

Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011

2011 CHAPTER 17

An Act to make provision for a Panel to determine the salaries, allowances, pensions and gratuities payable to members and former members of the Northern Ireland Assembly; to make provision for a Northern Ireland Assembly Commissioner for Standards; and for connected purposes. [29th March 2011]

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

PART 1

THE REMUNERATION BOARD

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Establishment and functions

Establishment and membership of the Board

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1.—(1) There shall be a body known as the Remuneration Board.

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(2) The members of the Board are the Chair and two other members.

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Functions of the Board

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2.—(1) The functions of the Board are to make determinations as to—

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(a) the salaries payable to members of the Assembly under section 47 of the 1998 Act; and

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(b) the pensions and gratuities payable under section 48 of that Act.

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(2) The Board shall exercise its functions with a view to achieving the objectives of—

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(a) ensuring probity, accountability and value for money with respect to the expenditure of public funds;

(b) securing for members of the Assembly a level of remuneration which—

(i) fairly reflects the complexity and importance of their functions as members of the Assembly; and

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- (ii) does not, on financial grounds, deter people with the necessary commitment and ability from seeking election to the Assembly.

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(2A) In exercising its function under subsection (1)(a), the Board must have regard to the salaries payable to members of-

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- (a) the House of Commons;
(b) the Scottish Parliament;
(c) Senedd Cymru (the Welsh Parliament); and
(d) Dáil Éireann (the House of Representatives of Ireland) and Seanad Éireann (Senate of Ireland).

- (3) The Board shall keep under review the extent to which, having regard to—
(a) experience gained from the operation of its determinations,
(b) changes in the functions of members of the Assembly, and
(c) any other relevant circumstances,

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its determinations appear to be achieving the objectives in subsection (2).

- (4) The Board may consider any other matter which is relevant to the discharge of its functions, either on its own initiative or at the written request of the Commission.

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Independent status

Independence and openness

3.—(1) The Board shall not, in the exercise of its functions, be subject to the direction or control of—

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- (a) the Assembly; or
(b) the Commission.

- (2) A Board member is not a member of the staff of the Assembly.

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- (3) The Board shall—

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- (a) act in such a manner that its decisions and its reasons for those decisions are readily ascertainable;
(b) publish such information as will enable the public to be kept informed about its activities.

- (4) Subsection (3) does not prevent the Board from—

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- (a) considering a matter in private,
(b) maintaining the privacy of its consideration of that matter, or
(c) refraining from publishing material relating to that matter, if, in the opinion of the Board, the nature of that matter makes it appropriate to do so.

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Appointments, etc.

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Appointments to the Board

4.—(1) The Chair and other Board members shall be appointed by the Commission.

(2) Each appointment shall be for a term of 5 years from the date of the appointment.

(3) A person may not be appointed to be a Board member if that person has already been appointed to be a Board member on two occasions.

(4) At any one time no more than one Board member may be a former member of the Assembly.

Disqualification from membership of the Board

5.—(1) Schedule 1 makes provision as to the persons who are disqualified from being appointed or serving as Board members.

(2) The Commission may by order amend Schedule 1.

(3) An order under this section shall not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.

Termination of membership of the Board

6.—(1) The appointment of a person as a Board member ceases—

- (a) on the expiry of the term for which that person was appointed;
- (b) if that person resigns by giving notice in writing to the Commission;
- (c) if that person becomes disqualified from being a Board member; or
- (d) if the Commission dismisses that person under subsection (2).

(2) The Commission may dismiss a person from office as a Board member if it is satisfied that—

- (a) the person has been convicted of a criminal offence;
- (b) the person has become bankrupt or is the subject of a bankruptcy restrictions order or has had a debt relief order made in respect of them or is the subject of a debt relief restrictions order or made an arrangement or composition with the person's creditors;
- (c) the person has without reasonable excuse failed to discharge the functions of a Board member for a continuous period of 3 months beginning not earlier than 6 months before the day of dismissal;
- (d) the person is unfit or unable to carry out those functions.

