

**PROPOSAL FOR A DRAFT ORDER IN COUNCIL UNDER PARAGRAPH
1(1) OF THE SCHEDULE TO THE NORTHERN IRELAND ACT 2000**

DRAFT STATUTORY INSTRUMENTS

2006 No. (N.I.)

NORTHERN IRELAND

The Victims and Survivors (Northern Ireland) Order 2006

Made - - - - - *2006*

*Coming into operation in accordance with Article
1(2) to (4)*

ARRANGEMENT OF ORDER

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Schedule The Commissioner for Victims and Survivors for Northern
Ireland

At the Court at Buckingham Palace, the ** day of ** 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Victims and Survivors (Northern Ireland) Order 2006.

(2) The following provisions of this Order come into operation two weeks after the day on which this Order is made—

- (a) this Article; and
- (b) Articles 2 and 3.

(3) The other provisions of this Order come into operation on such day or days as the Office may by order appoint.

(4) An order under paragraph (3) may contain such transitional provisions as appear to the Office to be appropriate.

Interpretation: general

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the Commissioner” means the Commissioner for Victims and Survivors for Northern Ireland;

“conflict-related incident” means an incident appearing to the Commissioner to be a violent incident occurring in or after 1968 in connection with the affairs of Northern Ireland;

“information” includes information recorded in any form;

“the Office” means the Office of the First Minister and deputy First Minister;

“practice” includes policy.

Interpretation: “victim and survivor”

3.—(1) In this Order references to “victim and survivor” are references to an individual appearing to the Commissioner to be any of the following—

(a) someone who is or has been physically or psychologically injured as a result of or in consequence of a conflict-related incident;

(b) someone who provides a substantial amount of care on a regular basis for an individual mentioned in paragraph (a); or

(c) someone who has been bereaved as a result of or in consequence of a conflict-related incident.

(2) Without prejudice to the generality of paragraph (1), an individual may be psychologically injured as a result of or in consequence of—

(a) witnessing a conflict-related incident; or

(b) providing medical or other emergency assistance to an individual in connection with a conflict-related incident.

The Commissioner

The Commissioner for Victims and Survivors for Northern Ireland

4.—(1) There shall be an officer known as the Commissioner for Victims and Survivors for Northern Ireland.

(2) The Commissioner shall be appointed by the First Minister and deputy First Minister acting jointly.

(3) The Schedule has effect in relation to the Commissioner.

(4) This Article shall cease to have effect on such day as the First Minister and deputy First Minister acting jointly may by order appoint.

(5) An order under paragraph (4) may include such transitional provisions as appear to the First Minister and deputy First Minister to be appropriate.

(6) No order may be made under paragraph (4) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

Principal aim of the Commissioner

5. The principal aim of the Commissioner in exercising his functions under this Order is to promote the interests of victims and survivors.

Duties of the Commissioner

6.—(1) The Commissioner shall promote an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests.

(2) The Commissioner shall keep under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors.

(3) The Commissioner shall keep under review the adequacy and effectiveness of services provided for victims and survivors by bodies or persons.

(4) The Commissioner shall advise the Secretary of State, the Executive Committee of the Assembly and any body or person providing services for victims and survivors on matters concerning the interests of victims and survivors—

- (a) as soon as reasonably practicable after receipt of a request for advice; and
- (b) on such other occasions as the Commissioner thinks appropriate.

(5) The Commissioner shall take reasonable steps to ensure that the views of victims and survivors are sought concerning the exercise by the Commissioner of his functions.

(6) The Commissioner shall make arrangements for a forum for consultation and discussion with victims and survivors.

General powers of the Commissioner

7.—(1) The Commissioner may undertake, commission or provide financial or other assistance for research or educational activities concerning the interests of victims and survivors or the exercise of his functions.

(2) The Commissioner may, after consultation with such bodies or persons as he thinks fit, issue guidance on best practice in relation to any matter concerning the interests of victims and survivors.

(3) The Commissioner may—

- (a) compile information concerning the interests of victims and survivors;
- (b) provide advice or information on any matter concerning the interests of victims and survivors;
- (c) publish any matter concerning the interests of victims and survivors, including—
 - (i) the outcome of any research or activities mentioned in paragraph (1);
 - (ii) any advice provided by the Commissioner.

(4) The Commissioner may make representations or recommendations to any body or person concerning the interests of victims and survivors.

Work programmes

8.—(1) The Commissioner shall, at such time, in such form and in respect of such period as the First Minister and deputy First Minister acting jointly may direct, prepare and submit to the First Minister and deputy First Minister a programme of his proposed activities in exercise of his functions (referred to in this Article as “a work programme”).

(2) A work programme submitted to the First Minister and deputy First Minister under this Article shall include—

- (a) in respect of each activity mentioned in the programme, an estimate of the Commissioner’s expenditure and receipts;
- (b) such other matters as the First Minister and deputy First Minister acting jointly may direct.

Victims and Survivors

(3) Before submitting a work programme under this Article, the Commissioner shall consult such bodies or persons as he thinks fit.

