

DRAFT SUBJECT TO ASSEMBLY APPROVAL

These bills have been prepared by the Office of the Legislative Counsel (OLC) in Northern Ireland at the request of the UK Government to support a successful conclusion to the ongoing political talks to restore the Executive.

These measures reflect the discussion to date and the deal published by the Secretary of State and the Tánaiste on the 9th January 2020.

These indicative measures would form the basis of legislation that the Executive would introduce to the Assembly.

Also attached are draft amendments to the Northern Ireland Act 1998 (as referenced in paragraph 5.25 of the deal).

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

1. Amendment of Northern Ireland Act 1998 to make provision about the Office of Identity and Cultural Expression and related provision [j2A]
2. Short title and commencement [j3]

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

A

B I L L

TO

Amend the Northern Ireland Act 1998 to establish the Office of Identity and Culture; and for connected purposes.

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

Amendment of Northern Ireland Act 1998 to make provision about the Office of Identity and Cultural Expression and related provision [j2A]

1.—(1) In the Northern Ireland Act 1998 after Part 7 insert—

“PART 7A

5 THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

General principles

General principles

78A.—(1) A public authority must in exercising its functions have due regard to the principles set out in this section.

10 (2) Those principles are—

(a) the need to respect the freedom of all persons in Northern Ireland to choose, affirm, maintain and develop their national and cultural identity and to celebrate and express that identity in a manner which takes into account the sensitivities of those with different national or cultural identities and respects the rule of law;

15 (b) the need to encourage and promote reconciliation, tolerance and meaningful dialogue between those of different national and cultural identities in Northern Ireland with a view to promoting parity of esteem, mutual respect and understanding and co-operation.

20

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

The Office of Identity and Cultural Expression

The Office of Identity and Cultural Expression

78B.—(1) There shall be an office known as the Office of Identity and Cultural Expression.

5 (2) Schedule 9A applies in relation to the Office of Identity and Cultural Expression.

(3) In this Part “the Office” means the Office of Identity and Cultural Expression.

Aims and functions of the Office

10 78C.—(1) The aims of the Office are—

- (a) to promote cultural pluralism in Northern Ireland;
- (b) to promote social cohesion and reconciliation between those of different national and cultural identities;
- 15 (c) to increase the capacity and resilience of people in Northern Ireland to address issues related to differences of national and cultural identity;
- (d) to support, and promote the celebration of, the cultural and linguistic heritage of all people living in Northern Ireland.

(2) In pursuing those aims the Office may in particular—

- 20 (a) provide guidance to public authorities concerning their duty under section 78A;
- (b) monitor the compliance of public authorities with that duty;
- (c) report to the Assembly on compliance with that duty;
- (d) promote best practice in relation to compliance with that duty;
- 25 (e) commission and publish research and reports in respect of cultural identities and traditions;
- (f) in response to a request from a Commissioner appointed under Part 7B or 7C in relation to a matter of particular concern, undertake research and make recommendations on that matter;
- 30 (g) promote public awareness and educational programmes in relation to matters falling within the functions of the Office;
- (h) make grants to bodies which promote cultural pluralism and respect for diversity;
- (i) co-operate with other bodies having functions which involve the promotion of cultural pluralism and respect for diversity;
- 35 (j) provide support services to the Commissioners appointed under Parts 7B and 7C.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

“Public authority”

Interpretation: “public authority”

78D.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

(2) The First Minister and deputy First Minister acting jointly may by regulations provide—

(a) that a body or person not so listed is to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations);

(b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(5) Regulations under this section may include transitional or supplementary provisions.

Repeal

Repeal of Administration of Justice (Language) Act 1737

78E.—(1) The Administration of Justice (Language) Act (Ireland) 1737 is repealed.

(2) A court must, to the extent necessary in the interests of justice, ensure that appropriate arrangements are made to facilitate the use by a person in proceedings before the court of a language other than English.”

(2) In the Northern Ireland Act 1998 after Schedule 9 insert—

“SCHEDULE 9A

THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

Status

1.—(1) The Office consists of—

(a) a Director of Identity and Cultural Expression, appointed by the Ministers; and

(b) the officers of the Director.

(2) In this Schedule “the Ministers” means the First Minister and the deputy First Minister acting jointly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

(3) The person for the time being holding office as Director of Identity and Cultural Expression is by that name a corporation sole and is referred to in this Schedule as “the Director”

(4) The Director is not to be regarded—

- 5 (a) as the servant or agent of the Crown; or
(b) as enjoying any status, immunity or privilege of the Crown.

(5) The property held by the Director is not to be regarded as property of, or held on behalf of, the Crown.

General powers

10 2.—(1) The Office may do whatever the Office considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Office’s functions, other than borrowing money.

(2) That includes in particular—

- 15 (a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);
(b) acquiring, holding and disposing of real or personal property;
(c) entering into contracts.

Tenure of office of Director

20 3.—(1) Subject to the following provisions, a person holds and vacates office as the Director in accordance with the terms of appointment.

(2) An appointment as the Director is to be for a term of 5 years.

25 (3) A person who ceases to be the Director on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-appointment as the Director at any time after the end of the second term of office.

(4) A person may at any time resign office as the Director by notice in writing to the Ministers.

30 (5) The Ministers may remove a person from office as the Director by notice in writing if satisfied that the person—

- 35 (a) has been convicted of a criminal offence;
(b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;
(c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
(d) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration, etc of Director

40 4.—(1) The Executive Office may pay to or in respect of the Director—

- (a) such remuneration,
(b) such allowances, and

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

(c) such sums for the provision of a pension,
as the Executive Office may determine.

