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SCHEDULES

SCHEDULE 1

Section 2

THE COMMISSION: CONSTITUTION, &C.

PART 1

CONSTITUTION

Membership

- 1 (1) The Secretary of State shall appoint not less than 10 or more than 15 individuals as members of the Commission (to be known as Commissioners).
- (2) The chief executive of the Commission (appointed under paragraph 7 below) shall be a Commissioner *ex officio*.

- 2 (1) In appointing Commissioners the Secretary of State shall—
 - (a) appoint an individual only if the Secretary of State thinks that the individual—
 - (i) has experience or knowledge relating to a relevant matter, or
 - (ii) is suitable for appointment for some other special reason, and
 - (b) have regard to the desirability of the Commissioners together having experience and knowledge relating to the relevant matters.
- (2) For the purposes of sub-paragraph (1) the relevant matters are those matters in respect of which the Commission has functions including, in particular—
 - (a) discrimination (whether on grounds of age, disability, gender, gender reassignment, race, religion or belief, sexual orientation or otherwise), and
 - (b) human rights.
- (3) The Secretary of State shall ensure that the Commission includes—
 - (a) a Commissioner appointed under paragraph 1(1) who is (or has been) a disabled person,
 - (b) a Commissioner appointed under paragraph 1(1), with the consent of the Scottish Ministers, who knows about conditions in Scotland, and
 - (c) a Commissioner appointed under paragraph 1(1), with the consent of the [^{F1}Welsh Ministers]^{F1}, who knows about conditions in Wales.
- (4) A person may not be appointed for the purpose of satisfying more than one paragraph of sub-paragraph (3).

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Textual Amendments

- F1** Words in Sch. 1 para. 2(3)(c) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, Sch. 1 para. 120, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see Government of Wales Act 2006, ss. 46, 161(5)

Tenure

- 3 (1) A Commissioner shall hold and vacate office in accordance with the terms of his appointment (subject to this Schedule).
- (2) The appointment of a Commissioner must be expressed to be for a specified period of not less than two years or more than five years.
- (3) A Commissioner whose period of membership has expired may be re-appointed.
- (4) A Commissioner may resign by notice in writing to the Secretary of State.
- (5) The Secretary of State may dismiss a Commissioner who is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform his functions.
- (6) This paragraph does not apply to the chief executive.

Chairman

- 4 (1) The Secretary of State shall appoint—
- (a) a Commissioner as Chairman, and
 - (b) one or more Commissioners as deputy Chairman.
- (2) The Chairman shall—
- (a) preside over meetings of the Commission,
 - (b) perform such functions as may be specified in the terms of his appointment, and
 - (c) perform such other functions as may be assigned to him by the Commission.
- (3) A deputy Chairman—
- (a) may act for the Chairman when he is unavailable, and
 - (b) shall perform—
 - (i) such functions as may be specified in the terms of his appointment, and
 - (ii) such other functions as the Chairman may delegate or assign to him.
- (4) The Chairman or a deputy Chairman—
- (a) shall vacate office if he ceases to be a Commissioner,
 - (b) may resign by notice in writing to the Secretary of State, and
 - (c) otherwise, shall hold and vacate office in accordance with the terms of his appointment (and may be reappointed).

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- (5) If the Chairman resigns he shall cease to be a Commissioner (but he may be reappointed as a Commissioner).
- (6) The chief executive may not be appointed Chairman or deputy Chairman.

PART 2

PROCEEDINGS

Procedure

- 5 The Commission may regulate its own proceedings (subject to this Schedule).
- 6 (1) The Commission shall determine a quorum for its meetings.
- (2) At least five Commissioners must participate in the process by which a determination under sub-paragraph (1) is made.

Staff

- 7 (1) The Commission—
 - (a) shall appoint a chief executive, and
 - (b) may appoint other staff.
- (2) A person may be appointed under sub-paragraph (1)(a) only with the consent of the Secretary of State.
- (3) An appointment may be made under sub-paragraph (1)(b) only if consistent with arrangements determined by the Commission and approved by the Secretary of State as to—
 - (a) numbers, and
 - (b) terms and conditions of appointment.
- 8 At the end of section 3(2) of the Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) (exempt employers) add—

“; and

 - (c) the Commission for Equality and Human Rights.”

