

*Changes to legislation: There are currently no known outstanding effects for the Welsh Language (Wales) Measure 2011, SCHEDULE 1. (See end of Document for details)*

## SCHEDULE 1

(introduced by section 2)

### THE WELSH LANGUAGE COMMISSIONER

#### PART 1

#### STATUS ETC

##### *Status*

- 1 (1) The Commissioner is a corporation sole.
- (2) The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (3) The Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.
- (4) When exercising functions in relation to the Commissioner, the Welsh Ministers must have regard to the fact that it is desirable to ensure that the Commissioner is under as few constraints as reasonably possible in determining his or her—
  - (a) activities,
  - (b) timetables, and
  - (c) priorities.

##### **Commencement Information**

**11** Sch. 1 para. 1 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

##### *Validity of acts*

- 2 (1) The validity of an act of a person as Commissioner is not affected by a defect in the appointment of—
  - (a) that person, or
  - (b) any member of the Advisory Panel.
- (2) The validity of an act of a person exercising functions of the Commissioner is not affected by a defect in the appointment of—
  - (a) that person,
  - (b) the Commissioner, or
  - (c) any member of the Advisory Panel.

##### **Commencement Information**

**12** Sch. 1 para. 2 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

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## PART 2

### APPOINTMENT

#### *Appointment*

- 3 (1) In appointing the Commissioner, the First Minister—
- (a) must comply with appointment regulations (see paragraph 7),
  - (b) must take account of the recommendations made by the selection panel in relation to the appointment (see paragraph 7), and
  - (c) may take into account the views of any other persons whom the First Minister thinks it is appropriate to consult.
- (2) The First Minister may not appoint a person to be Commissioner if the person—
- (a) is disqualified from being Commissioner on grounds of employment (see paragraph 13), or
  - (b) has already been appointed as Commissioner.
- (3) The views which the First Minister may take into account under sub-paragraph (1)
- (c) include, but are not limited to, the views of—
    - (a) the National Assembly for Wales,
    - (b) committees of the National Assembly, and
    - (c) members of the National Assembly.

#### **Commencement Information**

**I3** Sch. 1 para. 3 in force at 28.6.2011 by S.I. 2011/1586, art. 2(a)

#### *Remuneration, allowances and pensions*

- 4 (1) The Welsh Ministers may pay remuneration to the Commissioner.
- (2) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the Commissioner.
- (3) The Welsh Ministers may pay—
- (a) pensions to, or in respect of, persons who have been Commissioner, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been Commissioner.

#### **Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

#### *Terms of appointment*

- 5 (1) The Commissioner holds office subject to the terms of his or her appointment.
- (2) But that is subject to the other provisions of this Schedule.

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- (3) The terms of the Commissioner's appointment must provide for him or her to hold office on a full-time basis.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Duration of appointment*

- 6 (1) A person appointed as Commissioner holds the office (by virtue of that appointment) for 7 years.
- (2) But that is subject to Part 3 of this Schedule.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Appointment regulations*

- 7 (1) The Welsh Ministers must, by regulations, make provision about the appointment of the Commissioner (“appointment regulations”).
- (2) Appointment regulations must make provision for the establishment of a panel of persons (a “selection panel”) who are to—
- (a) interview candidates for appointment as Commissioner, and
  - (b) make recommendations to the First Minister in relation to the appointment.
- (3) The provision that may be made in appointment regulations includes, but is not limited to, provision of the kind referred to in sub-paragraphs (4) to (7).
- (4) Appointment regulations may make provision about principles to be followed in appointing the Commissioner.
- (5) Appointment regulations may make provision about—
- (a) the knowledge of, and proficiency in, the Welsh language, and
  - (b) the knowledge and experience of the matters in respect of which the Commissioner has functions,
- which the Commissioner must have.
- (6) Appointment regulations may—
- (a) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies, or
  - (b) make other provision relating to any such code.
- (7) Appointment regulations may confer functions on the Welsh Ministers or First Minister (as well as on any other person), including functions involving the exercise of a discretion.

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**Commencement Information**

**I7** Sch. 1 para. 7 in force at 28.6.2011 by S.I. 2011/1586, art. 2(a)

*Delegation of appointment functions etc*

- 8 (1) The First Minister may, by order—
- (a) provide for the Welsh Ministers to exercise—
    - (i) the First Minister's function of appointing the Commissioner, and
    - (ii) any or all of the First Minister's other functions that relate to the Commissioner, and
  - (b) make such other related provision as the First Minister thinks appropriate.
- (2) The provision that may be made in an order under this paragraph includes, but is not limited to, provision amending or otherwise modifying this Measure.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 28.6.2011 by S.I. 2011/1586, art. 2(a)

**PART 3**

END OF APPOINTMENT

*Resignation*

- 9 The Commissioner may resign from office if he or she gives the First Minister not less than 3 months' notice in writing of his or her intention to do so.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Disqualification*

- 10 A person ceases to be Commissioner if the person is disqualified from being Commissioner on grounds of employment.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Dismissal*

- 11 The First Minister may dismiss the Commissioner if the First Minister is satisfied that the Commissioner—
- (a) is unfit to continue as Commissioner, or

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(b) is unable or unwilling to exercise the Commissioner's functions.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Payments on ceasing to hold office*

12 The Welsh Ministers may make a payment to a person who ceases to hold the office of Commissioner if it appears to the Welsh Ministers that there are special circumstances which make it right that the person should receive the payment in compensation.

