



## Commission for Victims and Survivors Act (Northern Ireland) 2008

### 2008 CHAPTER 6

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An Act to replace the Commissioner for Victims and Survivors for Northern Ireland established by the Victims and Survivors (Northern Ireland) Order 2006 with a Commission for Victims and Survivors for Northern Ireland.

[23rd May 2008]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

#### **The Commission for Victims and Survivors for Northern Ireland**

1.—(1) The Victims and Survivors (Northern Ireland) Order 2006 (NI 17) is amended in accordance with subsections (2) to (4).

(2) For Article 4(1) to (3) of that Order substitute—

“4.—(1) There shall be a body corporate to be known as the Commission for Victims and Survivors for Northern Ireland.

(2) The Schedule has effect in relation to the Commission.”.

(3) For the Schedule to that Order substitute the Schedule set out in Schedule 1.

(4) In the other provisions of that Order—

(a) for “Commissioner” and “Commissioner’s” (wherever occurring) substitute “Commission” and “Commission’s”, respectively;

(b) for “his” or “he” (wherever occurring) substitute “its” and “it” respectively.

(5) The statutory provisions mentioned in the first column of Schedule 2 are repealed to the extent set out in the second column.

**Short title**

2. This Act may be cited as the Commission for Victims and Survivors Act (Northern Ireland) 2008.

## **SCHEDULES**

Section 1(3).

### **SCHEDULE 1 THE SCHEDULE TO THE VICTIMS AND SURVIVORS (NORTHERN IRELAND) ORDER 2006, AS SUBSTITUTED**

#### **“SCHEDULE THE COMMISSION FOR VICTIMS AND SURVIVORS FOR NORTHERN IRELAND**

##### **Status**

1.—(1) The Commission shall not be regarded as—

(a) the servant or agent of the Crown; or

(b) enjoying any status, privilege or immunity of the Crown.

(2) The property of the Commission shall not be regarded as property of, or property held on behalf of, the Crown.

(3) Subject to the following provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to the Commission.

##### **General powers**

2.—(1) The Commission may do anything, apart from borrowing money, which it considers is—

(a) appropriate for facilitating, or

(b) incidental or conducive to,

the exercise of its functions.

(2) Without prejudice to the generality of sub-paragraph (1), that includes co-operating with other bodies or persons exercising functions relating to victims and survivors (whether in the United Kingdom or elsewhere).

##### **Constitution and terms of office**

3.—(1) The Commission shall consist of such members as are appointed by the First Minister and deputy First Minister acting jointly.

(2) Subject to the provisions of this Schedule, a member shall hold and vacate office in accordance with the terms of that member's appointment.

(3) A person shall not be appointed as a member for more than 4 years at a time, and a person appointed to fill a casual vacancy shall hold office for the remainder of the term of the person in whose place that person is appointed.

(4) A person who ceases to be a member on the expiration of that person's first term as a member shall be eligible for re-appointment, but a person who has been re-appointed as a member by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as a member at any time after the end of that person's second term as a member

(5) A person may at any time resign from office as a member by notice in writing to the First Minister and deputy First Minister.

(6) The First Minister and deputy First Minister acting jointly may remove a person from office as a member if satisfied that that person has—

(a) been convicted of a criminal offence;

(b) become bankrupt or made an arrangement or composition with that person's creditors;

(c) failed to comply with the terms of that person's appointment; or

(d) become unfit or unable to exercise that person's functions as a member.

#### **Remuneration, etc. of members**

4.—(1) The Commission shall pay to its members such remuneration and allowances as the Office may determine.

(2) If the Office so determines, the Commission shall pay or make provision for the payment of such pension, allowances or gratuities as the Office may determine to or in respect of a person who is or has been a member.

(3) If—

(a) a person ceases to be a member, and

(b) it appears to the Office that there are special circumstances which make it right that that person should receive compensation,

the Office may direct the Commission to make a payment to that person of such amount as the Office may determine.

(4) A determination or direction of the Office under this paragraph requires the approval of the Department of Finance and Personnel.

#### **Staff, etc.**

5.—(1) The Commission may appoint such employees as it considers necessary, subject to the approval of the Office as to numbers.

(2) If it appears to the Commission that a person it proposes to appoint as an employee has at any time been convicted of a criminal offence, the Commission may only make the appointment if it has obtained the approval of the First Minister and deputy First Minister to the appointment.

6.—(1) The Commission may make arrangements with a Northern Ireland department for persons employed in the Northern Ireland civil service to be seconded to the Commission.

(2) Arrangements made with a department other than the Department of Finance and Personnel require the approval of that Department

7.—(1) The Commission shall pay to its employees such remuneration and allowances as it may determine.

(2) The Commission shall—

(a) pay, or make payments in respect of, such pensions or gratuities to or in respect of its employees as it may determine; and

(b) provide and maintain such schemes (whether contributory or not) as it may determine, with the approval of the Office and the Department of Finance and Personnel, for the payment of pensions or gratuities to or in respect of its employees or former employees.

(3) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.

(4) Employment as an officer of the Commission is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 (NI 10) can apply and, accordingly, in Schedule 1 to that Order in the entry “Employment by the Commissioner for Victims and Survivors for Northern Ireland” for “Commissioner” substitute “Commission”.