(4) The First Minister and deputy First Minister acting jointly may request the Commissioner to furnish such information in connection with any work programme submitted to them as they may require, including information as to the results of any consultations under paragraph (3).

(5) The First Minister and deputy First Minister acting jointly may, after making such modifications, if any, in the work programme as, after consultation with the Commissioner, they consider necessary, approve any work programme submitted under this Article.

(6) The Commissioner may at any time, and shall if the First Minister and deputy First Minister acting jointly so direct, prepare and submit to the First Minister and deputy First Minister a revised work programme or an amendment to an existing work programme and paragraphs (2) to (5) shall apply in relation to any such revised work programme or amendment as they apply in relation to the original work programme.

(7) It shall be the duty of the Commissioner—

- (a) to carry out the activities in the work programme approved under this Article in accordance with that programme;
- (b) not to carry out any activities or incur any expenditure in any period except in accordance with the work programme approved under this Article in respect of that period.

Supplementary provisions

Privilege for certain publications

9. For the purposes of the law of defamation, publication by the Commissioner of any matter which the Commissioner is required or authorised to publish under this Order shall be absolutely privileged.

Payment of grants by the Office

10.—(1) The Office may, with the approval of the Department of Finance and Personnel, pay such grants to such bodies or persons as it considers appropriate in connection with measures which appear to the Office to be intended to assist victims and survivors.

(2) Grants under this Article may be subject to such terms and conditions as the Office may, with the approval of the Department of Finance and Personnel, determine.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 4(3).

THE COMMISSIONER FOR VICTIMS AND SURVIVORS FOR NORTHERN IRELAND

Status

1.—(1) The person for the time being holding the office of Commissioner for Victims and Survivors for Northern Ireland shall by that name be a corporation sole.

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

General powers

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

(a) appropriate for facilitating; or

(b) incidental or conducive to,

the exercise of his functions.

(2) That includes in particular—

(a) co-operating with other bodies or persons exercising functions relating to victims and survivors (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 provisions of this paragraph, a person shall hold and vacate office as the Commissioner in accordance with the terms of his appointment.

(2) An appointment as the Commissioner shall be for a term of 4 years.

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

(4) A person may at any time resign his office as the Commissioner by notice to the First Minister and deputy First Minister.

(5) The First Minister and deputy First Minister acting jointly may remove a person from office as the Commissioner if satisfied that he has—

(a) been convicted of a criminal offence;

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- (b) become bankrupt or made an arrangement or composition with his creditors;
- (c) without reasonable excuse, failed to discharge his functions for a continuous period of 3 months; or
- (d) become unfit or unable to exercise his functions.

Salary, etc.

4.—(1) The Office may pay to or in respect of the Commissioner—
(a) such remuneration, and
(b) such allowances, and
(c) such sums for the provision of a pension,
as the Office may determine.

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

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

Staff

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

(2) The remuneration and other conditions of service of the officers appointed under this paragraph shall 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 he 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 Office and the Department of Finance and Personnel.

(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 (NI 10) can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry shall be inserted at the appropriate place—

“Employment by the Commissioner for Victims and Survivors for Northern Ireland.”.

Exercise of functions of Commissioner

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

Seal

7. The application of the seal of the Commissioner shall be authenticated by his signature or by the signature of any officer of the Commissioner who has been authorised (whether generally or specially) by him for the purpose.

Evidence

8. 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 shall be received in evidence and shall, unless the contrary is proved, be taken to be such an instrument.

Property

9.—(1) Any real or personal property vested in the Commissioner shall (unless and until disclaimed or disposed of) vest in his 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 shall vest in the successor on his appointment.

Funding

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

(2) Payments under this paragraph shall be made on such terms and conditions as the Office may, with the approval of the Department of Finance and Personnel, determine.

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

(4) Sub-paragraph (3) shall not apply to such sums, or sums of such description, as the Office may, with the approval of the Department of Finance and Personnel, direct.

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

Accounts

11.—(1) The Commissioner shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

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

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

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

- (a) the Office; and
- (b) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

- (a) examine, certify and report on every statement of accounts sent to him by the Commissioner under this paragraph; and
- (b) send a copy of his report to the Office.

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

(6) In this paragraph and paragraph 12 "financial year" means—

- (a) the period beginning with the day on which the first person appointed under Article 4(2) takes office and ending with the next 31st March following that date; and
- (b) each successive period of twelve months ending with 31st March.

Annual report

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

(2) The Office—

- (a) shall lay a copy of every report sent to it under this paragraph before the Assembly; and
- (b) shall send a copy of every such report to the Secretary of State.

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

13. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) there shall be inserted, at the appropriate place—
"Commissioner for Victims and Survivors for Northern Ireland".

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

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

"The Office of the Commissioner for Victims and Survivors for Northern Ireland".

The Freedom of Information Act 2000 (c. 36)

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

“The Commissioner for Victims and Survivors for Northern Ireland”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the appointment and functions of the Commissioner for Victims and Survivors for Northern Ireland.