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

**PART 4**

**DISQUALIFICATION FROM BEING COMMISSIONER**

13 A person is disqualified from being Commissioner on grounds of employment if the person is—

- (a) a Member of Parliament;
- (b) a Member of the National Assembly for Wales;
- (c) a member of a county council, a county borough council or a community council in Wales;
- (d) a member of the Tribunal;
- (e) a member of the Advisory Panel;
- (f) a person who is employed by, or advises, a person who is within Schedule 5 or Schedule 7;
- (g) a member of the Commissioner's staff.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 28.6.2011 by S.I. 2011/1586, art. 2(a)

**PART 5**

**FINANCIAL MATTERS**

*Payments by the Welsh Ministers*

14 The Welsh Ministers may pay the Commissioner such amounts, at such times and on such conditions (if any), as they think appropriate in respect of expenditure incurred in carrying out the functions of Commissioner.

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**Commencement Information**

**I14** Sch. 1 para. 14 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Financial year*

- 15 (1) The Commissioner'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 Commissioner's financial year is the period of 12 months ending with 31 March.
- (3) In this paragraph “commencement day” means the day when section 2 comes into force.

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Accounting officer*

- 16 (1) The Commissioner is the accounting officer for the office of the Commissioner.
- (2) The accounting officer has, in relation to the accounts and the finances of the office of the Commissioner, the responsibilities which are from time to time specified by the Treasury.
- (3) In this paragraph references to responsibilities include, amongst other things—
- (a) responsibilities in relation to the signing of accounts,
  - (b) responsibilities for the propriety and regularity of the finances of the Commissioner, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commissioner are used.
- (4) The responsibilities which may be specified under this paragraph include, amongst other things, responsibilities owed to—
- (a) the National Assembly for Wales, the Welsh Ministers or the Public Accounts Committee of the National Assembly, or
  - (b) the House of Commons or the Committee of Public Accounts of that House.
- (5) If requested to do so by the Committee of Public Accounts of the House of Commons (“the Parliamentary Committee”), the Public Accounts Committee of the National Assembly for Wales may—
- (a) take evidence on behalf of the Parliamentary Committee from the accounting officer,
  - (b) report to the Parliamentary Committee on the evidence taken, and
  - (c) transmit to the Parliamentary Committee the evidence taken.

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- (6) Section 13 of the National Audit Act 1983 (interpretation of references to the House of Commons Committee of Public Accounts) applies for the purposes of this Measure as it applies for the purposes of that Act.
- (7) In this paragraph “office of the Commissioner” means the Commissioner and the Commissioner's staff.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Estimates*

- 17 (1) For each financial year other than the first, the Commissioner must prepare an estimate of the income and expenses of the Commissioner's office.
- (2) The Commissioner must submit the estimate to the Welsh Ministers at least five months before the beginning of the financial year to which it relates.
- (3) The Welsh Ministers must examine an estimate submitted to them in accordance with this paragraph and must then lay the estimate before the National Assembly for Wales with the modifications (if any) they think appropriate.
- (4) In sub-paragraph (1) “Commissioner's office” means the Commissioner and the Commissioner's staff.

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

*Accounts*

- 18 (1) The Commissioner must—
- (a) keep proper accounting records, and
  - (b) prepare accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Welsh Ministers.
- (2) The directions which the Welsh Ministers may give under this paragraph include, amongst other things, directions as to—
- (a) the information to be contained in the accounts and the manner in which the accounts are to be presented;
  - (b) the methods and principles in accordance with which the accounts are to be prepared;
  - (c) additional information (if any) that is to accompany the accounts.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

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### *Audit*

- 19 (1) The Commissioner must submit the accounts prepared for a financial year to the Auditor General for Wales no later than 31 August in the following financial year.
- (2) The Auditor General for Wales must—
- (a) examine, certify and report on each set of accounts submitted under this paragraph, and
  - (b) no later than four months after the accounts are submitted, lay before the National Assembly for Wales a copy of them as certified by him or her together with his or her report on them.
- (3) In examining accounts submitted under this paragraph, the Auditor General for Wales must, amongst other things, satisfy him or herself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

#### **Commencement Information**

**I19** Sch. 1 para. 19 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

### *Examinations into the use of resources*

- 20 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging the Commissioner's functions.
- (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Commissioner.
- (3) In determining how to exercise the functions under this paragraph, the Auditor General for Wales must take into account the views of the Public Accounts Committee of the National Assembly for Wales as to the examinations which he or she should carry out.
- (4) The Auditor General for Wales may lay before the National Assembly for Wales a report of the results of any examination carried out under this paragraph.

#### **Commencement Information**

**I20** Sch. 1 para. 20 in force at 1.4.2012 by S.I. 2012/969, art. 2(b)

## **PART 6**

### **GENERAL**

#### *Interpretation*

- 21 In this Schedule—
- “appointment regulations” (“*rheoliadau penodi*”) means regulations made under paragraph 7;
- “selection panel” (“*panel dethol*”) has the meaning given in paragraph 7.



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**Commencement Information**

**I21** Sch. 1 para. 21 in force at 28.6.2011 by S.I. 2011/1586, art. 2(a)

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