

SCHEDULES

SCHEDULE 3

TRANSITIONAL PROVISIONS AND SAVINGS

Part II of the 1981 Order

4.—(1) The provisions of this paragraph shall have effect if the first appointed day falls before the second appointed day.

(2) With effect from the first appointed day until the second appointed day it shall be the responsibility of the Commission—

- (a) to establish and maintain a fund, which shall be deemed for all purposes of the 1981 Order to be the legal aid fund,
- (b) subject to the provisions of Part II of the 1981 Order and this Schedule, to make arrangements with the approval of the Lord Chancellor and the concurrence of the Treasury for securing that legal aid, advice and assistance are available as required by Part II of the 1981 Order,
- (c) to monitor the conduct of solicitors and barristers advising or assisting or acting for persons entitled to receive advice or assistance or legal aid under the 1981 Order and, where it considers it appropriate to do so—
 - (i) to make a complaint about the conduct of a person so advising or assisting or acting to the Law Society (in the case of a solicitor) or to the General Council of the Bar of Northern Ireland (in the case of a barrister), or
 - (ii) to refer any complaint which is made to the Commission about the conduct of a person so advising or assisting or acting to the Law Society (in the case of a solicitor) or to the General Council of the Bar of Northern Ireland (in the case of a barrister), and
- (d) generally to administer Part II of the 1981 Order.

(3) In relation to any time from the first appointed day to the second appointed day, any reference in Part II of the 1981 Order or in any statutory provision made, or treated as made, under that Part—

- (a) to, or to the Council of, the Law Society, or
- (b) to the Legal Aid Committee, certifying committee or any other committee or tribunal established by the Law Society under that Part, or
- (c) to any member or office-holder of such a committee or tribunal,

shall, so far as is required to enable the Commission to exercise its functions under sub-paragraph (2), and subject to sub-paragraph (4), be construed as a reference to the Commission, or in relation to a function exercisable by any individual or committee under arrangements made by the Commission under Article 7(4) of this Order, as a reference to that individual or committee.

(4) Sub-paragraph (3) shall not apply to Article 23 or 24 of the 1981 Order; but instead in Article 24—

- (a) any reference to the Law Society shall, in relation to any time from the first appointed day to the second appointed day, be deemed to include a reference to the Commission; and

(b) paragraph (1) shall have effect as if there were inserted after sub-paragraph (c)—

“or

(d) for the purpose of facilitating the proper performance by the Law Society or the General Council of the Bar of Northern Ireland of their functions in relation to complaints made or referred to them by the Commission.”

(5) The Commission shall pay into the fund established under sub-paragraph (2)(a)—

- (a) sums received from the Lord Chancellor under sub-paragraph (7),
- (b) any receipts of the Commission attributable to Part II of the 1981 Order, and
- (c) such other receipts of the Commission as the Lord Chancellor may, with the concurrence of the Treasury, determine.

(6) All expenses of the Commission attributable to Part II of the 1981 Order shall be paid out of the fund established under sub-paragraph (2)(a).

(7) The Lord Chancellor shall pay to the Commission out of money provided by Parliament such sums as are required (after allowing for sums received apart from this sub-paragraph) to meet the payments which, under sub-paragraph (6), are to be paid by the Commission out of the fund established under sub-paragraph (2)(a).

(8) The Lord Chancellor may, with the approval of the Treasury—

- (a) determine the manner in which and times at which the sums referred to in sub-paragraph (7) shall be paid to the Commission; and
- (b) impose conditions on the payment of the sums referred to in sub-paragraph (7).

(9) Estimates of the sums required as mentioned in sub-paragraph (7) shall from time to time be submitted to the Lord Chancellor by the Commission.

(10) An estimate shall be submitted under sub-paragraph (9)—

- (a) at least once in the period beginning with the first appointed day and ending with the next 31st March, and
- (b) at least once in each subsequent period of twelve months ending with 31st March,

at such time as the Lord Chancellor may, with the approval of the Treasury, direct.

(11) An estimate under sub-paragraph (9) shall be in such form and shall give such particulars as may be so directed.

(12) Any provision of Part II of the 1981 Order requiring anything to be paid into or out of the fund established under sub-paragraph (2)(a) is not to be taken as requiring the making of an actual payment, so as to prevent the obligation to make it being satisfied in whole or in part by an allowance on account or in any other way; and in that Part references to payments, to sums paid or payable or to receipts and similar references shall be construed accordingly.

(13) Where a fund is established under sub-paragraph (2)(a), that fund shall, with effect from the second appointed day, be treated as if it were established under Article 11(1).