

*Changes to legislation:* There are currently no known outstanding effects for the Well-being of Future Generations (Wales) Act 2015, SCHEDULE 2. (See end of Document for details)

## SCHEDULE 2

(as introduced by section 17(4))

### THE FUTURE GENERATIONS COMMISSIONER FOR WALES

#### *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.

#### **Commencement Information**

**I1** Sch. 2 para. 1 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

#### *Validity of acts*

- 2 (1) The validity of an act of an individual as Commissioner is not affected by a defect in the appointment of—
  - (a) that individual;
  - (b) any member of the advisory panel.
- (2) The validity of an act of a person exercising functions on behalf of the Commissioner is not affected by a defect in the appointment of—
  - (a) that person;
  - (b) the Commissioner;
  - (c) any member of the advisory panel.

#### **Commencement Information**

**I2** Sch. 2 para. 2 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

#### *Duration of appointment*

- 3 An individual appointed as Commissioner holds office for a period of 7 years.

#### **Commencement Information**

**I3** Sch. 2 para. 3 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

#### *Terms of appointment*

- 4 The Commissioner holds office subject to—
  - (a) the provisions of this Schedule, and
  - (b) any additional terms of appointment as may be specified from time to time by the Welsh Ministers.

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**Commencement Information**

**I4** Sch. 2 para. 4 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Remuneration, allowances and pensions*

- 5 (1) The Welsh Ministers may pay remuneration to the Commissioner.
- (2) The Welsh Ministers may pay allowances (including travelling and subsistence allowances) and gratuities to the Commissioner.
- (3) The Welsh Ministers may pay—
- (a) pensions to, or in respect of, individuals who have been Commissioner, and
  - (b) amounts for or towards provision of pensions to, or in respect of, individuals who have been Commissioner.

**Commencement Information**

**I5** Sch. 2 para. 5 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Disqualification*

- 6 (1) An individual cannot be appointed as Commissioner if the individual is disqualified on any of the grounds specified in sub-paragraph (3).
- (2) An individual ceases to be Commissioner if the individual is disqualified on any of the grounds specified in sub-paragraph (3).
- (3) An individual is disqualified from being Commissioner if the individual is—
- (a) a Member of the National Assembly;
  - (b) a member of the advisory panel;
  - (c) the holder of any other office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
    - (i) the Crown,
    - (ii) the National Assembly, or
    - (iii) the National Assembly for Wales Commission;
  - (d) a Member of the House of Commons or House of Lords;
  - (e) a Member of the Scottish Parliament;
  - (f) a Member of the Northern Ireland Assembly;
  - (g) a Member of the European Parliament;
  - (h) a member of a county council, a county borough council or a community council in Wales;
  - (i) a member of the Commissioner's staff.

**Commencement Information**

**I6** Sch. 2 para. 6 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

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*End of appointment (other than through disqualification)*

- 7 (1) The Commissioner may resign from office by giving the Welsh Ministers not less than 3 months' notice in writing of the Commissioner's intention to do so.
- (2) The Welsh Ministers may dismiss the Commissioner if satisfied that the Commissioner—
- (a) is unfit to continue as Commissioner, or
  - (b) is unable or unwilling to exercise the Commissioner's functions.

**Commencement Information**

**17** Sch. 2 para. 7 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Powers*

- 8 (1) The Commissioner may do anything the Commissioner considers appropriate in connection with the Commissioner's functions, including—
- (a) charging for the provision of advice or other services;
  - (b) paying third parties for the provision of advice or other services;
  - (c) accepting gifts of money or other property.
- (2) The Commissioner must not—
- (a) provide financial assistance to any person;
  - (b) acquire or dispose of any interest in land,
- without the approval of the Welsh Ministers.
- (3) The Commissioner's power to charge for the provision of advice or another service is limited to charging such amounts as the Commissioner thinks appropriate to recover the actual or estimated costs to the Commissioner of providing that advice or service.