Investigating Commissioners

- 9 (1) The Commission may appoint one or more Investigating Commissioners.
- (2) An Investigating Commissioner may be appointed only—
 - (a) for the purpose of having delegated to him by the Commission the function of taking action of a kind listed in sub-paragraph (3), and
 - (b) with the consent of the Secretary of State.
- (3) The kinds of action referred to in sub-paragraph (2)(a) are—
 - (a) carrying out an inquiry under section 16,

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- (b) carrying out an investigation under section 20,
 - (c) giving an unlawful act notice under section 21, and
 - (d) entering into an agreement under section 23.
- (4) An Investigating Commissioner is not a Commissioner; but paragraphs 3(1), (4) and (5) and 33 apply to him as if he were (and with the substitution of references to the Commission for references to the Secretary of State).

Modifications etc. (not altering text)

- C1** Sch. 1 para. 9(3)(b) modified (1.10.2007) by [The Equality Act 2006 \(Dissolution of Commissions and Consequential and Transitional Provisions\) Order 2007 \(S.I. 2007/2602\)](#), **art. 5(2)**

Delegation

- 10 (1) The Commission may delegate a function—
- (a) to a Commissioner,
 - (b) to staff, or
 - (c) in accordance with paragraph 9, to an Investigating Commissioner.
- (2) Paragraphs 15, 21, 22, 29, 30 and 52 make provision about delegation to committees.

Committees

- 11 (1) The Commission may establish one or more committees (to be known as advisory committees) to advise—
- (a) the Commission, or
 - (b) an Investigating Commissioner.
- (2) An advisory committee may include any of the following—
- (a) Commissioners;
 - (b) staff;
 - (c) other non-Commissioners.
- 12 (1) The Commission may establish one or more committees to whom the Commission may delegate functions (to be known as decision-making committees).
- (2) A decision-making committee may include any of the following—
- (a) Commissioners;
 - (b) staff;
 - (c) other non-Commissioners.
- (3) The Commission shall ensure that the Chairman of each decision-making committee is a Commissioner.
- (4) In allocating its resources the Commission shall ensure that each decision-making committee receives a share sufficient to enable it to exercise its functions.
- 13 A member of a committee shall hold and vacate office in accordance with the terms of his appointment by the Commission (which may include provision for dismissal).
- 14 The Commission—

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- (a) may, to any extent, regulate the proceedings of a committee (and may, in particular, determine a quorum for meetings),
 - (b) may, to any extent, permit a committee to regulate its own proceedings (and may, in particular, enable a committee to determine a quorum for meetings), and
 - (c) may dissolve a committee.
- 15 (1) The Commission may delegate a function to a decision-making committee.
- (2) This paragraph is subject to paragraphs 21, 22, 29, 30 and 52.

Scotland Committee

- 16 (1) The Commission shall establish a decision-making committee to be known as the Scotland Committee.
- (2) The Commission shall ensure that the Scotland Committee is established before any of sections 8 to 12 comes into force (to any extent).
- 17 The Commission shall appoint as the Chairman of the Scotland Committee a Commissioner appointed for the purpose of satisfying paragraph 2(3)(b).
- 18 The Commission shall appoint each member of the Scotland Committee for a period of not less than two years or more than 5 years, subject to the possibilities of—
- (a) reappointment, and
 - (b) dismissal in accordance with the terms of appointment.
- 19 The Scotland Committee shall advise the Commission about the exercise of the Commission's functions in so far as they affect Scotland.
- 20 Before exercising a function in a manner which in the opinion of the Commission is likely to affect persons in Scotland, the Commission shall consult the Scotland Committee.
- 21 (1) The power under section 13—
- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Scotland Committee in so far as its exercise, in the opinion of the Commission, affects Scotland, and
 - (b) to that extent shall not be exercisable by the Commission.
- (2) Sub-paragraph (1) shall not apply to the power under section 13 in so far as it is treated as delegated to the Disability Committee in accordance with paragraph 52.
- (3) Sub-paragraph (1) shall not prevent the Commission from making arrangements under section 13(1)(d) or (e) for the provision of advice or guidance to persons anywhere in Great Britain.
- 22 (1) The power under section 11(2)(c)—
- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Scotland Committee in so far as it concerns the giving of advice to devolved government about enactments which, in the opinion of the Commission, affect only Scotland, and
 - (b) to that extent shall not be exercisable by the Commission.
- (2) The power under section 11(2)(d)—

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- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Scotland Committee in so far as it concerns the giving of advice to devolved government about proposed changes in the law which, in the opinion of the Commission, would affect only Scotland, and
 - (b) to that extent shall not be exercisable by the Commission.
- (3) Sub-paragraphs (1) and (2) shall not apply to the powers under section 11(2)(c) and (d) in so far as they are treated as delegated to the Disability Committee in accordance with paragraph 52.
- 23 In allocating its resources the Commission shall ensure that the Scotland Committee receives a share sufficient to enable it to exercise its functions.

