

Status: Point in time view as at 01/07/2012.

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Local Government Act 2000

2000 CHAPTER 22

PART III

CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

CHAPTER III

INVESTIGATIONS ETC: WALES

Modifications etc. (not altering text)

- C1** Pt. III savings for effects of 2005 c. 10, s. 38 (1.4.2006) by [The Public Services Ombudsman \(Wales\) Act 2005 \(Transitional Provisions and Consequential Amendments\) Order 2006 \(S.I. 2006/362\)](#), arts. 1(1), 4

[^{F1}Public Services Ombudsman for Wales]

Textual Amendments

- F1** Pt. III Ch. III cross-heading preceding s. 68 substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 9](#); S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)

68 [^{F2}Public Services Ombudsman for Wales.]

- (1) [^{F3}The Public Services Ombudsman for Wales] is to have the functions conferred on him by this Part and such other functions as may be conferred on him by order made by the National Assembly for Wales under this subsection.
- (2) [^{F4}The Public Services Ombudsman for Wales]—

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- (a) may issue guidance to relevant authorities [^{F5}in Wales (other than police authorities)] on matters relating to the conduct of members and co-opted members of [^{F6}such][^{F6} those] authorities,
- (b) may issue guidance to relevant authorities [^{F7}in Wales (other than police authorities)] in relation to the qualifications or experience which monitoring officers should possess, and
- (c) may arrange for any such guidance to be made public.

[^{F8}(3) The National Assembly for Wales may by regulations make provision which, for the purpose of any provisions of the Public Services Ombudsman (Wales) Act 2005 specified in the regulations, treats—

- (a) functions of the Public Services Ombudsman for Wales under that Act as including his functions under this Part, or
- (b) expenses of the Public Services Ombudsman for Wales under that Act as including his expenses under this Part.]

(4) The provision which may be made by virtue of subsection (3) includes provision which modifies, or applies or reproduces (with or without modifications), any provisions of ^{F9}...that Act.

^{F10}(5)

Textual Amendments

- F2** S. 68 heading: word substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 10](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F3** Words in s. 68(1) substituted (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(a\)](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F4** Words in s. 68(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F5** Words in s. 68(2)(a) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 36\(a\)\(i\), Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F6** Word in s. 68(2)(a) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 36\(a\)\(ii\)](#); S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F7** Words in s. 68(2)(b) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 36\(b\), Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F8** S. 68(3) substituted (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(c\)](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F9** Words in s. 68(4) repealed (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(d\), Sch. 7](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F10** S. 68(5) repealed (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(e\), Sch. 7](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

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Commencement Information

- II** S. 68 wholly in force at 28.7.2001; s. 68 not in force at Royal Assent see s. 108; s. 68(3)-(5) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 68 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Investigations

69 [F11]Investigations by the Public Services Ombudsman for Wales.]

- (1) [F12]The Public Services Ombudsman for Wales] may investigate—
- (a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority [F13]in Wales] has failed, or may have failed, to comply with the authority's code of conduct, and
 - (b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority [F13]in Wales] has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).
- (2) If [F14]the Public Services Ombudsman for Wales] considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
 - (b) that no action needs to be taken in respect of the matters which are the subject of the investigation,
 - (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
 - (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1).
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority [F15]in Wales], the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly [F16]if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he] must decide to which of those monitoring officers to refer the matters concerned).

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Textual Amendments

- F11** Pt. III Ch. III(crossheading)(investigations) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 12](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F12** Words in s. 69(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F13** Words in s. 69(1) repealed (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 37\(2\), Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F14** Words in s. 69(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F15** Words in s. 69(5) repealed (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 37\(3\), Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F16** Words in s. 69(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

70 Investigations: further provisions.

- (1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).
- (2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—
 - (a) any provisions of sections 60 to 63 ^[F17] as those sections had effect immediately before their repeal by the Localism Act 2011] , or
 - ^[F18](b) any provisions of sections 13 to 15, 25 to 27 and 32 of the Public Services Ombudsman (Wales) Act 2005.]
- (3) ^[F19]The Public Services Ombudsman for Wales] may cease an investigation under section 69 at any stage before its completion.
- (4) Where ^[F20]the Public Services Ombudsman for Wales] ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority ^[F21]in Wales], ^[F20]the Public Services Ombudsman for Wales] may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

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Textual Amendments

- F17** Words in s. 70(2)(a) inserted (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 4 para. 38\(2\)](#); S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F18** S. 70(2)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(a\)](#); S.I. 2005/2800, arts. 4(1)(c)(2), 5(1) (with art. 4(3))
- F19** Words in s. 70(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(b\)](#); S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)
- F20** Words in s. 70(4)(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(c\)](#); S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F21** Words in s. 70(5) repealed (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 4 para. 38\(3\)](#), [Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

Modifications etc. (not altering text)

- C2** S. 70(2) modified (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 201\(3\)](#), 245(5) (with s. 201); S.I. 2008/172, art. 4(1)

Commencement Information

- I2** S. 70 wholly in force at 28.7.2001; s. 70 not in force at Royal Assent see s. 108; s. 70(1)(2) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, [art. 2](#); s. 70 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Reports etc.

