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SCHEDULES

SCHEDULE 3

Section 5.

THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION

Constitution and administration

- 1 (1) The Commission shall consist of members appointed by the Lord Chancellor.
- (2) The Lord Chancellor shall appoint one of the members as chairman.
- (3) A member shall hold and vacate office in accordance with the terms of his appointment.
- (4) A member may resign at any time by notice in writing to the Lord Chancellor.
- 2 The Lord Chancellor may appoint officers and servants for the Commission.
- 3 The Lord Chancellor—
 - (a) may pay sums by way of remuneration, allowances, pensions and gratuities to or in respect of members, officers and servants,
 - (b) may pay compensation to a person who ceases to be a member of the Commission if the Lord Chancellor thinks it appropriate because of special circumstances, and
 - (c) may pay sums in respect of expenses of the Commission.

Procedure

- 4 (1) The Commission shall sit at such times and in such places as the Lord Chancellor may direct [^{F1} after consulting the following—
 - (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland].
- (2) The Commission may sit in two or more divisions.
- (3) At each sitting of the Commission—
 - (a) three members shall attend,
 - (b) one of the members shall be a person who holds or has held high judicial office (within the meaning of [^{F2}Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council], and
 - (c) the chairman or another member nominated by him shall preside and report the Commission's decision.
- [^{F3}(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

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- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

Textual Amendments

- F1** Words in Sch. 3 para. 4(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(2\)](#); [S.I. 2006/1014, art. 2\(1\)](#), Sch. 1
- F2** Words in Sch. 3 para. 4(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 145, 148, Sch. 17 para. 29](#); [S.I. 2009/1604, art. 2\(e\)](#)
- F3** Sch. 3 para. 4(4)-(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 Pt. 1 para. 289\(3\)](#); [S.I. 2006/1014, art. 2\(1\)](#), Sch. 1

- 5 (1) The Lord Chancellor may make rules—
- (a) regulating the exercise of the right of appeal to the Commission;
 - (b) prescribing practice and procedure to be followed in relation to proceedings before the Commission;
 - (c) providing for proceedings before the Commission to be determined without an oral hearing in specified circumstances;
 - (d) making provision about evidence in proceedings before the Commission (including provision about the burden of proof and admissibility of evidence);
 - (e) making provision about proof of the Commission’s decisions.
- (2) In making the rules the Lord Chancellor shall, in particular, have regard to the need to secure—
- (a) that decisions which are the subject of appeals are properly reviewed, and
 - (b) that information is not disclosed contrary to the public interest.
- (3) The rules shall make provision permitting organisations to be legally represented in proceedings before the Commission.
- (4) The rules may, in particular—
- (a) provide for full particulars of the reasons for proscription or refusal to deproscribe to be withheld from the organisation or applicant concerned and from any person representing it or him;
 - [^{F4}(aa) provide for full particulars of the reasons for—
 - (i) the making of an order under section 3(6), or
 - (ii) a refusal to provide for a name to cease to be treated as a name for an organisation,
 to be withheld from the organisation or applicant concerned and from any person representing it or him;]
 - (b) enable the Commission to exclude persons (including representatives) from all or part of proceedings;

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- (c) enable the Commission to provide a summary of evidence taken in the absence of a person excluded by virtue of paragraph (b);
 - (d) permit preliminary or incidental functions to be discharged by a single member;
 - (e) permit proceedings for permission to appeal under section 6 to be determined by a single member;
 - (f) make provision about the functions of persons appointed under paragraph 7;
 - (g) make different provision for different parties or descriptions of party.
- (5) Rules under this paragraph—
- (a) shall be made by statutory instrument, and
 - (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (6) In this paragraph a reference to proceedings before the Commission includes a reference to proceedings arising out of proceedings before the Commission.

Textual Amendments

F4 Sch. 3 para. 5(4)(aa) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), s. 22\(11\)](#); [S.I. 2006/1013, art. 2](#)

- 6
- (1) This paragraph applies to—
 - (a) proceedings brought by an organisation before the Commission, and
 - (b) proceedings arising out of proceedings to which paragraph (a) applies.
 - (2) Proceedings shall be conducted on behalf of the organisation by a person designated by the Commission (with such legal representation as he may choose to obtain).
 - (3) In [^{F5}paragraph 5] of this Schedule a reference to an organisation includes a reference to a person designated under this paragraph.

Textual Amendments

F5 Words in Sch. 3 para. 6(3) substituted (2.10.2000) by [2000 c. 23, s. 82, Sch. 4 para. 12\(2\)](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543, art. 3](#)

- 7
- (1) The relevant law officer may appoint a person to represent the interests of an organisation or other applicant in proceedings in relation to which an order has been made by virtue of paragraph 5(4)(b).
 - (2) The relevant law officer is—
 - (a) in relation to proceedings in England and Wales, the Attorney General,
 - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
 - (c) in relation to proceedings in Northern Ireland, the [^{F6} Advocate General for Northern Ireland].
 - (3) A person appointed under this paragraph must—
 - (a) have a general qualification for the purposes of section 71 of the ^{M1}Courts and Legal Services Act 1990 (qualification for legal appointments),

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- (b) be an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the ^{M2}Solicitors (Scotland) Act 1980, or
 - (c) be a member of the Bar of Northern Ireland.
- (4) A person appointed under this paragraph shall not be responsible to the organisation or other applicant whose interests he is appointed to represent.
- (5) In [^{F7}paragraph 5] of this Schedule a reference to a representative does not include a reference to a person appointed under this paragraph.

Textual Amendments

F6 Words in Sch. 3 para. 7(2)(c) substituted (12.4.2010 being the date that 2002 c. 26, s. 27 comes into force, see S.I. 2010/113, art. 2, Sch. para. 7) by [Counter-Terrorism Act 2008 \(c. 28\)](#), [s. 91\(2\)\(3\)](#) (with [s. 101\(2\)](#))

F7 Words in Sch. 3 para. 7(5) substituted (2.10.2000) by [2000 c. 23, s. 82](#), [Sch. 4 para. 12\(2\)](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543, art. 3](#)

Marginal Citations

M1 [1990 c. 41](#).

M2 [1980 c. 46](#).

^{F8}8

Textual Amendments

F8 Sch. 3 para. 8 repealed (2.10.2000) by [2000 c. 23, s. 82](#), [Sch. 5](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543, art. 3](#)

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