



# Welsh Language (Wales) Measure 2011

**2011 nawm 1**

## **PART 7**

### **WELSH LANGUAGE TRIBUNAL**

#### *The Tribunal*

#### **120 The Welsh Language Tribunal**

- (1) There is to be a Welsh Language Tribunal (referred to in this Measure as the “Tribunal”).
- (2) The Tribunal is to consist of the following members—
  - (a) the President of the Welsh Language Tribunal (referred to in this Measure as the “President”);
  - (b) legally-qualified members; and
  - (c) lay members.
- (3) The Welsh Ministers must appoint the members of the Tribunal.
- (4) Schedule 11 makes further provision about the Tribunal.

#### **121 Composition for proceedings before Tribunal**

- (1) The President must select the members of the Tribunal who are to deal with particular proceedings before the Tribunal.
- (2) The President must select three members of the Tribunal to deal with the proceedings.
- (3) The President must ensure that—
  - (a) at least one of the three members is a legal member, and
  - (b) at least one of the three members is a lay member.
- (4) If only one of the three members is a legal member, that legal member is to chair the proceedings.

- (5) If more than one of the three members are legal members, the President is to select the legal member who is to chair the proceedings.
- (6) This section is subject to Tribunal Rules.
- (7) In this section “legal member” means—
  - (a) the President, or
  - (b) a legally-qualified member of the Tribunal.

## **122 Hearings in public**

- (1) Proceedings before the Tribunal are to be held in public.
- (2) But that is subject to Tribunal Rules.

### *Practice and procedure etc*

## **123 Welsh Language Tribunal Rules**

- (1) The President must make rules governing the practice and procedure to be followed in the Tribunal.
- (2) The rules are to be known as “Welsh Language Tribunal Rules” (but are referred to in this Measure as “Tribunal Rules”).
- (3) Tribunal Rules must include the following—
  - (a) provision about the selection under section 121(2) of the three members of the Tribunal to deal with proceedings;
  - (b) provision about the selection under section 121(5) of the legal member to chair proceedings;
  - (c) provision about conflicts of interest that arise—
    - (i) in relation to the participation of members of the Tribunal in the determination of proceedings, or
    - (ii) in relation to the exercise of the President’s functions under section 121.
- (4) Tribunal Rules may, amongst other things, include provision about the following matters—
  - (a) the exercise by the President, or by the member chairing any proceedings, of any functions which relate to matters that are preliminary or incidental to the proceedings;
  - (b) the conduct of proceedings in the absence of any member other than the member chairing them;
  - (c) the disclosure or inspection of documents, and such right to further particulars as might be granted by a county court;
  - (d) the determination of proceedings without a hearing in circumstances prescribed in Tribunal Rules;
  - (e) frivolous and vexatious proceedings;
  - (f) the award of costs (including, but not limited to, punitive costs) or expenses;
  - (g) assessing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be assessed in the county court);

- (h) the publication of reports of the Tribunal's decisions;
  - (i) the Tribunal's powers to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with Tribunal Rules;
  - (j) the date upon which a notice is deemed to have been given by the Tribunal.
- (5) The power to make Tribunal Rules includes power—
  - (a) to make different provision for different purposes, and
  - (b) to confer functions on the President or the Welsh Ministers (as well as on any other person), including functions involving the exercise of a discretion.
- (6) The President must submit Tribunal Rules to the Welsh Ministers.
- (7) The Welsh Ministers may allow or disallow Tribunal Rules submitted to them.
- (8) Rules allowed by the Welsh Ministers—
  - (a) come into force on such day that the Welsh Ministers direct, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by the Welsh Ministers.
- (9) A statutory instrument containing rules made by the President is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## **124 Practice directions**

- (1) The President may give directions as to the practice and procedure of the Tribunal.
- (2) But the President may not give practice directions unless they have been approved by the Welsh Ministers.
- (3) Subsection (2) does not apply to practice directions to the extent that they relate to—
  - (a) the application or interpretation of the law, or
  - (b) the making of decisions by members of the Tribunal.
- (4) The power under this section to give practice directions includes—
  - (a) power to vary or revoke practice directions given in exercise of the power, and
  - (b) power to make different provision for different purposes.