Wales Committee

- 24 (1) The Commission shall establish a decision-making committee to be known as the Wales Committee.
- (2) The Commission shall ensure that the Wales Committee is established before any of sections 8 to 12 comes into force (to any extent).
- 25 The Commission shall appoint as the Chairman of the Wales Committee a Commissioner appointed for the purpose of satisfying paragraph 2(3)(c).
- 26 The Commission shall appoint each member of the Wales Committee for a period of not less than two years or more than 5 years, subject to the possibilities of—
- (a) reappointment, and
 - (b) dismissal in accordance with the terms of appointment.
- 27 The Wales Committee shall advise the Commission about the exercise of its functions in so far as they affect Wales.
- 28 Before exercising a function in a manner which in the opinion of the Commission is likely to affect persons in Wales, the Commission shall consult the Wales Committee.
- 29 (1) The power under section 13—
- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Wales Committee in so far as its exercise, in the opinion of the Commission, affects Wales, and
 - (b) to that extent shall not be exercisable by the Commission.
- (2) Sub-paragraph (1) does not apply to the power under section 13 in so far as it is treated as delegated to the Disability Committee in accordance with paragraph 52.
- (3) Sub-paragraph (1) shall not prevent the Commission from making arrangements under section 13(1)(d) or (e) for the provision of advice or guidance to persons anywhere in Great Britain.
- 30 (1) The power under section 11(2)(c)—
- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Wales Committee in so far as it concerns the giving of advice to devolved government about enactments which, in the opinion of the Commission, affect only Wales, and
 - (b) to that extent shall not be exercisable by the Commission.
- (2) The power under section 11(2)(d)—

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- (a) shall be treated by virtue of this paragraph as having been delegated by the Commission to the Wales Committee in so far as it concerns the giving of advice to devolved government about proposed changes in the law which, in the opinion of the Commission, would affect only Wales, and
 - (b) to that extent shall not be exercisable by the Commission.
- (3) Sub-paragraphs (1) and (2) shall not apply to the powers under section 11(2)(c) and (d) in so far as they are treated as delegated to the Disability Committee in accordance with paragraph 52.
- 31 In allocating its resources the Commission shall ensure that the Wales Committee receives a share sufficient to enable it to exercise its functions.

Annual report

- 32 (1) The Commission shall for each financial year prepare a report on the performance of its functions in that year (to be known as its annual report).
- (2) An annual report shall, in particular, indicate in what manner and to what extent the Commission's performance of its functions has accorded to the plan under section 4.
- (3) The matters addressed by an annual report shall, in particular, include the Commission's activities in relation to—
- (a) Scotland, and
 - (b) Wales.
- (4) The Commission shall send each annual report to the Secretary of State within such period, beginning with the end of the financial year to which the report relates, as he may specify.
- (5) The Secretary of State shall lay before Parliament a copy of each annual report received under sub-paragraph (4).
- (6) The Commission shall send a copy of each annual report to—
- (a) the Scottish Parliament, and
 - (b) the National Assembly for Wales.

Savings

- 33 The validity of proceedings of the Commission shall not be affected by—
- (a) a vacancy (whether for Commissioner, Chairman, deputy Chairman or chief executive), or
 - (b) a defect in relation to an appointment.
- 34 The validity of proceedings of a committee of the Commission shall not be affected by—
- (a) a vacancy (including a vacancy in the office of Chairman), or
 - (b) a defect in relation to an appointment (including a defect in relation to the office of Chairman).

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PART 3

MONEY

Remuneration, &c.

