

SCHEDULES

SCHEDULE 1

Section 22

THE OFFICE FOR ENVIRONMENTAL PROTECTION

Membership

- 1 (1) The OEP is to consist of—
 - (a) a Chair (who is to be a non-executive member),
 - (b) at least two, but not more than five, other non-executive members,
 - (c) a chief executive (who is to be the accounting officer), and
 - (d) at least one, but not more than three, other executive members.
- (2) The members are to be appointed by the Secretary of State and the OEP in accordance with paragraphs 2 and 3.
- (3) In making those appointments, the Secretary of State and the OEP must ensure, so far as practicable, that the number of non-executive members is at all times greater than the number of executive members.

Appointment of non-executive members

- 2 (1) Non-executive members are to be appointed by the Secretary of State.
- (2) The Secretary of State must consult the Chair before appointing any other non-executive member.
- (3) The Secretary of State must, in appointing non-executive members, have regard to the desirability of the members (between them) having experience of—
 - (a) law (including international law) relating to the natural environment,
 - (b) environmental science,
 - (c) environmental policy, and
 - (d) investigatory and enforcement proceedings.
- (4) A person may not be appointed as a non-executive member if the person is an employee of the OEP.

Appointment of executive members

- 3 (1) The chief executive is to be appointed by the non-executive members of the OEP, other than the first chief executive who is to be appointed by the Chair.
- (2) The other executive members are to be appointed by the OEP.
- (3) The Secretary of State must be consulted before a person is appointed as chief executive.
- (4) An executive member must be an employee of the OEP.

Status: This is the original version (as it was originally enacted).

Interim chief executive

- 4
- (1) The Secretary of State may appoint a person as an executive member to act as chief executive of the OEP (“an interim chief executive”) until the appointment of the first chief executive by the Chair under paragraph 3(1).
 - (2) Where the OEP has fewer members than are needed to hold a meeting that is quorate (see paragraph 11(2)), an interim chief executive may incur expenditure and do other things in the name and on behalf of the OEP.
 - (3) In exercising the power in sub-paragraph (2), an interim chief executive must act in accordance with any directions given by the Secretary of State.
 - (4) Neither paragraph 3(4) (requirement that executive members are employees) nor paragraph 5(2) (requirement that members are not civil servants) apply to an interim chief executive.

Terms of membership

- 5
- (1) A member of the OEP holds and vacates office in accordance with the terms of the member’s appointment, subject to the provisions of this Schedule.
 - (2) A person may not hold office as a member of the OEP if the person is employed in the civil service of the State.
 - (3) A non-executive member must be appointed for a fixed term of no more than 5 years.
 - (4) The Secretary of State must, in determining the length of a non-executive member’s term, have regard to the desirability of securing that the appointments of non-executive members expire at different times.
 - (5) The previous appointment of a person as a non-executive member does not affect the person’s eligibility for re-appointment.
 - (6) A non-executive member—
 - (a) ceases to be a member of the OEP upon becoming its employee,
 - (b) may resign from office by giving notice to the Secretary of State, and
 - (c) may be removed from office by notice given by the Secretary of State on the grounds that the member—
 - (i) has without reasonable excuse failed to discharge the member’s functions, or
 - (ii) is, in the opinion of the Secretary of State, unable or unfit to carry out the member’s functions.

Remuneration of non-executive members

- 6
- (1) The OEP must pay its non-executive members such remuneration and allowances as the Secretary of State may determine.
 - (2) If a person ceases to be a non-executive member, other than by reason of their term of office expiring, and the Secretary of State determines that the person should be compensated because of special circumstances, the OEP must pay compensation of such amount as the Secretary of State may determine.
 - (3) The Secretary of State must consult the Chair before making a determination under this paragraph.

Staffing and remuneration

- 7 (1) The OEP may—
- (a) appoint employees on such terms as it determines, and
 - (b) make such other arrangements for the staffing of the OEP as it determines.
- (2) The terms of the first chief executive’s appointment are to be determined by the Chair.
- (3) The OEP must pay its employees such remuneration as the OEP may determine.
- (4) The OEP must pay, or make provision for paying, to or in respect of a person who is or has been an employee of the OEP, such sums as the OEP may determine with the approval of the Secretary of State in respect of pensions, allowances and gratuities.
- (5) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “other Bodies”, at the appropriate place insert—
- “The Office for Environmental Protection.”
- (6) The OEP must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Powers

- 8 (1) The OEP may do anything (other than something mentioned in sub-paragraph (2)) it thinks appropriate for the purposes of, or in connection with, its functions.
- (2) The OEP may not—
- (a) accept gifts of money, land or other property, or
 - (b) form, participate in forming, or invest in, a company, partnership, joint venture or other similar form of organisation.