(2) Where a person ceases to hold office as Director otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers of the Director

5.—(1) The Director may appoint such number of officers as the Director may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Director.

(3) The Director may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Director may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Director under this paragraph requires the approval of the Executive Office and the Department of Finance.

(6) Employment as an officer of the Director is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Director of Identity and Cultural Expression”.

Assistance to the Office

6.—(1) The Executive Office may enter into arrangements with the Director, on such terms as the Executive Office and the Director may agree, for the provision by the Executive Office to the Office of staff, facilities or services to assist the Office in the exercise of its functions.

(2) A reference in this Schedule to an officer of the Director includes a reference to any member of staff provided under this paragraph.

Exercise of functions

7. Any function of the Office may be exercised by—

(a) the Director; or

(b) any officer of the Director who has been authorised (whether generally or specially) by the Director for the purpose.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

Seal

8. The application of the seal of the Director must be authenticated by the signature—

(a) of the Director; or

(b) of any officer of the Director who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

9. A document purporting to be an instrument issued by the Director and to be duly executed under the Director's seal or to be signed by, or on behalf of, the Director must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Director vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Director at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Office out of money appropriated for the purpose by Act of the Assembly.

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

(3) Subject to sub-paragraph (4), the Office must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Office's functions.

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

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Office must—

(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 must—

(a) be in such form; and

(b) contain such information,

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

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

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

- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Director is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Office must send to the Executive Office a report on the carrying out of the Office’s functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“The Director of Identity and Cultural Expression”.

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

“The Office of Identity and Cultural Expression”.

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place—

“The Office of Identity and Cultural Expression”.

Short title and commencement [j3]

2.—(1) This Act may be cited as the Northern Ireland Act 1998 (Amendment No.1) Act (Northern Ireland) 2020.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No. 1)

(2) Section 1 comes into operation on such day or days as the First Minister and deputy First Minister, acting jointly, may by order appoint.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

1. Amendment of Northern Ireland Act 1998 to include provisions on Irish Language [j2A]
2. Short title and commencement [j3]

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

A

B I L L

TO

Amend the Northern Ireland Act 1998 to insert provisions about the Irish Language; and for connected purposes.

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

Amendment of Northern Ireland Act 1998 to include provisions on Irish Language [j2A]

1.—(1) In the Northern Ireland Act 1998 after Part 7A (inserted by the Northern Ireland Act 1998 (Amendment No.1) Act (Northern Ireland 2020) insert—

5

“PART 7B

THE IRISH LANGUAGE

Purpose of this Part

Purpose of this Part: official recognition of the status of the Irish language

10

78F.—(1) The purpose of this Part is to provide official recognition of the status of the Irish language in Northern Ireland which is additional to that provided by other statutory provisions such as—

15

- (a) section 28D of this Act;
- (b) the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999; and
- (c) the statutory provisions relating to Irish-medium education.

(2) This Part provides that official recognition by making provision—

- (a) for the appointment and functions of an Irish Language Commissioner (see sections 78G and 78H);

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

(b) for best practice standards relating to the use of the Irish language in connection with the provision by public authorities of services to the public in Northern Ireland (see sections 78I to 78L).

(3) Nothing in this Part affects the status of the English language.

5

The Irish Language Commissioner

The Irish Language Commissioner

78G.—(1) There shall be an officer known as the Irish Language Commissioner.

10 (2) The Irish Language Commissioner shall be appointed by the Ministers.

(3) Schedule 9B applies in relation to the Irish Language Commissioner.

(4) In this Part (and in that Schedule) “the Commissioner” means the Irish Language Commissioner.

Functions of the Commissioner

15 78H.—(1) The main function of the Commissioner is to protect and enhance the development of the use of the Irish language by public authorities in connection with the provision by those authorities of services to the public in Northern Ireland.

(2) The Commissioner must in particular—

20 (a) prepare in accordance with section 78J best practice standards for the use of the Irish language by public authorities;

(b) provide support to public authorities in connection with those standards;

25 (c) monitor the performance of public authorities in meeting those standards;

(d) investigate in accordance with section 78L complaints that a public authority has failed to have due regard to those standards.

(3) The support to be provided by the Commissioner under subsection (2)(b) includes (but is not limited to)—

30 (a) the provision of advice and guidance;

(b) the provision of training and awareness programmes.

(4) The Commissioner must comply with any directions (of a general or specific nature) given by the Ministers as to the exercise of the Commissioner’s functions.

35 (5) Sections 75 and 76 of this Act (equality of opportunity and good relations and non-discrimination) apply to the Commissioner in carrying out functions under this Chapter.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

Best practice standards

Duty of public authority to have due regard to best practice standards

78I.—(1) A public authority must, in connection with the provision by it of services to the public in Northern Ireland, have due regard to the best practice standards which apply to the authority.

(2) A public authority must prepare and publish a plan setting out the steps it proposes to take to comply with subsection (1).

(3) A public authority may at any time, and must if the best practice standards which apply to the authority are amended or replaced under section 78K, prepare and publish a revised plan.

(4) Before preparing a plan or revised plan under this section a public authority must consult the Commissioner.

Setting of best practice standards

78J.—(1) The Commissioner must prepare and submit to the Ministers for approval a written set of standards of conduct (“best practice standards”) relating to the use of the Irish language in connection with the provision by public authorities of services to the public in Northern Ireland.

(2) In preparing best practice standards under subsection (1) the Commissioner must—

(a) have due regard to guidance given to the Commissioner by the Ministers; and

(b) undertake such consultations with public authorities and other persons and bodies as the Commissioner considers appropriate.

