



# Welsh Language (Wales) Measure 2011

## 2011 nawm 1

### PART 4

#### STANDARDS

#### CHAPTER 6

#### COMPLIANCE NOTICES

##### *Compliance notices*

#### 44 Compliance notices

- (1) In this Measure “compliance notice” means a notice given by the Commissioner to a person (P) which—
  - (a) sets out, or refers to, one or more standards specified by the Welsh Ministers under section 26(1), and
  - (b) requires P to comply with the standard or standards set out or referred to.
- (2) A compliance notice may require a person to comply with a particular standard—
  - (a) in some circumstances, but not in other circumstances;
  - (b) in some area or areas, but not in other areas.
- (3) If regulations under section 39 provide for two or more standards specified in relation to particular conduct to be specifically applicable to a particular person, a compliance notice may require the person—
  - (a) to comply with only one of the standards, or
  - (b) to comply with different standards—
    - (i) at different times;
    - (ii) in different circumstances (whether at the same time or different times);
    - (iii) in different areas (whether at the same time or different times).

### *Giving compliance notices*

#### **45 Giving compliance notices to any person**

- (1) The Commissioner may give a person (P) a compliance notice only if P is liable to be required to comply with standards (see Chapter 3).
- (2) A compliance notice given to P may set out, or refer to, a particular standard specified by the Welsh Ministers under section 26(1) only if the standard—
  - (a) is potentially applicable to P (see Chapter 4), and
  - (b) is specifically applicable to P (see Chapter 5).
- (3) If the Commissioner gives P a compliance notice, the Commissioner must also—
  - (a) give P a copy of any relevant code of practice issued under section 68, and
  - (b) inform P of the right of challenge under Chapter 7.
- (4) For provision about giving compliance notices to contractors, see section 48.

#### **46 Imposition days**

- (1) This section applies as respects each standard specified in a compliance notice given to a person.
- (2) The notice must state the imposition day or imposition days.
- (3) The imposition day, or the earliest of the imposition days, must fall after the end of the period of 6 months beginning with the day on which the notice is given.
- (4) In this section “imposition day”, in relation to a standard, means—
  - (a) the day from which a person is to be required to comply with the standard, or
  - (b) the day from which a person is to be required to comply with the standard in a respect.
- (5) For provision about giving compliance notices to contractors, see section 48.

#### **47 Consultation**

- (1) The Commissioner must consult a person before giving the person a compliance notice.
- (2) But subsection (1) does not require the Commissioner to consult a person on any matter if the Commissioner is satisfied that the person has already been consulted, or given the opportunity to be consulted, on that matter in connection with a standards investigation (see Chapter 8).
- (3) The failure of a person to participate in a consultation does not prevent the Commissioner from giving the person a compliance notice.

#### **48 Giving compliance notices to contractors**

- (1) This section applies (in addition to sections 45 and 46) in relation to a qualifying person who provides the public with services (the “relevant services”) provided under an agreement, or in accordance with arrangements, made with a public authority (the “relevant contract”).

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*Status: This is the original version (as it was originally enacted).*

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- (2) A compliance notice given to the qualifying person may set out, or refer to, a particular standard (the “relevant standard”) in relation to the provision of the relevant services under the relevant contract only if—
  - (a) the public authority is required to comply with the relevant standard in providing the public with the relevant services (or would be so required if it provided the public with those services),
  - (b) the relevant contract was entered into on or after the public authority’s imposition day, and
  - (c) the qualifying person’s imposition day falls on or after the public authority’s imposition day.
- (3) The Commissioner must secure that the requirement for the qualifying person to comply with the relevant standard (which arises by virtue of the compliance notice being given in accordance with subsection (2)) is the same as, or no greater than, the requirement for the public authority to comply with the standard.
- (4) Expressions used in this section and in Schedule 8 have the same meanings in this section as in Schedule 8.
- (5) In this section—

“public authority’s imposition day” (“*diwrnod gosod yr awdurdod cyhoeddus*”) means the day, or the earliest of the days, on which the public authority is required to comply with the relevant standard;

“qualifying person’s imposition day” (“*diwrnod gosod y person neilltuedig*”) means the day, or the earliest of the days, stated in the compliance notice given to the qualifying person as a day when the qualifying person is to be required to comply with the relevant standard in relation to the provision of the relevant services under the relevant contract.

#### *Varying compliance notices*

### **49 Varying compliance notices**

- (1) The Commissioner may vary any compliance notice.
- (2) Sections 45 to 47 apply to the variation of a compliance notice as they apply to the giving of a compliance notice, but only insofar as the notice is varied.
- (3) Section 48 applies to the variation of a compliance notice as it applies to the giving of a compliance notice.

#### *Revoking compliance notices*

### **50 Revoking compliance notices**

- (1) The Commissioner may revoke any compliance notice.
- (2) Subsections (3) and (4) apply in a case where the Commissioner—
  - (a) revokes a compliance notice that was given to a person (the “old notice”), and
  - (b) at the same time gives that person a compliance notice (the “new notice”).

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- (3) Sections 45 to 47 apply to the giving of the new notice only insofar as the new notice is different from the old notice.
- (4) Section 48 applies to the giving of the new notice as it applies to the giving of a compliance notice.

*When compliance notice in force*

**51 When compliance notice in force**

- (1) A compliance notice given to a person (P) is in force from the day when the Commissioner gives the notice to P.
- (2) A compliance notice remains in force unless — and until — it is revoked.
- (3) This section applies for the purposes of this Measure.

*Publicising compliance notices*

**52 Publicising compliance notices**

- (1) This section applies in relation to each compliance notice which is in force.
- (2) As from the relevant imposition day, the Commissioner must—
  - (a) ensure that a copy of the compliance notice is available for inspection at the Commissioner’s office, and
  - (b) ensure that copies of the compliance notice are made available at such other places and by such other means (including by electronic means) as the Commissioner thinks appropriate.
- (3) If a person makes an application to the Commissioner under Chapter 7 in respect of a standard, the Commissioner must ensure that, until the application is finally determined, the copies of the compliance notice made available in accordance with subsection (2) indicate—
  - (a) that the application has been made, and
  - (b) that the requirement to comply with the standard does not apply by virtue of section 60 (if that is the case).
- (4) The Commissioner must ensure that the arrangements for inspecting and gaining access to compliance notices are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in inspecting or gaining access to compliance notices.
- (5) In this section “relevant imposition day” means—
  - (a) if only one imposition day is stated in a compliance notice, that imposition day;
  - (b) if two or more imposition days are stated in a compliance notice, the earliest of those days.

*Cessation of requirement to comply with standard*

**53 Cessation of requirement to comply with standard**

- (1) This section applies in any case where a person (P) ceases to be under the duty in section 25(1) to comply with a standard because—
  - (a) one or more of conditions 1 to 3 in section 25 cease to be met, or
  - (b) the standard ceases to be specified by the Welsh Ministers under section 26(1).
- (2) As soon as practicable after this section applies, the Commissioner must, by exercising the powers conferred by this Chapter, secure that the change described in subsection (1) is reflected in the compliance notices (if any) that remain in force in relation to P.