**Commencement Information**

**18** Sch. 2 para. 8 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Staff*

- 9 (1) The Commissioner may appoint such staff as the Commissioner considers appropriate in connection with the exercise of the Commissioner's functions and must appoint a member of staff to be the Deputy Commissioner (see paragraph 11).
- (2) The Commissioner may pay remuneration to the members of the Commissioner's staff.
- (3) The Commissioner may pay allowances (including travelling and subsistence allowances) and gratuities to the members of the Commissioner's staff.
- (4) The Commissioner may pay—
- (a) pensions to, or in respect of, persons who have been members of the Commissioner's staff, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Commissioner's staff.

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- (5) The Commissioner must obtain the approval of the Welsh Ministers for—
- (a) the number of staff that may be appointed;
  - (b) the terms and conditions of service of the staff;
  - (c) any payments that may be made under sub-paragraphs (2) to (4).

**Commencement Information**

**I9** Sch. 2 para. 9 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Delegation*

- 10 A function of the Commissioner may be discharged on the Commissioner's behalf by any person including any member of the Commissioner's staff, but only to the extent authorised by the Commissioner.

**Commencement Information**

**I10** Sch. 2 para. 10 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Deputy Commissioner*

- 11 The functions of the Commissioner are exercisable by the Deputy Commissioner if—
- (a) the office of Commissioner is vacant, or
  - (b) the Welsh Ministers are satisfied that for any reason the Commissioner is unable to exercise the functions of Commissioner.

**Commencement Information**

**I11** Sch. 2 para. 11 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Complaints procedure*

- 12 (1) The Commissioner must establish a procedure for the investigation of complaints about the exercise of the Commissioner's functions (“the complaints procedure”).
- (2) The complaints procedure must include provision about—
- (a) how a complaint may be made;
  - (b) the person to whom a complaint may be made;
  - (c) the period within which consideration of a complaint must begin and be concluded;
  - (d) the action that the Commissioner must consider taking in response to a complaint.
- (3) The Commissioner may amend the complaints procedure, but this is subject to the requirement to include provisions in accordance with sub-paragraph (2).
- (4) The Commissioner must—

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- (a) make a copy of the complaints procedure available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the complaints procedure are made available at such other places and by such other means as the Commissioner considers appropriate.
- (5) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of the complaints procedure 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 the procedure.

**Commencement Information**

**I12** Sch. 2 para. 12 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Register of interests*

- 13 (1) The Commissioner must create and maintain a register containing all of the Commissioner's and the Deputy Commissioner's registrable interests.
- (2) For the purposes of this paragraph and paragraphs 14 and 15—
- (a) “registrable interests” means any interests specified as such by the Welsh Ministers in regulations (and this may include interests of persons with whom the Commissioner or Deputy Commissioner has a connection whether familial, financial or of any other kind);
  - (b) “interest” means an interest of any kind (including gifts, hospitality, donations received, other financial interests, and all activities and occupations).
- (3) The Commissioner must keep the register of interests up to date.

**Commencement Information**

**I13** Sch. 2 para. 13 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

- 14 (1) The Commissioner must—
- (a) make a copy of the register of interests available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the register are made available at such other places and by such other means as the Commissioner considers appropriate.
- (2) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of the register of interests 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 the register.

**Commencement Information**

**I14** Sch. 2 para. 14 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

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*Conflicts of interest*

- 15 (1) The Commissioner must not exercise a function if the Commissioner has a registrable interest that relates to the exercise of the function.
- (2) If that prevents the Commissioner from exercising a function, the Commissioner must delegate that function (so far as necessary to enable it to be exercised) to a member of the Commissioner's staff.
- (3) This paragraph applies to the Deputy Commissioner exercising a function of the Commissioner under paragraph 11 as it applies to the Commissioner.

**Commencement Information**

**I15** Sch. 2 para. 15 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Payments by the Welsh Ministers*

- 16 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.