(3) The Ministers may approve (with or without modifications) best practice standards submitted under this section.

(4) Best practice standards must state the date or dates from which the standards are to be applicable.

(5) Best practice standards may make different provision for different public authorities or different classes or descriptions of public authorities.

(6) Best practice standards approved by the Ministers must be published by the Commissioner in such form as the Commissioner considers appropriate.

Review and revision of best practice standards [j6]

78K.—(1) The Commissioner must, not later than 5 years from the most recent publication of best practice standards under section 78J(6), review the operation of the standards.

(2) The Commissioner may—

(a) following a review under subsection (1), or

(b) at any other time if the Commissioner considers it necessary or desirable,

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

prepare amendments to current best practice standards or prepare new best practice standards to replace current best practice standards.

(3) Subsections (2) to (6) of section 78J apply to any amendment or replacement of best practice standards prepared under this section as they apply to the initial standards prepared under subsection (1) of that section.

Complaints

78L.—(1) Where—

- (a) a written complaint is made to the Commissioner by a person who claims to have been directly affected by a failure of a public authority to comply with section 78I,
- (b) the complaint is made within the period of 3 months beginning with the day on which the complainant first knew of the matters alleged in the complaint, and
- (c) the Commissioner is satisfied that the complainant has brought the matter complained of to the notice of the public authority concerned and that that authority has had a reasonable opportunity to consider it and to respond,

the Commissioner must either investigate that complaint under this section or send to the complainant a statement of the reasons for not doing so.

(2) Subject to subsection (3), the procedure for conducting an investigation under this section is to be such as the Commissioner considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.

(3) Where the Commissioner proposes to carry out an investigation under this section, the Commissioner must—

- (a) send notice in writing of that fact to—
 - (i) the public authority concerned; and
 - (ii) the complainant; and
- (b) afford the public authority concerned an opportunity to comment on any allegations contained in the complaint.

(4) Where the Commissioner undertakes an investigation under this section, the Commissioner must send a report of the results of the investigation to—

- (a) the public authority concerned, and
- (b) the complainant.

(5) Where on completing an investigation under this section the Commissioner is satisfied that the public authority concerned has failed to comply with section 78I, the Commissioner—

- (a) may include in the report under subsection (4) recommendations as to action to be taken by the public authority in order to remedy the failure or to avoid future failures; and
- (b) shall lay the report before the Assembly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

Interpretation : “public authority”

78M.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

5 (2) The Ministers may by regulations provide—

(a) that a body or person not so listed is to be a public authority for the purposes of this Act (or any provisions of this Part specified in the regulations);

10 (b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

15 (4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(5) Regulations under this section may include transitional or supplementary provisions.

20 **Interpretation: general**

78N.—(1) In this Chapter—

“the Commissioner” has the meaning given by section 78G(4);

“the Ministers” means the First Minister and the deputy First Minister acting jointly;

25 “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.”.

(2) In the Northern Ireland Act 1998 after Schedule 9A (inserted by the Northern Ireland Act 1998 (Amendment No.1 Act) (Northern Ireland) 2020) insert—

30

“SCHEDULE 9B

Section 78G.

THE IRISH LANGUAGE COMMISSIONER

Status

35 1.—(1) The person for the time being holding office as Irish Language Commissioner is by that name a corporation sole.

(2) The Commissioner is not to be regarded—

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

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

40 (3) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

General powers

2.—(1) The Commissioner may do whatever the Commissioner considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner's functions, other than borrowing money.

5 (2) That includes in particular—

- (a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);
- (b) acquiring, holding and disposing of real or personal property;
- (c) entering into contracts.

10

Tenure of office

3.—(1) Subject to the following provisions, a person holds and vacates office as the Commissioner in accordance with the terms of appointment.

(2) An appointment as the Commissioner is to be for a term of 5 years.

15 (3) A person who ceases to be the Commissioner on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-appointment as the Commissioner at any time after the end of the second term of office.

20 (4) A person may at any time resign office as the Commissioner by notice in writing to the Ministers.

(5) The Ministers may remove a person from office as the Commissioner by notice in writing if satisfied that the person—

- (a) has been convicted of a criminal offence;
- 25 (b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;
- (c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
- (d) is otherwise unable, unfit or unwilling to perform the functions of the office.

30

Remuneration, etc

4.—(1) The Executive Office may pay to or in respect of the Commissioner—

- (a) such remuneration,
 - (b) such allowances, and
 - 35 (c) such sums for the provision of a pension,
- as the Executive Office may determine.

40 (2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers

5 5.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Commissioner.

10 (3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

15 (5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and the Department of Finance.

20 (6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Irish Language Commissioner”.

Assistance to the Commissioner

25 6.—(1) The Executive Office may enter into arrangements with the Commissioner, on such terms as the Executive Office and the Commissioner may agree, for the provision by the Executive Office to the Commissioner of staff, facilities or services to assist the Commissioner in the exercise of the Commissioner’s functions.

30 (2) A reference in this Schedule to an officer of the Commissioner includes a reference to any member of staff provided under this paragraph.

Exercise of functions

7. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

35 *Seal*

8. The application of the seal of the Commissioner must be authenticated by the signature—

(a) of the Commissioner; or

40 (b) of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

Evidence

9. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by, or on behalf of, the Commissioner must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Commissioner out of money appropriated for the purpose by Act of the Assembly.

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

(3) Subject to sub-paragraph (4), the Commissioner must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Commissioner's functions.

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

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Commissioner must—

(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 must—

(a) be in such form; and

(b) contain such information,

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

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

(a) the Executive Office; and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.2)

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office.

