

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2016, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### THE SMALL BUSINESS COMMISSIONER

##### *Status*

- 1 The Commissioner is a corporation sole.

##### **Commencement Information**

- I1** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I2** [Sch. 1 para. 1](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

##### *Appointment of Commissioner*

- 2 The Commissioner is to be appointed by the Secretary of State.

##### **Commencement Information**

- I3** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I4** [Sch. 1 para. 2](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

##### *Deputy Commissioners*

- 3 The Secretary of State may appoint one or more Deputy Commissioners.

##### **Commencement Information**

- I5** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I6** [Sch. 1 para. 3](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

- 4 The Commissioner may delegate any of the Commissioner's functions to a Deputy Commissioner.

##### **Commencement Information**

- I7** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I8** [Sch. 1 para. 4](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

##### *Term of office etc*

- 5 A person holds and vacates office as the Commissioner or a Deputy Commissioner in accordance with the terms of the appointment, but—

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- (a) the initial term of office may not be more than 4 years,
- (b) a person may be appointed for no more than 2 further terms of office (whether as the Commissioner or a Deputy Commissioner),
- (c) a further term may not be more than 3 years,
- (d) the person may resign by giving written notice to the Secretary of State, and
- (e) the Secretary of State may dismiss the person if satisfied that the person is unable, unwilling or unfit to perform his or her functions.

#### **Commencement Information**

**I9** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)

**I10** [Sch. 1 para. 5](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Remuneration*

- 6 The Secretary of State may pay to or in respect of the person holding office as the Commissioner or a Deputy Commissioner—
- (a) remuneration;
  - (b) allowances;
  - (c) sums by way of or in respect of pensions.

#### **Commencement Information**

**I11** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)

**I12** [Sch. 1 para. 6](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Commissioner and Deputy Commissioners not civil servants*

- 7 Service as the Commissioner or a Deputy Commissioner is not service in the civil service of the state.

#### **Commencement Information**

**I13** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)

**I14** [Sch. 1 para. 7](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Acting as Commissioner during vacancy etc*

- 8 (1) The nominated person is to act as Commissioner—
- (a) during any vacancy in the office of Commissioner, or
  - (b) if the Commissioner is disqualified.
- (2) “The nominated person” means—
- (a) if there is only one Deputy Commissioner who is not disqualified, that Deputy Commissioner,
  - (b) if there is more than one Deputy Commissioner who is not disqualified, such of them as the Secretary of State appoints to act as Commissioner, or

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- (c) if neither paragraph (a) nor (b) applies, a member of the Commissioner's staff appointed under paragraph 11, or seconded under paragraph 12, who is appointed by the Secretary of State to act as Commissioner.
- (3) For the purposes of this paragraph a person is “disqualified” if the person is absent, subject to suspension or unable to act (whether as a result of arrangements under paragraph 9 or otherwise).

#### Commencement Information

- I15** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)
- I16** Sch. 1 para. 8 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Conflicts of interest*

- 9 (1) The Commissioner must make procedural arrangements for dealing with any conflict of interest affecting—
  - (a) the Commissioner,
  - (b) a Deputy Commissioner,
  - (c) a member of staff acting as the Commissioner under paragraph 8(2)(c), or
  - (d) any other staff working for the Commissioner.
- (2) The Commissioner must consult the Secretary of State before making or revising the arrangements.
- (3) The Commissioner must publish a summary of the arrangements.

#### Commencement Information

- I17** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)
- I18** Sch. 1 para. 9 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Validity of acts*

- 10 A defect in appointment does not affect the validity of things done by the Commissioner, a Deputy Commissioner or a member of staff acting as the Commissioner under paragraph 8(2)(c).

#### Commencement Information

- I19** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)
- I20** Sch. 1 para. 10 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Staff*

- 11 (1) The Commissioner may appoint staff.
- (2) Staff are to be appointed on terms and conditions determined by the Commissioner.
- (3) The terms and conditions on which a member of staff is appointed may provide for the Commissioner to pay to or in respect of the member of staff—

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- (a) remuneration;
  - (b) allowances;
  - (c) sums by way of or in respect of pensions.
- (4) Service as a member of the Commissioner's staff appointed under sub-paragraph (1) is not service in the civil service of the state.

