

Status: Point in time view as at 01/12/2012.

Changes to legislation: Protection of Freedoms Act 2012, SCHEDULE 8 is up to date with all changes known to be in force on or before 02 July 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 8

Section 87(3)

DISCLOSURE AND BARRING SERVICE

Membership

- 1 (1) DBS is to consist of—
 - (a) a person who has the function of chairing DBS, and
 - (b) such number of other members as the Secretary of State decides.
- (2) A person falling within sub-paragraph (1)(a) or (b) (in this Schedule “an appointed member”) is to be appointed by the Secretary of State.
- (3) In appointing any such person, the Secretary of State must have regard to the desirability of ensuring that at least some of the appointed members of DBS are persons who appear to the Secretary of State to have knowledge or experience of an aspect of child protection or the protection of vulnerable adults.
- (4) The Secretary of State must consult the Welsh Ministers and a Northern Ireland Minister before making any appointment under this paragraph.
- (5) In sub-paragraph (4) “Northern Ireland Minister” includes the First Minister and deputy First Minister in Northern Ireland.

Commencement Information

II Sch. 8 para. 1 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Terms of appointment of members

- 2 (1) Subject as follows, an appointed member holds and vacates office in accordance with the terms of appointment.
- (2) A period of appointment may not exceed 5 years.
- (3) An appointed member may resign by giving notice in writing to the Secretary of State.
- (4) The Secretary of State may by notice in writing remove an appointed member who—
 - (a) has, without reasonable excuse, failed, for a continuous period of three months, to carry out the person's functions,
 - (b) has been convicted (whether before or after the person's appointment) of a criminal offence,
 - (c) is an undischarged bankrupt, or whose estate has been sequestrated and the person has not been discharged,

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- (d) is a person in relation to whom a moratorium period, under a debt relief order made under Part 7A of the Insolvency Act 1986 or Part 7A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), applies,
 - (e) is the subject of a bankruptcy restrictions order or an interim order under Schedule 4A to the Insolvency Act 1986 or an order to similar effect made under any corresponding enactment in force in Scotland or Northern Ireland,
 - (f) is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 or Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989,
 - (g) has made a composition or arrangement with, or granted a trust deed for, the person's creditors,
 - (h) has failed to comply with the terms of the person's appointment, or
 - (i) is otherwise unable or unfit to carry out the person's functions.
- (5) A person who ceases to be an appointed member is eligible for re-appointment unless the cessation is by virtue of sub-paragraph (4).

Commencement Information

I2 Sch. 8 para. 2 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Remuneration etc: members

- 3
- (1) DBS may pay to the person who has the function of chairing it and each of the other appointed members such remuneration and such allowances as the Secretary of State may decide.
 - (2) Sub-paragraph (3) applies if—
 - (a) a person ceases to be an appointed member of DBS, and
 - (b) the Secretary of State considers that there are special circumstances which make it right for the person to receive compensation.
 - (3) The Secretary of State may require DBS to pay the person such amount as the Secretary of State may decide.

Commencement Information

I3 Sch. 8 para. 3 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Staff

- 4
- (1) DBS must appoint a person to be chief executive.
 - (2) The period of appointment must not exceed 5 years (but a person may be re-appointed).
 - (3) DBS must consult the Secretary of State before appointing a chief executive.
 - (4) The person who has the function of chairing DBS may, with the approval of the Secretary of State, be appointed as chief executive.
 - (5) The chief executive is an employee of DBS.

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- (6) DBS may appoint such number of other staff as it considers appropriate.
- (7) DBS may make arrangements for persons to be seconded to DBS to serve as members of its staff.
- (8) A member of a police force on temporary service with DBS is to be under the direction and control of DBS.

Commencement Information

I4 Sch. 8 para. 4 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Remuneration, pensions etc of staff

- 5 (1) DBS may pay to its staff such remuneration and such allowances as it may, with the approval of the Secretary of State, decide.
- (2) DBS may—
 - (a) pay such pensions, allowances or gratuities to or in respect of any member of staff or former member of staff, or
 - (b) pay such sums towards the provision for the payment of pensions, allowances or gratuities to or in respect of any member of staff or former member of staff,as it may, with the approval of the Secretary of State, decide.
- (3) Employment with DBS is included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) insert at the appropriate place— “ Employment by the Disclosure and Barring Service. ”
- (4) DBS must pay to the Minister for the Civil Service, at such times as the Minister may direct in writing, such sums as the Minister may decide in respect of any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Act of 1972.

Commencement Information

I5 Sch. 8 para. 5 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Delegation of functions

- 6 DBS may, to such extent as it may decide, delegate any of its functions to—
 - (a) any of its appointed members,
 - (b) a member of its staff,
 - (c) a committee consisting of any of its appointed members, members of its staff or both appointed members and members of staff.

Commencement Information

I6 Sch. 8 para. 6 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

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- 7 DBS may, to such extent as it may decide, delegate any of its functions, other than a core function, to—
- (a) a person who is neither an appointed member nor a member of staff,
 - (b) a committee (including a committee which comprises or includes persons who are neither appointed members nor members of staff).