5 (5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Commissioner is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

10

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the carrying out of the Commissioner’s functions during that year.

15 (2) The Executive Office must lay a copy of the report before the Assembly.

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

20 “Irish Language Commissioner”.

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

25 “Irish Language Commissioner”.

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place—

30 “Irish Language Commissioner”.”.

Short title and commencement [j3]

2.—(1) This Act may be cited as the Northern Ireland Act 1998 (Amendment No.2) Act (Northern Ireland) 2020.

35 (2) Section 1 comes into operation on such day or days as the First Minister and deputy First Minister, acting jointly, may by order appoint.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

1. Amendment of Northern Ireland Act 1998 to include provisions on a Commissioner, etc. [j2A]
2. Short title and commencement [j3]

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

A

B I L L

TO

Amend the Northern Ireland Act 1998 to insert provisions for a Commissioner to enhance and develop the language, arts and literature associated with the Ulster Scots and Ulster British tradition in Northern Ireland; and for connected purposes.

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

Amendment of Northern Ireland Act 1998 to include provisions on a Commissioner, etc. [j2A]

1.—(1) In the Northern Ireland Act 1998 after Part 7B (inserted by the Northern Ireland Act 1998 (Amendment No.2) Act (Northern Ireland 2020) insert—

5

“PART 7C

THE COMMISSIONER

Purpose of this Part

Purpose of this Part

78O.—(1) The purpose of this Part is to make provision—

10

- (a) for the appointment and functions of a Commissioner (see sections 78P and 78Q); and
- (b) for a duty on the Department of Education as regards Ulster Scots (see section 78R).

(2) Nothing in this Part affects the status of the English language.

15

The Commissioner

The Commissioner

78P.—(1) The Ministers shall appoint a person to exercise the functions conferred on the Commissioner under this Part.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

(2) In this Part the person so appointed is referred to as “the Commissioner”.

(3) Schedule 9C applies in relation to the Commissioner.

Functions of the Commissioner

5 78Q.—(1) The main function of the Commissioner is to enhance and develop the language, arts and literature associated with the Ulster Scots and Ulster British tradition in Northern Ireland (in this Part referred to as “the relevant language, arts and literature”).

10 (2) In particular the Commissioner may produce and distribute publicity material.

(3) The Commissioner must—

- (a) increase awareness and visibility of Ulster Scots services which are provided by public authorities to the public in Northern Ireland;
- 15 (b) provide advice and guidance to public authorities on enhancing and developing the relevant language, arts and literature;
- (c) provide advice and guidance to public authorities on the effect and implementation so far as affecting the relevant language, arts and literature of—
 - 20 (i) the Council of Europe’s Charter for Regional and Minority Languages dated 5th November 1992,
 - (ii) the Council of Europe’s Framework Convention for the Protection of National Minorities dated 1st February 1995; and
 - (iii) the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 25 1989.

(4) In subsection (3)—

- (a) a reference to a Charter or Convention includes any relevant Protocols which are in force in relation to the United Kingdom, but is subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force;
- 30 (b) “Ulster Scots services” means services which are provided in Ulster Scots or are otherwise likely to be of particular interest to those who have an interest in the relevant language, arts and literature.

35 (5) The Commissioner—

- (a) must investigate a complaint made by a member of the public about the failure of a public authority to have due regard to any advice provided to it by the Commissioner under subsection (3) in respect of language; and
- 40 (b) may lay a report on the investigation before the Assembly.

(6) The Commissioner must comply with any directions (of a general or specific nature) given by the Ministers as to the exercise of the Commissioner’s functions.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

(7) Sections 75 and 76 (equality of opportunity and good relations and non-discrimination) apply to the Commissioner in carrying out functions under this Chapter.

Duty of Department of Education in relation to Ulster Scots

5 **Duty of Department of Education in relation to Ulster Scots**

78R. It is the duty of the Department of Education (so far as its powers extend) to encourage and facilitate the use and understanding of Ulster Scots in the education system.

Interpretation

10 **Interpretation : “public authority”**

78S.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

(2) The Ministers may by regulations provide—

15 (a) that a body or person not so listed is to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations);

20 (b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

25 (4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(5) Regulations under this section may include transitional or supplementary provisions.

Interpretation: general

30 78T.—(1) In this Part—

“the Commissioner” has the meaning given by section 78P(2);

“the Ministers” means the First Minister and the deputy First Minister acting jointly.”.

35 (2) In the Northern Ireland Act 1998 after Schedule 9B (inserted by the Northern Ireland Act 1998 (Amendment No.2) Act (Northern Ireland) 2020) insert—

“SCHEDULE 9C

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

Sections 78P.

THE COMMISSIONER

Status

5 1.—(1) The person for the time being holding office as Commissioner under Part 7C is by that name a corporation sole.

(2) The Commissioner is not to be regarded—

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

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

10 (3) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

General powers

2.—(1) The Commissioner may do whatever the Commissioner considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner's functions, other than borrowing money.

15 (2) That includes in particular—

(a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);

(b) acquiring, holding and disposing of real or personal property;

(c) entering into contracts.

20 *Tenure of office*

3.—(1) Subject to the following provisions, a person holds and vacates office as the Commissioner in accordance with the terms of appointment.

(2) An appointment as the Commissioner is to be for a term of 5 years.

25 (3) A person who ceases to be the Commissioner on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-appointment as the Commissioner at any time after the end of the second term of office.

30 (4) A person may at any time resign office as the Commissioner by notice in writing to the Ministers.