71 Reports etc.

- (1) Where [^{F22} the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(a) or (b) is appropriate—
- he may produce a report on the outcome of his investigation,
 - he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
 - he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
 - where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where [^{F22} the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(c) is appropriate he must—
- produce a report on the outcome of his investigation,
 - subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
 - send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where [^{F22} the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(d) is appropriate he must—

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- (a) produce a report on the outcome of his investigation,
 - (b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1), and
 - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for Wales.
- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority [^{F23}in Wales]—
- (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
 - (b) [^{F24}if the Public Services Ombudsman for Wales reaches a finding under section 69(4)(c) he] must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) [^{F25}The Public Services Ombudsman for Wales] must—
- (a) inform any person who is the subject of an investigation under section 69, and
 - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,
- of the outcome of the investigation.

Textual Amendments

- F22** Words in s. 71(1)-(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 15\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F23** Words in s. 71(4) repealed (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 4 para. 39, Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F24** Words in s. 71(4)(b) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 15\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F25** Words in s. 71(6) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 15\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

72 Interim reports.

- (1) Where he considers it necessary in the public interest, [^{F26}the Public Services Ombudsman for Wales] may, before the completion of an investigation under section 69, produce an interim report on that investigation.
- (2) An interim report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

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- (3) Where the prima facie evidence is such that it appears to [^{F26}the Public Services Ombudsman for Wales]—
- (a) that the person who is the subject of the interim report has failed to comply with the code of conduct of the relevant authority concerned,
 - (b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and
 - (c) that it is in the public interest to suspend or partially suspend that person immediately,
- the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.
- (4) Where [^{F26}the Public Services Ombudsman for Wales] produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2).
- (5) A copy of any report under this section must be given—
- (a) to any person who is the subject of the report,
 - (b) to the monitoring officer of the relevant authority concerned, and
 - (c) to the president of the Adjudication Panel for Wales.
- (6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority [^{F27}in Wales]—
- (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
 - (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

Textual Amendments

- F26** Words in s. 72(1)(3)(4) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005](#) (c. 10), s. 40, **Sch. 4 para. 16**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F27** Words in s. 72(6) repealed (1.7.2012 for specified purposes) by [Localism Act 2011](#) (c. 20), s. 240(2), **Sch. 4 para. 40, Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

References to monitoring officers

73 Matters referred to monitoring officers.

- (1) The National Assembly for Wales may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section [^{F28}70(4) or (5) or 71(2) or (4)] are to be dealt with.

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- (2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
- (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
 - (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
 - (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
 - (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
 - (e) the publicity to be given to any such reports, recommendations or action.
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—
- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
 - (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—
- (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,
 - (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
 - (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) [^{F29}In its application to police authorities in Wales, subsection (1) has effect as if for the reference to the National Assembly for Wales there were substituted a reference to the Secretary of State.]
- (7) Where [^{F30}the Public Services Ombudsman for Wales] refers any matters to the monitoring officer of a relevant authority under section [^{F31} 70(4) or (5) or 71(2) or (4)] he may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

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Textual Amendments

- F28** Words in s. 73(1) substituted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 194(8), 245(5)** (with s. 201); S.I. 2008/172, art. 2(1)(o)
- F29** S. 73(6) repealed (1.7.2012 for specified purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 4 para. 41](#), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F30** Words in s. 73(7) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 4 para. 17**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F31** Words in s. 73(7) substituted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 194(8), 245(5)** (with s. 201); S.I. 2008/172, art. 2(1)(o)

Commencement Information

- I3** S. 73 wholly in force at 28.7.2001; s. 73 not in force at Royal Assent see s. 108; s. 73 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**; s. 73 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

74 Law of defamation.

For the purposes of the law of defamation, any statement (whether written or oral) made by [^{F32}the Public Services Ombudsman for Wales] in connection with the exercise of his functions under this Part shall be absolutely privileged.

Textual Amendments

- F32** Words in s. 74 substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 4 para. 18**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

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