- (4) The chairman of the Commission may be removed from office by Her Majesty either—
- (a) at his own request; or
  - (b) on being advised by the Secretary of State that there are grounds falling with sub-paragraph (5) for the removal of the chairman.
- (5) The following are grounds for removing the chairman from office—
- (a) that he has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months;
  - (b) that he has become a person falling within one or more paragraphs of section 9(3);
  - (c) that he has, since his appointment, been sentenced to imprisonment for a term of three months or more;
  - (d) that he is a person who—
    - (i) has had a bankruptcy order made against him;
    - (ii) has had his estate sequestrated; or
    - (iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;
  - (e) that he is subject to—
    - (i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under <sup>F1</sup>the Company Directors

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- Disqualification (Northern Ireland) Order 2002] (S.I. 1989/2404 (N.I. 18)); or
- (ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);
- (f) that he has acted improperly in relation to his duties; or
- (g) that he is otherwise unable or unfit to perform his duties.
- (6) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

#### Textual Amendments

- F1** Words in [Sch. 2 para. 1\(5\)\(e\)\(i\)](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 197\(a\)](#) (with art. 10)

#### *Ordinary members of the Commission*

- 2 (1) Subject to the provisions of this Schedule, a person shall hold office as an ordinary member in accordance with the terms of his appointment.
- (2) An appointment as an ordinary member may be to whole or to part time membership of the Commission.
- (3) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he is sentenced, be appointed as an ordinary member; and an appointment made in contravention of this sub-paragraph shall have no effect.
- (4) A person shall not be appointed to be an ordinary member for a term of more than five years; but an ordinary member shall be eligible for re-appointment at the end of his term of office.
- (5) An ordinary member may at any time resign his office as a member of the Commission by notice in writing to the Secretary of State.
- (6) The Secretary of State may at any time remove a person from office as an ordinary member if he is satisfied that that person—
- (a) has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months beginning not earlier than six months before that time;
  - (b) has become a person falling within one or more paragraphs of section 9(3);
  - (c) has, since his appointment, been sentenced to imprisonment for a term of three months or more;
  - (d) is a person who—
    - (i) has had a bankruptcy order made against him;
    - (ii) has had his estate sequestrated; or
    - (iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;
  - (e) is subject to—

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- (i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under [F2the Company Directors Disqualification (Northern Ireland) Order 2002](S.I. 1989/2404 (N.I. 18)); or
  - (ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);
  - (f) has acted improperly in relation to his duties; or
  - (g) is otherwise unable or unfit to perform his duties.
- (7) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.
- (8) In this paragraph “ordinary member” means a member of the Commission other than the chairman.

#### Textual Amendments

- F2** Words in *Sch. 2 para. 2(6)(e)(i)* substituted (1.10.2009) by *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009* (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 197(b)** (with art. 10)

#### Deputy Chairmen

- 3
- (1) The Secretary of State may appoint not more than two deputy chairmen of the Commission from amongst its members.
  - (2) A person who ceases to hold office as a member of the Commission shall cease at the same time to hold office as deputy chairman of the Commission.
  - (3) A person shall hold office as a deputy chairman of the Commission in accordance with the terms of his appointment.
  - (4) A deputy chairman of the Commission may at any time resign his office as a deputy chairman by notice in writing to the Secretary of State.
  - (5) A deputy chairman of the Commission who is reappointed as a member from the time that would otherwise have been the end of his term of office as a member shall cease to be a deputy chairman at that time unless he is also reappointed to that office.

#### Remuneration, pensions etc. of members

- 4
- (1) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the chairman, deputy chairmen and members of the Commission, or any of them, as he may determine.
  - (2) Where—
    - (a) a person ceases, otherwise than on the expiry of his term of office, to hold office as chairman, deputy chairman or member of the Commission, and
    - (b) it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation,

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the Secretary of State may direct the Commission to make a payment to that person of such amount as the Secretary of State may determine.

### *The Chief Executive*

- 5 Subject to sub-paragraphs (3) and (5), it shall be for the Commission to appoint the person to be its chief executive.
- (1) The Commission shall have a chief executive.
  - (2)
  - (3) The approval of the Secretary of State shall be required for any appointment by the Commission of a person to be its chief executive.
  - (4) Subject to sub-paragraph (5), the Commission's chief executive shall be appointed on such terms and conditions and shall have such functions as the Commission may, with the approval of the Secretary of State, determine.
  - (5) The first appointment of a person to be the chief executive of the Commission shall be made by the Secretary of State, instead of by the Commission; and the terms and conditions on which that appointment is made shall also be determined by the Secretary of State, instead of by the Commission.