(5) A determination of the Commission under this paragraph requires the approval of—

(a) the Office; and

(b) the Department of Finance and Personnel.

### **Delegation to staff**

8. The Commission may, to such extent as it may determine, delegate any of its functions to—

(a) any employee of the Commission; or

(b) any person seconded to the Commission in accordance with arrangements made under paragraph 6.

### **Proceedings**

9.—(1) The Commission may by standing orders make such provision as it thinks fit to regulate its own proceedings (including quorum).

(2) Standing orders may be made or amended by the Commission only with the agreement of all the members who vote on the matter.

(3) Standing orders shall provide for a decision on any of the following matters to be taken by the Commission only with the agreement of all the members who vote on the matter—

(a) the provision of financial assistance under Article 7(1);

(b) the preparation and submission under Article 8 of—

(i) a work programme

(ii) a revised work programme; or

(iii) an amendment to an existing work programme.

(4) Standing orders shall provide for a decision on any other matter to be taken by the Commission on a simple majority of the members who vote on the matter.

(5) In making representations or recommendations under Article 7(4) in connection with a review under Article 6(2), the Commission shall in relation to each representation or recommendation specify whether it is made—

(a) with the agreement of all the members who voted on the matter; or

(b) on a simple majority of the members who voted on the matter.

(6) The First Minister and deputy First Minister acting jointly—

(a) shall keep under review the working arrangements of the Commission;

(b) may—

(i) designate a member as Chief Commissioner;

(ii) at any time revoke that designation;

(c) may give directions to the Commission regulating its procedure (including directions supplementing or amending any standing orders of the Commission).

10. The validity of any proceedings of the Commission shall not be affected by—

(a) any vacancy among its members; or

(b) any defect in the appointment of any of its members.

### **Seal**

11. The application of the seal of the Commission shall be authenticated by the signatures of—

(a) a member; and

(b) any other person generally or specially authorised by the Commission to act for that purpose.

### **Contracts, etc.**

12. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Commission by any person generally or specially authorised by the Commission to act for the purpose.

## **Evidence**

13. A document purporting to be—

(a) duly executed under the seal of the Commission, or

(b) signed on behalf of the Commission,

shall be received in evidence and, unless the contrary is proved, shall be taken to be so executed or signed

## **Funding**

14.—(1) The Office may make payments to the Commission out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Office may determine.

(3) Subject to sub-paragraph (4), the Commission shall pay to the Office all sums received by it in the course of, or in connection with, the carrying out of its functions.

(4) Sub-paragraph (3) shall not apply to such sums, or sums of such description as the Office may direct.

(5) Any sums received by the Office under sub-paragraph (3) shall be paid into the Consolidated Fund.

(6) A determination or direction of the Office under this paragraph requires the approval of the Department of Finance and Personnel.

## **Accounts**

15.—(1) The Commission shall—

(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.

(2) The statement of accounts shall—

(a) be in such form, and

(b) contain such information,

as the Office may, with the approval of the Department of Finance and Personnel, direct.

(3) The Commission shall, within such period after the end of each financial year as the Office may direct, send copies of the statement of accounts relating to that year to—

(a) the Office; and

(b) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts sent to the Comptroller and Auditor General by the Commission under this paragraph; and

(b) send a copy of the Comptroller and Auditor General's report to the Office.

(5) The Office shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.

(6) In this paragraph "the Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland.

### **Annual report**

16.—(1) As soon as practicable after the end of each financial year, the Commission shall send to the Office a report on the carrying out of its functions during that year.

(2) The Office—

(a) shall lay a copy of every report sent to it under this paragraph before the Assembly; and

(b) shall send a copy of every such report to the Secretary of State.

### **The Northern Ireland Assembly Disqualification Act 1975 (c. 25)**

17. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted, at the appropriate place—

"The Commission for Victims and Survivors for Northern Ireland".

### **The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)**

18. In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) there shall be inserted, at the appropriate place—

"The Commission for Victims and Survivors for Northern Ireland".

### **The Freedom of Information Act [2000 \(c. 36\)](#)**

19. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (bodies, etc. which are public authorities for the purposes of the Act) there shall be inserted, at the appropriate place—

"The Commission for Victims and Survivors for Northern Ireland".

### **Interpretation**

20. In this Schedule—

“financial year” means—

(a)

the period beginning with the date of the coming into operation of section 1 of the Commission for Victims and Survivors Act (Northern Ireland) 2008 and ending on the next following 31st March; and

(b)

any subsequent period of 12 months ending on 31st March; and

“member” means a member of the Commission.”.

## SCHEDULE 2 REPEALS

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| <i>Short Title</i>   | <i>Extent of repeal</i>   |
|--|---|
| The Northern Ireland Assembly Disqualification Act 1975 (c. 25)      | In Part 3 of Schedule 1, the entry relating to the Commissioner for Victims and Survivors for Northern Ireland.     |
| The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7) | In Schedule 2, the entry relating to the Office of the Commissioner for Victims and Survivors for Northern Ireland. |
| The Freedom of Information Act <a href="#">2000 (c. 36)</a>          | In Part 7 of Schedule 1, the entry relating to the Commissioner for Victims and Survivors for Northern Ireland.     |

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