**Commencement Information**

**I21** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)

**I22** Sch. 1 para. 11 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

- 12 (1) The Commissioner may make arrangements for persons to be seconded to the Commissioner to serve as members of the Commissioner's staff.
- (2) The arrangements may include provision for payments by the Commissioner to the person with whom the arrangements are made or directly to seconded staff (or both).
- (3) A period of secondment to the Commissioner does not affect the continuity of a person's employment with the employer from whose service he or she is seconded (and, in particular, nothing in paragraph 11(4) affects such a person's continuity of service in the civil service of the state).

**Commencement Information**

**I23** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)

**I24** Sch. 1 para. 12 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

- 13 Before appointing staff under paragraph 11 or making arrangements under paragraph 12(1), the Commissioner must obtain the approval of the Secretary of State as to the Commissioner's policies on—
- (a) the number of staff to be appointed or seconded;
  - (b) payments to be made to or in respect of staff;
  - (c) the terms and conditions on which staff are to be appointed or seconded.

**Commencement Information**

**I25** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)

**I26** Sch. 1 para. 13 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

*Financial and other assistance from the Secretary of State*

- 14 (1) The Secretary of State may make payments and provide other financial assistance to the Commissioner.
- (2) The Secretary of State may—
- (a) provide staff in accordance with arrangements made by the Secretary of State and the Commissioner under paragraph 12;
  - (b) provide premises, facilities or other assistance to the Commissioner.

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#### Commencement Information

- I27** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)  
**I28** Sch. 1 para. 14 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Application of seal and proof of documents*

- 15 (1) The application of the Commissioner's seal must be authenticated by the signature of—
- (a) the Commissioner, or
  - (b) a person who has been authorised by the Commissioner for that purpose (whether generally or specially).
- (2) A document purporting to be duly executed under the seal—
- (a) is to be received in evidence, and
  - (b) is to be treated as duly executed unless the contrary is shown.

#### Commencement Information

- I29** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)  
**I30** Sch. 1 para. 15 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Incidental powers*

- 16 The Commissioner may do anything that is calculated to facilitate the carrying out of the Commissioner's functions or is conducive or incidental to the carrying out of those functions.

#### Commencement Information

- I31** Sch. 1 in force at Royal Assent for specified purposes, see s. 44(1)(a)  
**I32** Sch. 1 para. 16 in force at 6.4.2017 in so far as not already in force by S.I. 2017/473, reg. 2

#### *Exemption from liability for damages*

- 17 (1) The following are exempt from liability in damages for anything done or omitted in the exercise or purported exercise of their functions—
- (a) the Commissioner,
  - (b) a Deputy Commissioner,
  - (c) a member of staff acting as the Commissioner under paragraph 8(2)(c), and
  - (d) any other staff working for the Commissioner.
- (2) But sub-paragraph (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith, or
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (acts of public authorities).

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#### Commencement Information

- I33** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I34** [Sch. 1 para. 17](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Parliamentary Commissioner Act 1967*

- 18 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert— “ Small Business Commissioner.”

#### Commencement Information

- I35** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I36** [Sch. 1 para. 18](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *House of Commons Disqualification Act 1975*

- 19 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert— “ Small Business Commissioner or Deputy Small Business Commissioner.”

#### Commencement Information

- I37** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I38** [Sch. 1 para. 19](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Northern Ireland Assembly Disqualification Act 1975*

- 20 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert— “ Small Business Commissioner or Deputy Small Business Commissioner.”

#### Commencement Information

- I39** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I40** [Sch. 1 para. 20](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

#### *Freedom of Information Act 2000*

- 21 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities), at the appropriate place insert— “ Small Business Commissioner.”

#### Commencement Information

- I41** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 44\(1\)\(a\)](#)  
**I42** [Sch. 1 para. 21](#) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/473](#), [reg. 2](#)

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