Commencement Information

I7 Sch. 8 para. 7 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

- 8 (1) In this Schedule a core function is—
- (a) deciding whether it is appropriate for a person to be included in a barred list under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)),
 - (b) deciding whether to remove a person from such a list,
 - (c) considering representations made for the purposes of Schedule 3 to that Act or (as the case may be) Schedule 1 to that Order, or
 - (d) any function under, or in connection with, Part 5 of the Police Act 1997 which is specified for this purpose in an order made by the Secretary of State.
- (2) An order under sub-paragraph (1)(d) is to be made by statutory instrument which is to be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I8 Sch. 8 para. 8 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Business plans

- 9 (1) As soon as possible after the beginning of each financial year, DBS must issue a business plan in relation to the proposed exercise of its functions during that year.
- (2) DBS must consult the Secretary of State before issuing the plan.
- (3) DBS must arrange for the plan to be published in such manner as it considers appropriate.
- (4) In this Schedule “financial year” is—
- (a) the period—
 - (i) starting with the day on which DBS is established, and
 - (ii) ending with the next 31st March or, if the period ending with that date is 3 months or less, ending with the next 31st March after that date, and
 - (b) each succeeding period of 12 months.

Commencement Information

I9 Sch. 8 para. 9 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

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Reports

- 10 (1) As soon as possible after the end of each financial year, DBS must issue a report on the exercise of its functions during that year.
- (2) DBS must arrange for the report to be published in such manner as it considers appropriate.

Commencement Information

I10 Sch. 8 para. 10 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Funding

- 11 The Secretary of State may make payments to DBS of such amounts, at such times and on such conditions (if any), as the Secretary of State considers appropriate.

Commencement Information

I11 Sch. 8 para. 11 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Accounts

- 12 (1) DBS must keep its accounts in such form as the Secretary of State decides.
- (2) DBS must prepare annual accounts in respect of each financial year in such form as the Secretary of State decides.
- (3) Before the end of the specified period following the end of each financial year to which the annual accounts relate DBS must send a copy of the accounts to the Secretary of State and the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the annual accounts, and
 - (b) send a copy of the certified accounts and of the report to the Secretary of State.
- (5) The Secretary of State must lay before Parliament each document received under sub-paragraph (4)(b).
- (6) The specified period is such period as the Secretary of State directs in writing.

Commencement Information

I12 Sch. 8 para. 12 in force at 1.12.2012 by S.I. 2012/2521, art. 3(b)

Guidance

- 13 (1) The Secretary of State may, from time to time, issue guidance in writing to DBS in relation to the exercise of any of its functions.
- (2) DBS must have regard to any such guidance before exercising any function to which it relates.

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Commencement Information

I13 [Sch. 8 para. 13](#) in force at 15.10.2012 by [S.I. 2012/2521](#), [art. 2\(d\)](#)

Directions

- 14 (1) The Secretary of State may give directions in writing to DBS in relation to the exercise of any of its functions other than a core function mentioned in paragraph 8(1)(a), (b) or (c).
- (2) The Secretary of State may vary or revoke any such directions.
- (3) DBS must comply with any directions given under this paragraph.

Commencement Information

I14 [Sch. 8 para. 14](#) in force at 15.10.2012 by [S.I. 2012/2521](#), [art. 2\(d\)](#)

Status

- 15 (1) DBS is not to be regarded—
- (a) as a servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.
- (2) DBS's property is not to be regarded as property of, or property held on behalf of, the Crown.

Commencement Information

I15 [Sch. 8 para. 15](#) in force at 15.10.2012 by [S.I. 2012/2521](#), [art. 2\(d\)](#)

Use of information

- 16 Information obtained by DBS in connection with the exercise of any of its functions may be used by DBS in connection with the exercise of any of its other functions.

Commencement Information

I16 [Sch. 8 para. 16](#) in force at 15.10.2012 by [S.I. 2012/2521](#), [art. 2\(d\)](#)

Payments in connection with maladministration

- 17 (1) Sub-paragraph (2) applies if DBS considers—
- (a) that action taken by or on behalf of DBS amounts to maladministration, and
- (b) that a person has been adversely affected by the action.
- (2) DBS may, with the approval of the Secretary of State, make such payment (if any) to the person as it considers appropriate.
- (3) In sub-paragraph (1) “action” includes failure to act.

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Commencement Information

I17 Sch. 8 para. 17 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Incidental powers

- 18 (1) In connection with the exercise of any of its functions DBS may—
- (a) enter into contracts and other agreements (whether legally binding or not),
 - (b) acquire and dispose of property (including land),
 - (c) borrow money,
 - (d) do such other things as DBS considers necessary or expedient.
- (2) The power conferred by sub-paragraph (1)(b) includes accepting—
- (a) gifts of money, and
 - (b) gifts or loans of other property,
- on such terms as DBS considers appropriate.
- (3) But DBS may exercise the power conferred by sub-paragraph (1)(b) or (c) only with the approval of the Secretary of State.
- (4) Such approval may be given—
- (a) with respect to a particular case or with respect to a class of cases,
 - (b) subject to such conditions as the Secretary of State considers appropriate.

Commencement Information

I18 Sch. 8 para. 18 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Documents

- 19 A document purporting to be signed on behalf of DBS is to be received in evidence and, unless the contrary is proved, is to be taken to be so signed.

Commencement Information

I19 Sch. 8 para. 19 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

Transitional

- 20 (1) The Secretary of State (instead of DBS) may—
- (a) appoint the first chief executive, and
 - (b) decide the terms and conditions of service as an employee of DBS which are applicable to the first chief executive on appointment.
- (2) The period of any such appointment must not exceed 5 years (but the person may be re-appointed under paragraph 4).
- (3) The person who has the function of chairing DBS may be appointed as chief executive by the Secretary of State under this paragraph.

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I20 Sch. 8 para. 20 in force at 15.10.2012 by S.I. 2012/2521, art. 2(d)

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