(5) The Ministers may remove a person from office as the Commissioner by notice in writing if satisfied that the person—

(a) has been convicted of a criminal offence;

35 (b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;

(c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or

(d) is otherwise unable, unfit or unwilling to perform the functions of the office.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

Remuneration, etc

4.—(1) The Executive Office may pay to or in respect of the Commissioner—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Executive Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers

5.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and the Department of Finance.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

Assistance to the Commissioner

6.—(1) The Executive Office may enter into arrangements with the Commissioner, on such terms as the Executive Office and the Commissioner may agree, for the provision by the Executive Office to the Commissioner of staff, facilities or services to assist the Commissioner in the exercise of the Commissioner’s functions.

(2) A reference in this Schedule to an officer of the Commissioner includes a reference to any member of staff provided under this paragraph.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

Exercise of functions

7. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Seal

8. The application of the seal of the Commissioner must be authenticated by the signature—

(a) of the Commissioner; or

(b) of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

9. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by, or on behalf of, the Commissioner must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Commissioner out of money appropriated for the purpose by Act of the Assembly.

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

(3) Subject to sub-paragraph (4), the Commissioner must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Commissioner's functions.

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

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Commissioner must—

(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.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

(2) The statement of accounts must—

- (a) be in such form; and
- (b) contain such information,

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

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

- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office .

(5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Commissioner is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the carrying out of the Commissioner’s functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

“Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Northern Ireland Act 1998 (Amendment No.3)

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000
offices and bodies which are public authorities for the purposes of the Act)
insert at the appropriate place—

5 “Commissioner appointed under Part 7C of the Northern Ireland Act
1998”.”.

Short title and commencement [j3]

2.—(1) This Act may be cited as the Northern Ireland Act 1998 (Amendment
No.3) Act (Northern Ireland) 2020.

10 (2) Section 1 comes into operation on such day or days as the First Minister and
deputy First Minister acting jointly may by order appoint.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

PART 7A

THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

General principles

General principles

78A.—(1) A public authority must in exercising its functions have due regard to the principles set out in this section.

(2) Those principles are—

- (a) the need to respect the freedom of all persons in Northern Ireland to choose, affirm, maintain and develop their national and cultural identity and to celebrate and express that identity in a manner which takes into account the sensitivities of those with different national or cultural identities and respects the rule of law;
- (b) the need to encourage and promote reconciliation, tolerance and meaningful dialogue between those of different national and cultural identities in Northern Ireland with a view to promoting parity of esteem, mutual respect and understanding and co-operation.

The Office of Identity and Cultural Expression

The Office of Identity and Cultural Expression

78B.—(1) There shall be an office known as the Office of Identity and Cultural Expression.

(2) Schedule 9A applies in relation to the Office of Identity and Cultural Expression.

(3) In this Part “the Office” means the Office of Identity and Cultural Expression.

Aims and functions of the Office

78C.—(1) The aims of the Office are—

- (a) to promote cultural pluralism in Northern Ireland;
- (b) to promote social cohesion and reconciliation between those of different national and cultural identities;
- (c) to increase the capacity and resilience of people in Northern Ireland to address issues related to differences of national and cultural identity;
- (d) to support, and promote the celebration of, the cultural and linguistic heritage of all people living in Northern Ireland.

(2) In pursuing those aims the Office may in particular—

- (a) provide guidance to public authorities concerning their duty under section 78A;
- (b) monitor the compliance of public authorities with that duty;
- (c) report to the Assembly on compliance with that duty;

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

- (d) promote best practice in relation to compliance with that duty;
- (e) commission and publish research and reports in respect of cultural identities and traditions;
- (f) in response to a request from the Commissioner appointed under Part 7B or 7C in relation to a matter of particular concern, undertake research and make recommendations on that matter;
- (g) promote public awareness and educational programmes in relation to matters falling within the functions of the Office;
- (h) make grants to bodies which promote cultural pluralism and respect for diversity;
- (i) co-operate with other bodies having functions which involve the promotion of cultural pluralism and respect for diversity;
- (j) provide support services to the Commissioners appointed under Parts 7B and 7C.

“Public authority”

Interpretation: “public authority”

78D.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

(2) The First Minister and deputy First Minister acting jointly may by regulations provide—

- (a) that a body or person not so listed is to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations);
- (b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(5) Regulations under this section may include transitional or supplementary provisions.

Repeal

Repeal of Administration of Justice (Language) Act 1737

78E.—(1) The Administration of Justice (Language) Act (Ireland) 1737 is repealed.

(2) A court must, to the extent necessary in the interests of justice, ensure that appropriate arrangements are made to facilitate the use by a person in proceedings before the court of a language other than English.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

PART 7B

THE IRISH LANGUAGE

Purpose of this Part

Purpose of this Part: official recognition of the status of the Irish language

78F.—(1) The purpose of this Part is to provide official recognition of the status of the Irish language in Northern Ireland which is additional to that provided by other statutory provisions such as—

- (a) section 28D of this Act;
 - (b) the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999; and
 - (c) the statutory provisions relating to Irish-medium education.
- (2) This Part provides that official recognition by making provision—
- (a) for the appointment and functions of an Irish Language Commissioner (see sections 78G and 78H);
 - (b) for best practice standards relating to the use of the Irish language in connection with the provision by public authorities of services to the public in Northern Ireland (see sections 78I to 78L).
- (3) Nothing in this Part affects the status of the English language.

The Irish Language Commissioner

The Irish Language Commissioner

78G.—(1) There shall be an officer known as the Irish Language Commissioner.

- (2) The Irish Language Commissioner shall be appointed by the Ministers.
- (3) Schedule 9B applies in relation to the Irish Language Commissioner.
- (4) In this Part “the Commissioner” means the Irish Language Commissioner.

