

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 6

Staff

Paragraph 3

640. Paragraph 3(1) gives the Assembly Commission the power to appoint staff.
641. Paragraph 3(2) provides that staff employed by the Assembly Commission, including the Clerk of the Assembly, are referred to in the Act as the members of the staff of the Assembly.
642. Paragraph 3(3) provides that staff of the Assembly are not Crown servants, and therefore they are not civil servants. However, paragraph 12(2)(a) (see below) allows Her Majesty by Order in Council to provide for the purposes of any enactment that Assembly Commission employees be treated as Crown servants.
643. So, for example, an Order in Council could provide for employment by the Assembly Commission to be treated as “Crown employment” for the purposes of certain provisions of the Data Protection Act 1998, as is the case in relation to employees of the Scottish Parliamentary Corporate Body.
644. Paragraph 3(4) requires the procedures for recruiting and selecting staff of the Assembly, and the terms and conditions on which they are employed (including salaries), to be broadly in line with those for civil servants serving the Welsh Assembly Government.
645. In general this will require the Assembly Commission to adopt procedures broadly corresponding to the Civil Service Recruitment Code, and the Civil Service Code made under it, so as to ensure fair and open recruitment and selection of staff on merit, and upholding the political impartiality of staff.
646. However, as is the case with civil service recruitment, there can be exceptions to these principles e.g. in appointing special advisers, in relation to recruitment of disabled persons, or in relation to certain categories of staff with Welsh language qualifications. Thus the Assembly Commission will enjoy a similar degree of flexibility to the Welsh Assembly Government in these matters.
647. Staff seconded in or out of the Assembly post-separation will retain their pre-existing employment status, i.e. civil servants working for the Welsh Assembly Government who are seconded to work at the Assembly will retain their status as civil servants.
648. Paragraph 3(5)-(8) deals with salaries, expenses and pensions etc. The Commission is to pay the salaries and expenses of the staff of the Assembly. The Assembly Commission will be able to make arrangements for the payment of pensions, gratuities or allowances to former employees (sub-paragraph (6)), and in particular can make contributions towards such payments (sub-paragraph (7)).

*These notes refer to the Government of Wales Act 2006
(c.32) which received Royal Assent on 25 July 2006*

649. The effect of sub-paragraph (8) is that staff of the Assembly can be covered by the Principal Civil Service Pension Scheme (as can staff of the Assembly Commission's Scottish equivalent, the Scottish Parliamentary Corporate Body). Sub-paragraph (9) require payments to the Minister for the Civil Service in respect of Assembly staff members' participation in that scheme to be made by the Assembly Commission.