- 35 (1) The Commission may pay to the Chairman, a deputy Chairman or another Commissioner—
- (a) such remuneration as the Secretary of State may determine, and
 - (b) such travelling and other allowances as the Secretary of State may determine.
- (2) The Commission may pay to or in respect of the Chairman, a deputy Chairman or another Commissioner such sums as the Secretary of State may determine by way of, or in respect of, pensions, allowances or gratuities.
- (3) If the Secretary of State thinks that there are special circumstances that make it right for a person ceasing to hold office as Chairman, deputy Chairman or Commissioner to receive compensation, the Commission may pay to him such compensation as the Secretary of State may determine.
- (4) This paragraph does not apply to the Chief Executive.
- 36 (1) The Commission may pay sums to or in respect of a member or former member of staff by way of or in respect of—
- (a) remuneration,
 - (b) allowances,
 - (c) pensions,
 - (d) gratuities, or
 - (e) compensation for loss of employment.
- (2) In Schedule 1 to the Superannuation Act 1972 (c. 11) (employment to which superannuation schemes may extend) in the list of other bodies insert at the appropriate place—
- (a) “The Commission for Equality and Human Rights.”
- (3) The Commission shall pay to the Minister for the Civil Service such sums as he may determine in respect of any increase attributable to sub-paragraph (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c. 11).
- 37 (1) The Commission may, with the approval of the Secretary of State, pay sums to or in respect of a member or former member of an advisory or decision-making committee by way of or in respect of—
- (a) remuneration,
 - (b) allowances, or
 - (c) gratuities.
- (2) This paragraph does not apply in relation to a person who is a member of staff of the Commission.
- (3) Approval for the purposes of sub-paragraph (1) may be general or specific.

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Funding by Secretary of State

- 38 The Secretary of State shall pay to the Commission such sums as appear to the Secretary of State reasonably sufficient for the purpose of enabling the Commission to perform its functions.

Charging

- 39 The Commission may make a charge for a service provided under section 13 or 27.

Accounts

- 40 (1) The Commission shall—
- (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year in such form as the Secretary of State may direct.
- (2) The Commission shall send a copy of a statement under sub-paragraph (1)(b) to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.
- (3) A copy of a statement must be sent under sub-paragraph (2) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may direct.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on a statement received under this paragraph, and
 - (b) lay a copy of the statement and his report before Parliament.
- (5) The Secretary of State may make a direction under sub-paragraph (1)(b) only with the consent of the Treasury.

Financial year

- 41 (1) The financial year of the Commission shall be the period of 12 months ending with 31st March.
- (2) But the first financial year of the Commission shall be the period—
- (a) beginning with the coming into force of section 1, and
 - (b) ending with—
 - (i) the following 31st March, if that section comes into force on 1st April, and
 - (ii) the second following 31st March, in any other case.

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PART 4

STATUS, &C.

Status

- 42 (1) The Commission shall not—
- (a) be regarded as the servant or agent of the Crown, or
 - (b) enjoy any status, immunity or privilege of the Crown.
- (2) Service as Commissioner, Investigating Commissioner or employee of the Commission is not employment in the civil service of the State.
- (3) The Secretary of State shall have regard to the desirability of ensuring that the Commission is under as few constraints as reasonably possible in determining—
- (a) its activities,
 - (b) its timetables, and
 - (c) its priorities.

Supervision

- 43 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments, &c. subject to investigation) at the appropriate place insert— “ The Commission for Equality and Human Rights. ”

Disqualifications

- 44 (1) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies all members of which are disqualified) at the appropriate place insert— “ The Commission for Equality and Human Rights. ”
- (2) In Part III of that Schedule (other disqualifying offices) at the appropriate place insert — “ Investigating Commissioner of, or member of a decision-making committee of, the Commission for Equality and Human Rights. ”
- 45 (1) In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies all members of which are disqualified) at the appropriate place insert — “ The Commission for Equality and Human Rights. ”
- (2) In Part III of that Schedule (other disqualifying offices) at the appropriate place insert — “ Investigating Commissioner of, or member of a decision-making committee of, the Commission for Equality and Human Rights. ”
- 46 A Commissioner or Investigating Commissioner, and a member of a decision-making committee of the Commission, shall be disqualified from being a member of the National Assembly for Wales.

Records

- 47 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part II of the Table at the end of paragraph 3 insert— “ The Commission for Equality and Human Rights. ”

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Freedom of information

- 48 In Part VI of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public bodies) at the appropriate place insert— “The Commission for Equality and Human Rights.”

PART 5

DISABILITY COMMITTEE

Establishment

- 49 (1) The Commission shall establish a decision-making committee to be known as the Disability Committee.
- (2) The Commission shall ensure that the Disability Committee is established before either section 8 or section 10, in so far as they relate to disability, comes into force (to any extent).

Membership

- 50 (1) The Commission shall ensure that—
- (a) there are not less than 7 or more than 9 members of the Disability Committee,
 - (b) at least one half of the members are (or have been) disabled persons, and
 - (c) the Chairman is (or has been) a disabled person.
- (2) The Transition Commissioner nominated by the chairman of the Disability Rights Commission may not be a member of the Disability Committee.
- 51 The appointment of each member of the Disability Committee shall be for a period of not less than two years or more than 5 years, subject to the possibilities of—
- (a) reappointment,
 - (b) dismissal in accordance with the terms of appointment, and
 - (c) the lapsing of the appointment upon the dissolution of the Committee.