Functions of the Commissioner

78H.—(1) The main function of the Commissioner is to protect and enhance the development of the use of the Irish language by public authorities in connection with the provision by those authorities of services to the public in Northern Ireland.

- (2) The Commissioner must in particular—
 - (a) prepare in accordance with section 78J best practice standards for the use of the Irish language by public authorities;
 - (b) provide support to public authorities in connection with those standards;
 - (c) monitor the performance of public authorities in meeting those standards;
 - (d) investigate in accordance with section 78L complaints that a public authority has failed to have due regard to those standards.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(3) The support to be provided by the Commissioner under subsection (2)(b) includes (but is not limited to)—

- (a) the provision of advice and guidance;
- (b) the provision of training and awareness programmes.

(4) The Commissioner must comply with any directions (of a general or specific nature) given by the Ministers as to the exercise of the Commissioner's functions.

(5) Sections 75 and 76 of this Act (equality of opportunity and good relations and non-discrimination) apply to the Commissioner in carrying out functions under this Part.

Best practice standards

Duty of public authority to have due regard to best practice standards

78I.—(1) A public authority must, in connection with the provision by it of services to the public in Northern Ireland, have due regard to the best practice standards which apply to the authority.

(2) A public authority must prepare and publish a plan setting out the steps it proposes to take to comply with subsection (1).

(3) A public authority may at any time, and must if the best practice standards which apply to the authority are amended or replaced under section 78K, prepare and publish a revised plan.

(4) Before preparing a plan or revised plan under this section a public authority must consult the Commissioner.

Setting of best practice standards

78J.—(1) The Commissioner must prepare and submit to the Ministers for approval a written set of standards of conduct (“best practice standards”) relating to the use of the Irish language in connection with the provision by public authorities of services to the public in Northern Ireland.

(2) In preparing best practice standards under subsection (1) the Commissioner must—

- (a) have due regard to guidance given to the Commissioner by the Ministers; and
- (b) undertake such consultations with public authorities and other persons and bodies as the Commissioner considers appropriate.

(3) The Ministers may approve (with or without modifications) best practice standards submitted under this section.

(4) Best practice standards must state the date or dates from which the standards are to be applicable.

(5) Best practice standards may make different provision for different public authorities or different classes or descriptions of public authorities.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(6) Best practice standards approved by the Ministers must be published by the Commissioner in such form as the Commissioner considers appropriate.

Review and revision of best practice standards [j6]

78K.—(1) The Commissioner must, not later than 5 years from the most recent publication of best practice standards under section 78J(6), review the operation of the standards.

(2) The Commissioner may—

(a) following a review under subsection (1), or

(b) at any other time if the Commissioner considers it necessary or desirable, prepare amendments to current best practice standards or prepare new best practice standards to replace current best practice standards.

(3) Subsections (2) to (6) of section 78J apply to any amendment or replacement of best practice standards prepared under this section as they apply to the initial standards prepared under subsection (1) of that section.

Complaints

78L.—(1) Where—

(a) a written complaint is made to the Commissioner by a person who claims to have been directly affected by a failure of a public authority to comply with section 78I,

(b) the complaint is made within the period of 3 months beginning with the day on which the complainant first knew of the matters alleged in the complaint, and

(c) the Commissioner is satisfied that the complainant has brought the matter complained of to the notice of the public authority concerned and that that authority has had a reasonable opportunity to consider it and to respond, the Commissioner must either investigate that complaint under this section or send to the complainant a statement of the reasons for not doing so.

(2) Subject to subsection (3), the procedure for conducting an investigation under this section is to be such as the Commissioner considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.

(3) Where the Commissioner proposes to carry out an investigation under this section, the Commissioner must—

(a) send notice in writing of that fact to—

(i) the public authority concerned; and

(ii) the complainant; and

(b) afford the public authority concerned an opportunity to comment on any allegations contained in the complaint.

(4) Where the Commissioner undertakes an investigation under this section, the Commissioner must send a report of the results of the investigation to—

(a) the public authority concerned, and

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(b) the complainant.

(5) Where on completing an investigation under this section the Commissioner is satisfied that the public authority concerned has failed to comply with section 78I, the Commissioner—

(a) may include in the report under subsection (4) recommendations as to action to be taken by the public authority in order to remedy the failure or to avoid future failures; and

(b) shall lay the report before the Assembly.

Interpretation: “public authority”

78M.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

(2) The Ministers may by regulations provide—

(a) that a body or person not so listed is to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations);

(b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(5) Regulations under this section may include transitional or supplementary provisions.

Interpretation: general

78N. In this Part—

“the Commissioner” has the meaning given by section 78G(4);

“the Ministers” means the First Minister and the deputy First Minister acting jointly;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

PART 7C

THE COMMISSIONER

Purpose of this Part

Purpose of this Part

- 78O.**—(1) The purpose of this Part is to make provision—
- (a) for the appointment and functions of a Commissioner (see sections 78P and 78Q);
 - (b) for a duty on the Department of Education as regards Ulster Scots (see section 78R).
- (2) Nothing in this Part affects the status of the English language.

The Commissioner

The Commissioner

- 78P.**—(1) The Ministers shall appoint a person to exercise the functions conferred on the Commissioner under this Part.
- (2) In this Part the person so appointed is referred to as “the Commissioner”.
 - (3) Schedule 9C applies in relation to the Commissioner.