#### **Commencement Information**

- II** [Sch. 2 para. 5](#) wholly in force at 1.4.2003; [Sch. 2 para. 5](#) not in force at Royal Assent, see [s. 108\(2\)](#); [Sch. 2 para. 5\(5\)](#) in force at 1.10.2002 by [S.I. 2002/2306](#), [art. 2\(b\)\(ii\)](#); [Sch. 2 para. 5](#) in force in so far as not already in force at 1.4.2003 by [S.I. 2003/808](#), [art. 2\(a\)](#)

### *Staff*

- 6 (1) The Commission may appoint such employees, on such terms and conditions, as appear to it to be appropriate.
- (2) The Commission may make arrangements with—
    - (a) the chief officer of police of any police force maintained for a police area in England and Wales,
    - (b) the chief constable of any police force maintained for a police area in Scotland, or
    - (c) the Chief Constable of the Police Service of Northern Ireland,
 under which members of his force are engaged on temporary service with the Commission.
  - (3) The Commission may make such other arrangements for its staffing as it thinks fit.
  - (4) A member of a police force on temporary service with the Commission shall be under the direction and control of the Commission.
  - (5) The approval of the Secretary of State as to numbers and as to the terms and conditions of staff shall be required for the exercise by the Commission of its powers under this paragraph.

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

- C2** Sch. 2 para. 6 applied (5.8.2009) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2009 \(S.I. 2009/2133\)](#), **reg. 5**
- C3** Sch. 2 para. 6 applied (7.4.2010) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2010 \(S.I. 2010/782\)](#), **reg. 5**

*Superannuation and insurance*

- 7 (1) Where a person who—
- (a) is employed by the Commission, and
  - (b) is by reference to that employment a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11),
- is appointed as the chairman or as a deputy chairman of the Commission or as a member of it, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by anything done under paragraph 4.
- (2) The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) shall not require insurance to be effected by the Commission.

*Liability for acts of seconded staff*

- 8 (1) The Commission shall be liable in respect of unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Commission's staff in the like manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.
- (2) Accordingly, the Commission shall be treated in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.
- (3) In this paragraph "seconded constables" means persons serving as members of the Commission's staff without being employed by it.

*Power of Commission to set up regional offices*

- 9 If it appears to the Commission that it is necessary to do so in order to carry out its functions efficiently, the Commission may, with the consent of the Secretary of State, set up regional offices in places in England and Wales.

*Proceedings*

- 10 (1) The arrangements for the proceedings of the Commission (including the quorum for meetings and the establishment of committees) shall be such as the Commission may determine.
- (2) The arrangements may include provision for the committees established under the arrangements to include members of the Commission's staff and other persons who are not members of the Commission.
- (3) The arrangements may include provision for persons selected by the Commission to attend meetings of the Commission or of any committee established by it.

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- (4) The Commission may—
- (a) pay such remuneration and allowances as it may determine to members of committees established by it who are neither members of the Commission nor members of its staff; and
  - (b) make such payments for the reimbursement of expenses incurred by persons attending meetings in accordance with arrangements made by virtue of sub-paragraph (3) as it may determine.
- (5) The arrangements may provide for the carrying out, under the general direction of the Commission, of any of the Commission's functions—
- (a) by a committee established by the Commission;
  - (b) by one or more of the members of the Commission; or
  - (c) by the chief executive or by one or more members of the Commission's staff.
- (6) The making of arrangements by virtue of sub-paragraph (5) shall require the consent of the Secretary of State.
- 11 The validity of any proceedings of the Commission or of any of its committees shall not be affected by—
- (a) any defect in the appointment of the chairman, a deputy chairman or any member of the Commission; or
  - (b) any vacancy in the office of chairman or among the members of the Commission.

*Authentication of the Commission's seal*

- 12 The application of the seal of the Commission shall be authenticated by the signature of—
- (a) any member of the Commission; or
  - (b) any other person who has been authorised by the Commission (whether generally or specially) for that purpose.

*Evidence of documents*

- 13 A document purporting to be—
- (a) duly executed by the Commission under its seal, or
  - (b) signed on its behalf,
- shall be received in evidence and shall, unless the contrary is shown, be taken to be so executed or signed.

*Payments by the Secretary of State*

- 14 The Secretary of State may pay to the Commission—
- (a) sums equal to any amounts paid or falling to be paid by it under any provision of this Act (other than paragraph 15); and
  - (b) such other sums as appear to him to be appropriate for enabling it to meet the expenses incurred or to be incurred by it in the carrying out of its functions.

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#### *Other receipts by the Commission*

- 15 (1) The Commission shall pay to the Secretary of State all sums received by it (otherwise than under paragraph 14) in the course of, or in connection with, the carrying out of its functions.
- (2) Sub-paragraph (1) shall not apply where the Secretary of State so directs.
- (3) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.

#### *Borrowing*

- 16 The Commission shall not borrow money unless authorised to do so (whether generally or specially) by the Secretary of State.

#### *Accounts*

- 17 (1) The Commission shall—
- (a) keep proper accounts and proper records in relation to the accounts;
  - (b) prepare in respect of each financial year of the Commission a statement of accounts in such form as the Secretary of State may direct; and
  - (c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of August in the financial year of the Commission following that to which the statement relates.
- (2) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement received by him by virtue of this paragraph; and
  - (b) lay copies of every such statement, and of his report on it, before Parliament.

#### *Financial year of the Commission*

- 18 The following are financial years of the Commission—
- (a) the period beginning with the day on which the Commission is established and ending with 31st March falling next after that day; and
  - (b) every subsequent period of twelve months ending with 31st March.

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