Temporary appointments

6A.— (1) The Commission may appoint a temporary Chair where a person ceases to be Chair (whether at the end of their term of appointment or otherwise) and—

- (a) a replacement has not been appointed; or
- (b) the replacement's appointment has not yet taken effect.

(2) The Commission may appoint a temporary member of the Board where a person ceases to be a Board member (whether at the end of their term of appointment or otherwise) and—

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- (a) a replacement has not been appointed; or
(b) the replacement's appointment has not yet taken effect.
- (3) A temporary appointment lapses—
(a) when the appointment of the replacement takes effect; and
(b) in any event, at the end of the period of 12 months beginning with the date on which the temporary appointment takes effect.
- (4) Where a temporary appointment lapses under subsection (3)(b) the Commission may renew it or make a new temporary appointment.
- (5) Temporary appointments are to be disregarded for the purposes of section 4(3).
- (6) But a person must not be appointed as a temporary appointment if the person is not eligible to be appointed as a Board member by reason of section 4(3).
- (7) The Commission may by order make provision about appointments under this section.
- (8) An order under subsection (7) shall not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.
- (9) Subject to the provisions of this section or of any order under subsection (7), a temporary appointment is to be treated for all purposes as if it were an appointment under section 4(1).

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Code of conduct for **Board** members

- 7.—(1) The **Board** shall issue a code of conduct for its members.
- (2) The code of conduct shall in particular—
- (a) incorporate the Nolan principles or such other similar principles as may be adopted by the **Board** from time to time; and
- (b) include provision about the disclosure of interests by **Board** members.
- (3) The **Board** shall keep the code of conduct under review.
- (4) In this section “the Nolan principles” means the 7 general principles of public life set out in the First Report of the Committee on Standards in Public Life (Cm 2850).

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Administration and finance

8. Schedule 2 makes administrative and financial provision about the **Board**.

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Annual report

9. The **Board** shall, as soon as practicable after the end of each financial year, provide to the Commission a report on the performance of its functions, including the use of resources, during that financial year.

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Procedure

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Meetings of the Board

10.—(1) Subject to section 11, the Board shall determine its own procedure and when it is to meet.

(2) The validity of the Board's proceedings and determinations shall not be affected by—

- (a) a vacancy among the Board members; or
- (b) a defect in the appointment of any Board member.

Determinations

Exercise of functions

11.—(1) Subject to subsection (3), the Board shall make the determinations referred to in section 2(1) only once in respect of each Assembly.

(2) Subject to subsection (3), the Board shall not make the determinations referred to in section 2(1) in respect of an Assembly if the date of the poll for the election of that Assembly—

- (a) was directed under section 32(4) of the 1998 Act; and
- (b) occurs within one year of the date of the poll for the election of the immediately preceding Assembly.

(3) If at any time the Board is of the opinion that it is reasonable and appropriate—

- (a) for a determination relating to pensions to be made, the Board may make such a determination;
- (b) that due to exceptional circumstances the restriction in subsection (1) or (2) should not apply, the Board may make determinations—
 - (i) more than once in respect of each Assembly,
 - (ii) in respect of such an Assembly as is described in subsection (2), as the case may be.

(4) Subject to subsection (6), the Board shall, so far as reasonably practicable, make the determinations referred to in section 2(1) at least 6 months before the date of the poll for the election of the Assembly in respect of which the determination is made.

(5) The Board shall, as soon as reasonably practicable after its establishment, make the determinations referred to in section 2(1) in respect of the Assembly existing at that time.

(5A) Before making a determination under section 2(1) the Board shall—

- (a) publish a draft determination;
- (b) consult the following on the draft—
 - (i) members of the Assembly;
 - (ii) the Commission;

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(iii) the trustees of any pension scheme established in accordance with a previous determination and still in operation; and

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(iv) any other persons the Board thinks appropriate.

(6) Any determination made under section 2(1) shall have the effect (whether or not expressly so provided) of revoking any determination or provision—

(a) made under section 47 or 48 of the 1998 Act before the coming into operation of this Part; and

(b) relating to the same subject-matter as the determination made under section 2(1).

(7) Every determination made by the **Board** shall state the date from which it is to have effect (which may be a date before the date of the determination) and shall continue in effect until revoked by a subsequent determination relating to the same subject-matter.