Functions of the Commissioner

- 78Q.**—(1) The main function of the Commissioner is to enhance and develop the language, arts and literature associated with the Ulster Scots and Ulster British tradition in Northern Ireland (in this Part referred to as “the relevant, language, arts and literature”).
- (2) In particular the Commissioner may produce and distribute publicity material.
- (3) The Commissioner must—
- (a) increase awareness and visibility of Ulster Scots services which are provided by public authorities to the public in Northern Ireland;
 - (b) provide advice and guidance to public authorities on enhancing and developing the relevant language, arts and literature;
 - (c) provide advice and guidance to public authorities on the effect and implementation so far as affecting the relevant language, arts and literature of—
 - (i) the Council of Europe’s Charter for Regional and Minority Languages dated 5th November 1992,
 - (ii) the Council of Europe’s Framework Convention for the Protection of National Minorities dated 1st February 1995; and

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(iii) the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989.

(4) In subsection (3)—

- (a) a reference to a Charter or Convention includes any relevant Protocols which are in force in relation to the United Kingdom, but is subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force;
- (b) “Ulster Scots services” means services which are provided in Ulster Scots or are otherwise likely to be of particular interest to those who have an interest in the relevant language, arts and literature.

(5) The Commissioner—

- (a) must investigate a complaint made by a member of the public about the failure of a public authority to have due regard to any advice provided to it by the Commissioner under subsection (3) in respect of language; and
- (b) may lay a report on the investigation before the Assembly.

(6) The Commissioner must comply with any directions (of a general or specific nature) given by the Ministers as to the exercise of the Commissioner’s functions.

(7) Sections 75 and 76 (equality of opportunity and good relations and non-discrimination) apply to the Commissioner in carrying out functions under this Chapter.

Duty of Department of Education in relation to Ulster Scots

Duty of Department of Education in relation to Ulster Scots

78R. It is the duty of the Department of Education (so far as its powers extend) to encourage and facilitate the use and understanding of the Ulster Scots in the education system.

Interpretation: “public authority”

78S.—(1) In this Part “public authority” means any body or person listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016.

(2) The Ministers may by regulations provide—

- (a) that a body or person not so listed is to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations);
- (b) that a body or person so listed is not to be a public authority for the purposes of this Part (or any provisions of this Part specified in the regulations).

(3) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations are not to be made under this section unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(5) Regulations under this section may include transitional or supplementary provisions.

Interpretation: general

78T. In this Part—

“the Commissioner” has the meaning given by section 78P(2);

“the Ministers” means the First Minister and the deputy First Minister acting jointly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

SCHEDULE 9A

THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

Status

- 1.—(1) The Office consists of—
 - (a) a Director of Identity and Cultural Expression, appointed by the Ministers; and
 - (b) the officers of the Director.
- (2) In this Schedule “the Ministers” means the First Minister and the deputy First Minister acting jointly.
- (3) The person for the time being holding office as Director of Identity and Cultural Expression is by that name a corporation sole and is referred to in this Schedule as “the Director”
- (4) The Director is not to be regarded—
 - (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (5) The property held by the Director is not to be regarded as property of, or held on behalf of, the Crown.

General powers

- 2.—(1) The Office may do whatever the Office considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Office’s functions, other than borrowing money.
- (2) That includes in particular—
 - (a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);
 - (b) acquiring, holding and disposing of real or personal property;
 - (c) entering into contracts.

Tenure of office of Director

- 3.—(1) Subject to the following provisions, a person holds and vacates office as the Director in accordance with the terms of appointment.
- (2) An appointment as the Director is to be for a term of 5 years.
- (3) A person who ceases to be the Director on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-appointment as the Director at any time after the end of the second term of office.
- (4) A person may at any time resign office as the Director by notice in writing to the Ministers.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(5) The Ministers may remove a person from office as the Director by notice in writing if satisfied that the person—

- (a) has been convicted of a criminal offence;
- (b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;
- (c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
- (d) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration, etc of Director

4.—(1) The Executive Office may pay to or in respect of the Director—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Executive Office may determine.

(2) Where a person ceases to hold office as Director otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers of the Director

5.—(1) The Director may appoint such number of officers as the Director may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Director.

(3) The Director may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Director may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Director under this paragraph requires the approval of the Executive Office and the Department of Finance.

(6) Employment as an officer of the Director is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Director of Identity and Cultural Expression”.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Assistance to the Office

6.—(1) The Executive Office may enter into arrangements with the Director, on such terms as the Executive Office and the Director may agree, for the provision by the Executive Office to the Office of staff, facilities or services to assist the Office in the exercise of its functions.

(2) A reference in this Schedule to an officer of the Director includes a reference to any member of staff provided under this paragraph.

Exercise of functions

7. Any function of the Office may be exercised by—

- (a) the Director; or
- (b) any officer of the Director who has been authorised (whether generally or specially) by the Director for the purpose.

Seal

8. The application of the seal of the Director must be authenticated by the signature—

- (a) of the Director; or
- (b) of any officer of the Director who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

9. A document purporting to be an instrument issued by the Director and to be duly executed under the Director's seal or to be signed by, or on behalf of, the Director must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Director vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Director at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Office out of money appropriated for the purpose by Act of the Assembly.

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

(3) Subject to sub-paragraph (4), the Office must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Office's functions.

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

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Office must—

- (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 must—

- (a) be in such form; and
- (b) contain such information,

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

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

- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Director is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Office must send to the Executive Office a report on the carrying out of the Office’s functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“The Director of Identity and Cultural Expression”.

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

“The Office of Identity and Cultural Expression”.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place—

“The Office of Identity and Cultural Expression”.

SCHEDULE 9B

THE IRISH LANGUAGE COMMISSIONER

Status

1.—(1) The person for the time being holding office as Irish Language Commissioner is by that name a corporation sole.