Functions

- 52 (1) The Commission shall by virtue of this paragraph be treated as having delegated to the Disability Committee—
- (a) the Commission's duty under section 8 in so far as it relates to disability matters and may be fulfilled by the exercise of the powers conferred by or referred to in—
 - (i) section 11,
 - (ii) section 13(1)(a), (c) or (d) (or paragraph (e) or (f) in so far as it relates to paragraph (a), (c) or (d)),
 - (iii) section 14,
 - (iv) section 15,
 - (v) section 19, in so far as it relates to disability,
 - (vi) section 27,
 - (vii) section 28, or
 - (viii) section 30,

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- (b) the Commission's duty under section 10 in so far as it relates to disability and may be fulfilled by the exercise of those powers, and
 - (c) those powers in so far as they are or may be exercised for the purpose of disability matters.
- (2) Delegation under this paragraph shall not prevent the exercise by the Commission of a power, or the fulfilment by the Commission of a duty, by action which relates partly to disability matters and partly to other matters.
- (3) In this paragraph “disability matters” means—
- (a) matters provided for in Parts 1, 3, 4, 5 and 5B of the Disability Discrimination Act 1995 (c. 50),
 - (b) sections 8 and 10 above, in so far as they relate to disability, and
 - (c) matters addressed in sections 14(3) and (4), 27(2) and (3) and 28(2) and (3).
- (4) Before exercising a power to which paragraph 21(2) or 22(3) applies the Disability Committee shall consult the Scotland Committee.
- (5) Before exercising a power to which paragraph 29(2) or 30(3) applies the Disability Committee shall consult the Wales Committee.
- 53 Before exercising a power or fulfilling a duty wholly or partly in relation to a matter affecting disabled persons (including, in particular, any matter provided for in Part 2 of the Disability Discrimination Act 1995 (c. 50)) the Commission shall consult the Disability Committee.
- 54 The Disability Committee shall advise the Commission about the exercise of the Commission's functions in so far as they affect disabled persons (including, in particular, in so far as they relate to any matter provided for in Part 2 of the Disability Discrimination Act 1995).

Resources

- 55 In allocating its resources the Commission shall ensure that the Disability Committee receives a share sufficient to enable it to exercise its functions.

Report

- 56 (1) The Disability Committee shall for each financial year of the Commission submit to the Commission a report on the Committee's activities in that year.
- (2) The Commission shall incorporate each report of the Disability Committee under sub-paragraph (1) into the relevant annual report of the Commission.

5-year review

- 57 The Commission shall arrange for a review of the activities of the Disability Committee to be conducted as soon as is reasonably practicable after the end of the period of five years beginning with the date of the commencement for all purposes of sections 8 and 10 in so far as they relate to disability.
- 58 The following may not participate in the review (although those conducting the review may seek views from any of the following)—
- (a) a Commissioner or former Commissioner,
 - (b) staff or former staff of the Commission,

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- (c) a person who is or has been an Investigating Commissioner, and
 - (d) a person who is or has been a member of a committee established by the Commission.
- 59 The Commission shall ensure—
 - (a) that those conducting the review consult disabled persons and other persons whom they think likely to have an interest,
 - (b) that those conducting the review submit a report to the Commission which, in particular, recommends for how long the Disability Committee should continue in existence, and
 - (c) that the report is published.
- 60 As soon as is reasonably practicable after receiving a report under paragraph 59 the Commission shall recommend to the Secretary of State for how long the Disability Committee should continue in existence.
- 61 As soon as is reasonably practicable after receiving a recommendation under paragraph 60 the Secretary of State shall by order—
 - (a) dissolve the Disability Committee with effect from such time as shall be specified in the order, and
 - (b) repeal this Part of this Schedule with effect from that time.
- 62 An order under paragraph 61 may include provision about—
 - (a) the conduct of the business of the Disability Committee before its dissolution;
 - (b) the conduct of the Commission after the dissolution of the Disability Committee in relation to functions formerly delegated to that committee.
- 63 The dissolution of the Disability Committee is without prejudice to any power of the Commission under this Schedule—
 - (a) to establish a committee, or
 - (b) to delegate to a committee.
- 64 The Disability Committee may not be dissolved under paragraph 14(c).

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