

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Children Act 2004, SCHEDULE 1 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### CHILDREN’S COMMISSIONER

##### *Status*

- 1 (1) The Children’s Commissioner is to be a corporation sole.
- (2) The Children’s Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and his property is not to be regarded as property of, or property held on behalf of, the Crown.

##### *General powers*

- 2 (1) The Children’s Commissioner may do anything which appears to him to be necessary or expedient for the purpose of, or in connection with, the exercise of his functions.
- (2) In particular he may—
  - (a) co-operate with other public authorities in the United Kingdom;
  - (b) enter into contracts; and
  - (c) acquire, hold and dispose of any property.

##### *Appointment and tenure of office*

- 3 (1) The Children’s Commissioner is to be appointed by the Secretary of State.
- (2) The Secretary of State must, to such extent and in such manner as he thinks fit, involve children in the appointment of the Children’s Commissioner.
- (3) Subject to the provisions of this paragraph, a person shall hold and vacate office as the Children’s Commissioner in accordance with the terms and conditions of his appointment as determined by the Secretary of State.
- (4) An appointment as the Children’s Commissioner shall be for a term not exceeding five years.
- (5) A person who has held office as the Children’s Commissioner is eligible for reappointment once only.
- (6) The Children’s Commissioner may at any time resign by notice in writing to the Secretary of State.
- (7) The Secretary of State may remove the Children’s Commissioner from office if he is satisfied that he has—
  - (a) become unfit or unable properly to discharge his functions; or
  - (b) behaved in a way that is not compatible with his continuing in office.

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### *Remuneration*

- 4 The Secretary of State must—
- (a) pay the Children’s Commissioner such remuneration and allowances, and
  - (b) pay or make provision for the payment of such pension or gratuities to or in respect of him,
- as may be provided under the terms of his appointment.

### *Staff*

- 5 (1) The Children’s Commissioner may appoint any staff he considers necessary for assisting him in the exercise of his functions, one of whom shall be appointed as deputy Children’s Commissioner.
- (2) During any vacancy in the office of Children’s Commissioner or at any time when the Children’s Commissioner is for any reason unable to act, the deputy Children’s Commissioner shall exercise his functions (and any property or rights vested in the Children’s Commissioner may accordingly be dealt with by the deputy Children’s Commissioner as if vested in him).
- (3) Without prejudice to sub-paragraph (2), any member of the Children’s Commissioner’s staff may, so far as authorised by him, exercise any of his functions.

### *Pensions*

- 6 (1) In the Superannuation Act 1972 (c. 11), in Schedule 1 (kinds of employment etc to which section 1 of that Act applies)—
- (a) in the list of “Other Bodies”, at the end insert “ Employment by the Children’s Commissioner ”;
  - (b) in the list of “Offices”, at the appropriate place insert “ Children’s Commissioner ”.
- (2) The Secretary of State must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

### *Funding*

- 7 The Secretary of State may make payments to the Children’s Commissioner of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.

### *Accounts*

- 8 (1) The Children’s Commissioner must—
- (a) keep proper accounting records;
  - (b) prepare a statement of accounts for each financial year; and
  - (c) send a copy of each such statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as possible after the end of the financial year to which the statement relates.

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- (2) The Comptroller and Auditor General must examine, certify and report on each statement of accounts sent to him under sub-paragraph (1)(c) and must lay copies of the statement and of his report before Parliament.
- (3) In this paragraph, “financial year” means—
  - (a) the period beginning with the date on which the first Children’s Commissioner is appointed and ending with 31st March next following that date; and
  - (b) each successive period of twelve months ending with 31st March.

#### *Evidence*

- 9 (1) A document purporting to be duly executed under the seal of the Children’s Commissioner or to be signed by him or on his behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.
- (2) This paragraph does not extend to Scotland.

#### *Protection from defamation actions*

- 10 For the purposes of the law of defamation—
  - (a) any statement made by the Children’s Commissioner in a report published under this Part has absolute privilege; and
  - (b) any other statement made by the Children’s Commissioner or a member of his staff for the purposes of this Part has qualified privilege.

#### *Regulated position*

- 11 In the Criminal Justice and Court Services Act 2000 (c. 43), in section 36(6) (meaning of “regulated position”), after paragraph (f) insert—
  - “(fa) Children’s Commissioner and deputy Children’s Commissioner appointed under Part 1 of the Children Act 2004.”.

#### *Disqualifications*

- 12 In the House of Commons Disqualification Act 1975 (c. 24), in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “ Children’s Commissioner ”; “ Member of staff of the Children’s Commissioner ”.
- 13 In the Northern Ireland Assembly Disqualification Act 1975 (c. 25), in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “ Children’s Commissioner ”; “ Member of staff of the Children’s Commissioner ”.

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