(2) The Commissioner is not to be regarded—

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

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

(3) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

General powers

2.—(1) The Commissioner may do whatever the Commissioner considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner’s functions, other than borrowing money.

(2) That includes in particular—

(a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);

(b) acquiring, holding and disposing of real or personal property;

(c) entering into contracts.

Tenure of office

3.—(1) Subject to the following provisions, a person holds and vacates office as the Commissioner in accordance with the terms of appointment.

(2) An appointment as the Commissioner is to be for a term of 5 years.

(3) A person who ceases to be the Commissioner on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-appointment as the Commissioner at any time after the end of the second term of office.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(4) A person may at any time resign office as the Commissioner by notice in writing to the Ministers.

(5) The Ministers may remove a person from office as the Commissioner by notice in writing if satisfied that the person—

- (a) has been convicted of a criminal offence;
- (b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;
- (c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
- (d) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration, etc

4.—(1) The Executive Office may pay to or in respect of the Commissioner—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Executive Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers

5.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and the Department of Finance.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Irish Language Commissioner”.

Assistance to the Commissioner

6.—(1) The Office may enter into arrangements with the Commissioner, on such terms as the Executive Office and the Commissioner may agree, for the provision by the Executive Office to the Commissioner of staff, facilities or services to assist the Commissioner in the exercise of the Commissioner’s functions.

(2) A reference in this Schedule to an officer of the Commissioner includes a reference to any member of staff provided under this paragraph.

Exercise of functions

7. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Seal

8. The application of the seal of the Commissioner must be authenticated by the signature—

- (a) of the Commissioner; or
- (b) of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

9. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner’s seal or to be signed by, or on behalf of, the Commissioner must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Commissioner out of money appropriated for the purpose by Act of the Assembly.

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

(3) Subject to sub-paragraph (4), the Commissioner must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Commissioner’s functions.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

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

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Commissioner must—

- (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 must—

- (a) be in such form; and
- (b) contain such information,

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

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

- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Commissioner is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Office a report on the carrying out of the Commissioner’s functions during that year.

(2) The Office must lay a copy of the report before the Assembly.

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“The Irish Language Commissioner”.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

“The Irish Language Commissioner”.

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place—

“The Irish Language Commissioner”.

SCHEDULE 9C

THE COMMISSIONER

Status

1.—(1) The person for the time being holding office as Commissioner under Part 7C is by that name a corporation sole.

(2) The Commissioner is not to be regarded—

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

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

(3) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

General powers

2.—(1) The Commissioner may do whatever the Commissioner considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner’s functions, other than borrowing money.

(2) That includes in particular—

(a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);

(b) acquiring, holding and disposing of real or personal property;

(c) entering into contracts.

Tenure of office

3.—(1) Subject to the following provisions, a person holds and vacates office as the Commissioner in accordance with the terms of appointment.

(2) An appointment as the Commissioner is to be for a term of 5 years.

(3) A person who ceases to be the Commissioner on the expiration of the first term of office is eligible for re-appointment; but a person who has been re-appointed by virtue of this sub-paragraph is not eligible for appointment or re-

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

appointment as the Commissioner at any time after the end of the second term of office.

(4) A person may at any time resign office as the Commissioner by notice in writing to the Ministers.

(5) The Ministers may remove a person from office as the Commissioner by notice in writing if satisfied that the person—

- (a) has been convicted of a criminal offence;
- (b) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order;
- (c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
- (d) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration, etc

4.—(1) The Executive Office may pay to or in respect of the Commissioner—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Executive Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that there are special circumstances that make it right for that person to receive compensation, the Executive Office may make to that person a payment of such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Officers

5.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph is to be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and the Department of Finance.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) insert at the appropriate place—

“Employment by the Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

Assistance to the Commissioner

6.—(1) The Executive Office may enter into arrangements with the Commissioner, on such terms as the Executive Office and the Commissioner may agree, for the provision by the Executive Office to the Commissioner of staff, facilities or services to assist the Commissioner in the exercise of the Commissioner’s functions.

(2) A reference in this Schedule to an officer of the Commissioner includes a reference to any member of staff provided under this paragraph.

Exercise of functions

7. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Seal

8. The application of the seal of the Commissioner must be authenticated by the signature—

- (a) of the Commissioner; or
- (b) of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

Evidence

9. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner’s seal or to be signed by, or on behalf of, the Commissioner must be received in evidence and is, unless the contrary is proved, to be taken to be such an instrument.

Property

10.—(1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.

Finance

11.—(1) The Executive Office may make payments to the Commissioner out of money appropriated for the purpose by Act of the Assembly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

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

(3) Subject to sub-paragraph (4), the Commissioner must pay to the Executive Office all sums received in the course of, or in connection with, the carrying out of the Commissioner's functions.

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

(5) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Accounts

12.—(1) The Commissioner must—

- (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 must—

- (a) be in such form; and
- (b) contain such information,

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

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

- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and of the report thereon before the Assembly.

(6) In this paragraph and paragraph 13 “financial year” means—

- (a) the period beginning with the day on which the Commissioner is first appointed and ending on the next following 31st March; and
- (b) any subsequent period of twelve months ending on 31st March.

Annual report

13.—(1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the carrying out of the Commissioner's functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

DRAFT SUBJECT TO ASSEMBLY APPROVAL

DRAFT SUBJECT TO ASSEMBLY APPROVAL

Assembly disqualification

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“The Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place—

“The Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.

Freedom of information

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place—

“The Commissioner appointed under Part 7C of the Northern Ireland Act 1998”.