Committees

- 9 (1) The OEP may establish committees.
- (2) A committee may include persons who are not members of the OEP (whether or not they are employees of the OEP).
- (3) A member of a committee who is neither a member nor an employee of the OEP is not entitled to vote at meetings of that committee.
- (4) The OEP may pay such allowances as it may determine to any person who—
- (a) is a member of a committee, but
 - (b) is neither a member, nor an employee, of the OEP.

Delegation to members, committees and employees

- 10 (1) The OEP may delegate any of its functions (other than a function mentioned in sub-paragraph (4)) to—
- (a) a member of the OEP,
 - (b) any of the OEP’s employees authorised for that purpose, or
 - (c) a committee of the OEP.

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- (2) The OEP must prepare a document that sets out its policy on how its functions may be appropriately delegated (a “delegation policy”).
- (3) A function is delegated under this paragraph to the extent, and on the terms, that the OEP determines in accordance with its delegation policy.
- (4) The OEP may not delegate the following functions—
 - (a) approving the strategy under section 23(3) (or a revision of it);
 - (b) approving a report under section 28 or 29;
 - (c) approving written advice to a Minister of the Crown under section 30(1) or (3);
 - (d) deciding whether to give an information notice;
 - (e) deciding whether to give a decision notice;
 - (f) deciding whether to apply for an environmental review (see section 38);
 - (g) deciding whether to apply for judicial review or a statutory review, or to intervene in proceedings that relate to a judicial review or a statutory review (see section 39);
 - (h) approving a delegation policy under sub-paragraph (2);
 - (i) approving a report on the exercise of the OEP’s functions under paragraph 13(1) or a statement of accounts under paragraph 14(2).

Procedure

- 11 (1) The OEP may determine its own procedure, subject to sub-paragraph (2), and the procedure of its committees.
- (2) A meeting of the OEP is not quorate unless—
 - (a) there are at least three members present, and
 - (b) a majority of the members present are non-executive members.
- (3) The validity of any proceedings of the OEP is not affected by any vacancy among its members or by any defect in the appointment of such a member.

Funding

- 12 (1) The Secretary of State must pay to the OEP such sums as the Secretary of State considers are reasonably sufficient to enable the OEP to carry out its functions.
- (2) The Secretary of State may provide further financial assistance to the OEP (including by way of grants, loans, guarantees or indemnities) subject to such conditions as the Secretary of State may determine.

Annual report

- 13 (1) As soon as reasonably practicable after the end of each financial year the OEP must prepare a report on the exercise of its functions during that financial year.
- (2) The OEP must—
 - (a) arrange for its report to be laid before Parliament, and
 - (b) publish it.

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Annual accounts

- 14 (1) The OEP must keep proper accounts and proper records in relation to them.
- (2) The OEP must prepare a statement of accounts in respect of each financial year in the form specified by the Secretary of State.
- (3) A statement of accounts must include an assessment by the OEP of whether, in the financial year to which the statement relates, the Secretary of State provided it with sufficient sums to carry out its functions.
- (4) The OEP must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as reasonably practicable after the end of the financial year to which it relates.
- (5) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement of accounts, and
 - (b) send a copy of the certified statement and the report to the Secretary of State and the OEP.
- (6) The OEP must arrange for the laying before Parliament of a copy of—
- (a) its certified statement of accounts, and
 - (b) the Comptroller and Auditor General’s report on its statement of accounts.

Meaning of “financial year”

- 15 In this Schedule “financial year” means—
- (a) the period beginning with the date on which the OEP is established and ending with 31 March following that date, and
 - (b) each successive period of 12 months.

Status

- 16 (1) The OEP is not to be regarded—
- (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The OEP’s property is not to be regarded as property of, or property held on behalf of, the Crown.
- (3) Service as a member, or as an employee, of the OEP is not service in the civil service of the State.

Independence of the OEP

- 17 In exercising functions in respect of the OEP, the Secretary of State must have regard to the need to protect its independence.

Disqualification from membership of legislatures

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975, at the appropriate place insert—
- “The Office for Environmental Protection.”

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- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, at the appropriate place insert—
“The Office for Environmental Protection.”

Public records

- 20 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert—
“The Office for Environmental Protection.”

Freedom of Information

- 21 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies), at the appropriate place insert—
“The Office for Environmental Protection.”

Investigation by the Parliamentary Commissioner

- 22 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments subject to investigation), at the appropriate place insert—
“The Office for Environmental Protection.”

Public sector equality duty

- 23 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), under the heading “Environment, housing and development”, at the appropriate place insert—
“The Office for Environmental Protection.”