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(8) For the purposes of subsection (3)(b), the occurrence of an election for which the poll is directed under section 32(4) of the 1998 Act does not in itself give rise to exceptional circumstances.

(8A) Before forming such an opinion as is referred to in subsection (3)(b), the Board must consult the Commission.

(9) If the **Board** forms such an opinion as is referred to in subsection (3), it shall—

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(a) state in writing its reasons for having done so, and

(b) communicate that statement to the Commission, at the same time as it communicates to the Commission the determination to which the statement relates.

(10) The Commission shall publish any statement made under subsection (9) as if it were a determination.

Contents of determinations: salaries

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12.—(1) This section applies to any determination made under section 2(1) (a).

(2) A determination to which this section applies may make different provision for different cases (for example, provision for higher salaries to be payable to Ministers or other office holders).

(3) A determination to which this section applies shall ensure that, if a salary is payable to a member of the Assembly (“M”) as a member of the House of Lords, or as a member of the European Parliament—

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(a) if M does not hold an office within subsection (6), no salary is payable to M under section 47 of the 1998 Act;

(b) if M holds an office within subsection (6), the salary which would otherwise be payable to M under section 47 of the 1998 Act is reduced by the appropriate amount.

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(4) For the purposes of subsection (3), the appropriate amount is the amount of the salary payable under section 47 of the 1998 Act to members of the Assembly generally.

(5) For the purposes of this section—

- (a) a person's membership of the Assembly begins on the day on which the person takes his or her seat in accordance with standing orders; and
- (b) a person's holding of an office within subsection (6) begins on the day on which the person takes up office.

(6) An office is within this subsection if the salary payable under section 47 of the 1998 Act to a member of the Assembly holding the office is higher than the salary payable under that section to members of the Assembly generally.

(7) For the purposes of this section, a person who is a member of the Assembly immediately before the Assembly is dissolved shall be treated—

- (a) if the person continues to hold office as a Minister or junior Minister, as Presiding Officer or deputy or as a member of the Commission, as if the person were a member of the Assembly until the end of the day on which he or she ceases to hold the office; and
- (b) if the person does not fall within paragraph (a) but is nominated as a candidate at the subsequent general election, as if the person were a member of the Assembly until the end of the day of the poll for that election.

(8) In this section—

“deputy”, in relation to the Presiding Officer, means any deputy Presiding Officer elected under section 39 of the 1998 Act;

“junior Minister” means a person appointed as a junior Minister under section 19 of the 1998 Act;

“Minister” has the meaning given by section 7(3) of the 1998 Act.

Contents of determinations: pensions and gratuities.

13.—(1) This section applies to any determination made under section 2(1) (b).

(2) A determination to which this section applies may include provision for—

- (a) contributions or payments towards provision for pensions or gratuities;
- (b) the establishment and administration (whether by the Commission or otherwise) of one or more pension schemes.

(3) Where any salary payable to a person under section 47 of the 1998 Act is not payable because of either or both of sections 47A and 47B of that Act, any provision made under this section for the payment of pensions which has effect in relation to that person shall apply as if the salary were payable.

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Availability of determinations

14.—(1) Every determination made by the Board under this Part shall be in writing.

(2) As soon as reasonably practicable after any determination has been made—

- (a) the Board shall communicate the determination to the Commission; and
- (b) the Commission shall publish the determination in full.

Miscellaneous

Meaning of “the Board”

15. In this Part “the Board” means the Remuneration Board established by section 1(1).

PART 2

THE NORTHERN IRELAND ASSEMBLY COMMISSIONER FOR STANDARDS

[Part 2 deliberately omitted]

PART 3

SUPPLEMENTARY PROVISIONS

Miscellaneous

Transitional provisions

34.—(1) This section applies to any complaint or matter which on the day on which section 17 comes into operation—

- (a) has been referred to the Assembly Commissioner for Standards; and
- (b) is, or but for the provisions of this Part would be, the subject of an investigation by that Commissioner under Standing Order 69A.

