

Status: Point in time view as at 02/11/2020.

Changes to legislation: There are currently no known outstanding effects for the Historical Institutional Abuse (Northern Ireland) Act 2019, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 21

THE COMMISSIONER FOR SURVIVORS OF INSTITUTIONAL CHILD ABUSE

Status

- 1 (1) The person for the time being holding the office of Commissioner for Survivors of Institutional Childhood Abuse is, by that name, 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 property held on behalf of, the Crown.

Commencement Information

II Sch. 2 para. 1 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

General powers

- 2 (1) The Commissioner may do anything which the Commissioner considers to be appropriate for facilitating, or to be incidental or conducive to, the exercise of the Commissioner's functions.
- (2) The power under sub-paragraph (1) includes a power to co-operate with other bodies which exercise functions (whether in the United Kingdom or elsewhere) relating to persons who suffered abuse while children and while resident in accommodation provided for them by a body, society or organisation with responsibility for the care, health and welfare of children.
- (3) The power under sub-paragraph (1) does not include a power to borrow money.
- (4) The reference in sub-paragraph (2) to being resident in accommodation includes a reference to being absent from the accommodation while under the care of—
 - (a) the body, society or organisation which provided the accommodation, or
 - (b) a person authorised by that body, society or organisation.

Commencement Information

I2 Sch. 2 para. 2 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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Tenure of office

- 3
- (1) A person holds and vacates office as the Commissioner in accordance with the terms of that person's appointment; but that is subject to the following provisions of this paragraph.
 - (2) An appointment as the Commissioner is for a term of five years.
 - (3) A person who ceases to be the Commissioner on the expiry of that person's first term of office is eligible for re-appointment.
 - (4) But a person who has been re-appointed by virtue of sub-paragraph (3) 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.
 - (5) A person may at any time resign from office as the Commissioner by giving written notice to the Executive Office.
 - (6) The Executive Office may remove a person from office as the Commissioner if satisfied that the person—
 - (a) has been convicted of an offence,
 - (b) has become bankrupt, has had a bankruptcy restrictions order, debt relief order or debt relief restrictions order made in respect of that person, or has made a voluntary arrangement,
 - (c) has, without reasonable excuse, failed to discharge the functions of the Commissioner for a continuous period of three months, or
 - (d) has, in the opinion of the Executive Office, become unfit or unable to exercise the functions of the Commissioner.
 - (7) Each of the expressions used in sub-paragraph (6)(b) has the same meaning as in the Insolvency (Northern Ireland) Order 1989.

Commencement Information

I3 Sch. 2 para. 3 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Salary, etc

- 4
- (1) The Executive Office may pay to or in respect of the Commissioner such remuneration, such allowances, and such sums for the provision of a pension as the Executive Office determines.
 - (2) Where a person ceases to hold office as the Commissioner otherwise than on the expiry of the person's term of office and the Executive Office determines that there are special circumstances that make it right for the person to receive compensation, the Executive Office may make to the person a payment of such amount as it determines.
 - (3) A determination by the Executive Office under this paragraph requires the approval of the Department of Finance in Northern Ireland.

Commencement Information

I4 Sch. 2 para. 4 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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Staff

- 5
- (1) The Commissioner may, with the approval of the Executive Office as to numbers, appoint such staff as the Commissioner considers necessary.
 - (2) The remuneration and other conditions of service of the persons appointed as members of the Commissioner's staff are to be determined by the Commissioner.
 - (3) The Commissioner may make payments towards the provision of such pensions or allowances to or in respect of the persons appointed as members of the Commissioner's staff as the Commissioner determines.
 - (4) The reference in sub-paragraph (3) to pensions or allowances includes a reference to pensions or allowances by way of compensation for loss of employment.
 - (5) A determination by the Commissioner under this paragraph requires the approval of the Executive Office and of the Department of Finance in Northern Ireland.
 - (6) Employment as a member of the Commissioner's staff is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply; and, accordingly, in Schedule 1 to that Order, under the heading "Other Bodies", at the end insert— "Employment by the Commissioner for Survivors of Institutional Childhood Abuse."

Commencement Information

I5 Sch. 2 para. 5 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Delegation of functions of Commissioner

- 6
- Any function of the Commissioner may be exercised by a member of the Commissioner's staff who has been authorised (whether generally or specifically) by the Commissioner for that purpose.

Commencement Information

I6 Sch. 2 para. 6 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Seal

- 7
- The application of the seal of the Commissioner must be authenticated—
- (a) by the Commissioner's signature, or
 - (b) by the signature of a person who is authorised under paragraph 6 for that purpose.

Commencement Information

I7 Sch. 2 para. 7 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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Evidence

- 8 A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or 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.

Commencement Information

I8 Sch. 2 para. 8 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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.

Commencement Information

I9 Sch. 2 para. 9 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Funding

- 10 (1) The Executive Office may make grants to the Commissioner of such amounts as it determines.
- (2) The Commissioner must pay to the Executive Office all sums received by the Commissioner in the course of, or in connection with, the exercise of the Commissioner's functions.
- (3) But sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may direct with the approval of the Department of Finance in Northern Ireland.
- (4) Any sums received by the Executive Office under this paragraph must be paid into the Consolidated Fund of Northern Ireland.

Commencement Information

I10 Sch. 2 para. 10 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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.

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- (2) The statement of accounts must be in such form, and contain such information, as the Executive Office may direct with the approval of the Department of Finance in Northern Ireland.
- (3) The Commissioner must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to—
 - (a) the Executive Office, and
 - (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General for Northern Ireland must—
 - (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 the Executive Office a copy of the report of the Comptroller and Auditor General for Northern Ireland.
- (5) The Executive Office must lay before the Northern Ireland Assembly—
 - (a) a copy of the statement of accounts, and
 - (b) a copy of the report of the Comptroller and Auditor General for Northern Ireland.
- (6) In this paragraph, “financial year” means—
 - (a) the period beginning with the day on which the first person appointed under section 21(2) takes office and ending with the next 31 March following that date, and
 - (b) each successive period of twelve months ending with 31 March.

Commencement Information

I11 Sch. 2 para. 11 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Annual report

- 12
- (1) The Commissioner must, as soon as practicable after the end of each financial year, send to the Executive Office a report on the exercise of the Commissioner's functions during that year.
 - (2) A report under this paragraph must give details of the steps taken by the Commissioner in the financial year to which the report relates for the purpose of complying with the Commissioner's duties.
 - (3) The Executive Office must, in the case of each report sent to it under this paragraph, lay a copy of the report before the Northern Ireland Assembly.
 - (4) In this paragraph, “financial year” has the meaning given in paragraph 11.

Commencement Information

I12 Sch. 2 para. 12 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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Disqualification from the Assembly

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

Commencement Information

I13 Sch. 2 para. 13 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Freedom of information

- 14 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies in Northern Ireland which are public authorities for the purposes of the Act), at the appropriate place, insert— “ Commissioner for Survivors of Institutional Childhood Abuse ”.

Commencement Information

I14 Sch. 2 para. 14 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

Public Services Ombudsman

- 15 In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities), under the heading “Miscellaneous”, at the appropriate place, insert— “ The Office of the Commissioner for Survivors of Institutional Childhood Abuse ”.

Commencement Information

I15 Sch. 2 para. 15 in force at 2.11.2020 by S.R. 2020/229, art. 2(b)

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