## **125 Guidance, advice and information**

- (1) The President may give guidance to other members of the Tribunal in relation to the exercise of their functions as members of the Tribunal.
- (2) A member of the Tribunal must have regard to such guidance in exercising such functions.
- (3) The President may give advice and information in respect of the Tribunal and its functions (including, but not limited to, its practice and procedure).
- (4) The President may give such advice—
  - (a) to particular persons, or
  - (b) more generally.

## **126 Supplementary powers**

- (1) In relation to the matters mentioned in subsection (2), the Tribunal has the same powers, rights, privileges and authority as the High Court.
- (2) The matters are—
  - (a) the attendance and examination of witnesses,
  - (b) the production and inspection of documents, and
  - (c) all other matters incidental to the Tribunal's functions.
- (3) Subsection (1)—
  - (a) does not limit any power to make Tribunal Rules, or
  - (b) is not limited by anything in Tribunal Rules, except an express limitation.
- (4) The Tribunal may direct that a party or witness is to be examined on oath or affirmation.
- (5) The Tribunal may administer any oath, or take any affirmation, that is necessary for that purpose.

### *Staff and other resources*

## **127 Staff, accommodation and other resources of Tribunal**

- (1) The Welsh Ministers must ensure that the Tribunal is provided with—
  - (a) staff,
  - (b) accommodation, and
  - (c) financial and other resources,that are appropriate for the Tribunal to exercise its functions.
- (2) It is for the Welsh Ministers to determine what staff, accommodation and financial and other resources are appropriate for that purpose.
- (3) The Welsh Ministers may satisfy the duty under subsection (1) by—
  - (a) providing staff, accommodation or other resources, or
  - (b) entering into arrangements with any other person for the provision of staff, accommodation or other resources.
- (4) The Welsh Ministers may pay remuneration to the staff of the Tribunal.
- (5) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the staff of the Tribunal.
- (6) The Welsh Ministers may pay—
  - (a) pensions to, or in respect of, persons who have been staff of the Tribunal, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been staff of the Tribunal.

## **128 Specially qualified advisers**

- (1) The President may appoint specially qualified advisers to provide assistance to the Tribunal (whether in relation to particular proceedings before the Tribunal or otherwise).

- (2) The President may pay remuneration to specially qualified advisers.
- (3) The President may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to specially qualified advisers.
- (4) But the Welsh Ministers must approve the amount of any remuneration, allowances or gratuities payable to a specially qualified adviser before the President agrees to pay, or pays, the remuneration, allowances or gratuities.

#### *Administrative matters*

### **129 Seal**

- (1) The Tribunal is to have an official seal.
- (2) purporting to be sealed with the official seal of the Tribunal is to be received in evidence in England and Wales without further proof.
- (3) But subsection (2) does not apply if the document is shown not to be sealed with the official seal of the Tribunal.

### **130 Financial year**

- (1) The Tribunal's first financial year is the period that begins with the commencement day and ends with—
  - (a) the following 31 March (if the commencement day is 1 April), or
  - (b) the second following 31 March (if the commencement day is not 1 April).
- (2) Subject to that, the Tribunal's financial year is the period of 12 months ending with 31 March.
- (3) In this section "commencement day" means the day when section 120 comes into force.

### **131 Vacancy in the office of President**

- (1) This section applies if the office of President is vacant.
- (2) The Welsh Ministers may appoint one or more of the legally-qualified members of the Tribunal to exercise any or all of the President's functions.
- (3) If, or to the extent that, the President's functions are not exercisable by a legally-qualified member in accordance with subsection (2), the Welsh Ministers may exercise the functions.
- (4) But the Welsh Ministers may not participate in determining any proceedings before the Tribunal.

#### *Reports, reviews and performance*

### **132 President's annual report**

- (1) As soon as practicable after the end of each financial year, the President must—

- (a) produce a report on the Tribunal's exercise of its functions in that financial year, and
- (b) lay a copy of the report before the National Assembly for Wales.
- (c) The President must comply with any requirements of the National Assembly for Wales in relation to the form of the report and the laying of it.

### **133 Training etc for members of Tribunal**

- (1) The President must maintain appropriate arrangements for the training, guidance and welfare of members of the Tribunal.
- (2) It is for the President to decide what arrangements are appropriate for that purpose.