(2) On the day on which section 17 comes into operation, any complaint or matter to which this section applies shall be transferred to the Commissioner and—

- (a) shall be deemed to have been referred to the Commissioner under section 17; and
- (b) Part 2 shall apply to any such matter.

(3) All information which has been obtained by or made available to the Assembly Commissioner for Standards in connection with a complaint or matter

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to which this section applies shall be transferred or made available to the Commissioner and shall be treated as if it had been received by the Commissioner on a referral under section 17.

(4) In this section “Assembly Commissioner for Standards” means the Assembly Commissioner for Standards established under Standing Order 69A(1).

Orders

35. The Commission shall be a rule-making authority for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).

Consequential amendments

36. The amendments in Schedule 5 (being amendments consequential on the provisions of this Act) shall have effect.

Interpretation: general

37.—(1) In this Act—

“the 1998 Act” means the Northern Ireland Act 1998 (c. 47);

“the Commission” means the Northern Ireland Assembly Commission;

“the Commissioner” means the Northern Ireland Assembly Commissioner for Standards established by section 16;

“the Presiding Officer” means the Presiding Officer of the Assembly elected under section 39 of the 1998 Act; and

“staff of the Assembly” means staff appointed by the Commission under paragraph 2(1) of Schedule 5 to the 1998 Act.

(2) “Standing Order 69A” means Standing Order 69A of the standing orders of the Assembly as amended on 29 June 2010 and includes any provision in the standing orders of the Assembly amending or replacing Standing Order 69A.

Commencement

38.—(1) The following provisions come into operation on the day on which this Act receives Royal Assent—

(a) Part 1 and Schedules 1 and 2;

(b) in Part 2, sections 16, 18 to 24 and Schedules 3 and 4;

(c) this Part and Schedule 5.

(2) The other provisions of this Act come into operation on such day or days as the Commission may by order appoint.

Short title

39. This Act may be cited as the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011.


SCHEDULES

SCHEDULE 1

Section 5.

DISQUALIFICATION FROM MEMBERSHIP OF THE BOARD

1. The following persons are disqualified from being appointed or serving as Board members—

- (a) a member of the Assembly;
- (b) a family member of a member of the Assembly;
- (c) a candidate for election to the Assembly;
- (d) 
- (e) a member of the European Parliament, the House of Commons, the House of Lords, the Scottish Parliament, the National Assembly for Wales, Dáil Éireann (House of Representatives of Ireland) or the Seanad Éireann (Senate of Ireland);
- (f) a councillor;
- (g) a person employed by a political party;
- (h) a person employed by a member of the Assembly;
- (i) a member of the staff of the Assembly;
- (j) a former member of the staff of the Assembly;
- (k) a person employed by a Northern Ireland department;
- (l) a person who has been employed by a Northern Ireland department at any time in the two years prior to the date when the appointment is to take effect;
- (m) a person employed by a district council;
- (n) a person who has been employed by a district council at any time in the two years prior to the date when the appointment is to take effect;
- (o) the Northern Ireland Assembly Commissioner for Standards;
- (p) the Comptroller and Auditor General for Northern Ireland;
- (q) the Attorney General for Northern Ireland; and
- (r) a person who has been the Attorney General for Northern Ireland at any time in the 5 years prior to the date when the appointment is to take effect.

2. For the purposes of paragraph 1(c), a person becomes a candidate for election to the Assembly on the day on which that person becomes a candidate within the meaning of section 118A(1) and (2) of the Representation of the People Act 1983 (c. 2) as applied to the Assembly by Article 3 of the Northern Ireland Assembly (Elections) Order 2001 (SI 2001/2599).

3. In this Schedule—

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“civil partner” has the same meaning as in section 1 of the Civil Partnership Act 2004 (c. 33);

“cohabitant” means either member of a couple consisting of two people who are living together as if spouses of each other;

“councillor” means a member of a district council;

“family member” means—

- (a) parent, child, grandparent or grandchild;
- (b) brother, sister, uncle, aunt, nephew or niece (whether of the full or half blood);
- (c) spouse or any person related to a spouse in any of the ways set out in subparagraphs (a) or (b);
- (d) civil partner or any person related to a civil partner in any of the ways set out in sub-paragraphs (a) or (b); and
- (e) cohabitant or any person related to a cohabitant in any of the ways set out in sub-paragraphs (a) or (b); and

“political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

SCHEDULE 2

Section 8.

BOARD: ADMINISTRATIVE AND FINANCIAL ARRANGEMENTS

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Terms and conditions

1. Subject to sections 4 and 6, the Commission shall determine the terms and conditions of appointment applicable to each **Board** member.

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Administrative support and accommodation

2.—(1) The Commission shall provide the **Board**, or ensure that the **Board** is provided, with such administrative support, including staff, services and accommodation, as the **Board** may reasonably require to enable it to discharge its functions.

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(2) From time to time, and in any case before providing any support under subparagraph (1), the Commission shall consult the **Board**, about such support so as to secure that such provision (and in particular the duties of the staff of the Assembly and the separation of the **Board's** work from the business of the Assembly or of the Commission) does not call into question the **Board's** independence.

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Funding

3 The Commission shall—

- (a) pay such sums as are payable in accordance with the **Board** members' terms and conditions of appointment; and
- (b) pay any expenses properly incurred by the **Board**.

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SCHEDULE 3

Section 20.

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DISQUALIFICATION FROM BEING APPOINTED
OR SERVING AS THE COMMISSIONER
[DELIBERATELY OMITTED]

SCHEDULE 4

Section 22.

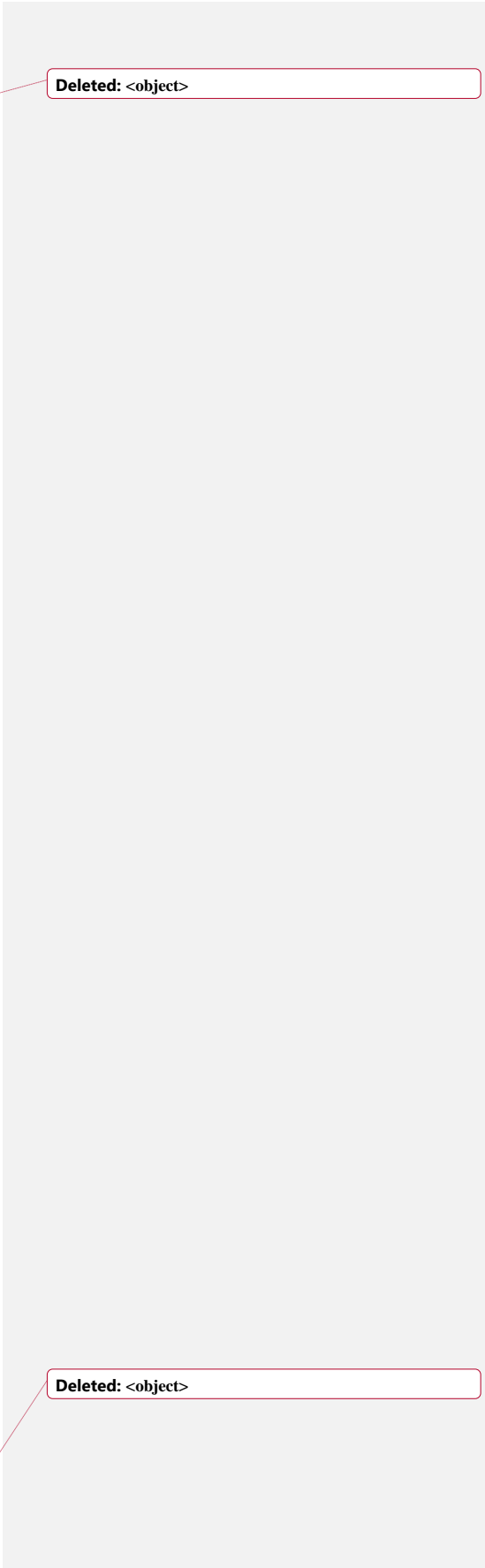
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SCHEDULE 5

Section 36.

CONSEQUENTIAL AMENDMENTS
[DELIBERATELY OMITTED]

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