**Commencement Information**

**I16** Sch. 2 para. 16 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Annual reports*

- 17 (1) The Commissioner must produce a report in relation to each financial year (an “annual report”).
- (2) The Commissioner's first financial year is the period beginning on the day the first appointment to the office of Commissioner is made under section 17 and ending on the following 31 March.
- (3) An annual report must include—
- (a) a summary of the action taken in that financial year in the exercise of the Commissioner's functions;
  - (b) an analysis of the effectiveness of that action in enabling the general duty of the Commissioner to be fulfilled (see section 18);
  - (c) a summary of the Commissioner's work programme for that financial year;
  - (d) the Commissioner's proposals for a work programme for the following financial year;
  - (e) a summary of the complaints made in accordance with the procedure established under paragraph 12.
- (4) An annual report may include—
- (a) the Commissioner's assessment of the improvements that public bodies should make in order to meet their well-being objectives in accordance with the sustainable development principle;
  - (b) any other information the Commissioner considers appropriate.

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- (5) In preparing an annual report, the Commissioner must consult—
  - (a) the advisory panel, and
  - (b) any other person the Commissioner considers appropriate.
- (6) The Commissioner must publish the annual report no later than 31 August in the following financial year.
- (7) The Commissioner must send a copy of each annual report to the Welsh Ministers.
- (8) The Welsh Ministers must lay a copy of each annual report sent to them before the National Assembly.

#### Commencement Information

**117** Sch. 2 para. 17 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

#### *Accounting officer*

- 18
- (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 Commissioner, the responsibilities that are from time to time specified by the Treasury.
  - (3) In this paragraph references to responsibilities include—
    - (a) responsibilities in relation to the signing of accounts;
    - (b) responsibilities for the propriety and regularity of the finances of the Commissioner;
    - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commissioner are used.
  - (4) The responsibilities that may be specified under this paragraph include responsibilities owed to—
    - (a) the National Assembly, the Welsh Ministers or the Public Accounts Committee of the National Assembly;
    - (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 Commons Committee”), the Public Accounts Committee of the National Assembly may—
    - (a) take evidence on behalf of the Commons Committee from the accounting officer,
    - (b) report to the Commons Committee on the evidence taken, and
    - (c) transmit to the Commons Committee the evidence taken.
  - (6) Section 13 of the National Audit Act 1983 (c.44) (interpretation of references to the House of Commons Committee of Public Accounts) applies for the purposes of this paragraph as it applies for the purposes of that Act.

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**I18** Sch. 2 para. 18 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Estimates*

- 19 (1) For each financial year other than the first, the Commissioner must prepare an estimate of the income and expenses of the Commissioner and the Commissioner's staff.
- (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 with any modifications they think appropriate.

**Modifications etc. (not altering text)**

**C1** Sch. 2 para. 19(2) modified (23.11.2015) by [The Well-being of Future Generations \(Wales\) Act 2015 \(Consequential Provisions\) Regulations 2015 \(No. 1924\)](#), regs. 1(2), 4

**Commencement Information**

**I19** Sch. 2 para. 19 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Accounts*

- 20 (1) The Commissioner must—
- (a) keep proper accounting records;
  - (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 that the Welsh Ministers may give under this paragraph include 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) any additional information that is to accompany the accounts.
- (3) The Welsh Ministers may vary or revoke a direction they have given under this paragraph.

**Commencement Information**

**I20** Sch. 2 para. 20 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)



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*Audit*

- 21 (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 must—
- (a) examine, certify and report on accounts submitted under this paragraph, and
  - (b) no later than four months after the accounts are submitted, lay a copy of the certified accounts and the report on them before the National Assembly.
- (3) In examining accounts submitted under this paragraph, the Auditor General must not certify the accounts unless satisfied that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority that governs it.

**Commencement Information**

**I21** Sch. 2 para. 21 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Examinations into the use of resources*

- 22 (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) But the Auditor General is not entitled to question the merits of the policy objectives of the Commissioner.
- (3) Before carrying out an examination under this paragraph, the Auditor General must—
- (a) consult the Public Accounts Committee of the National Assembly, and
  - (b) take into account the views of the Committee as to whether or not an examination should be carried out.
- (4) The Auditor General must—
- (a) as soon as is reasonably practicable, publish a report of the results of an examination carried out under this paragraph, and
  - (b) lay a copy of the report before the National Assembly.

**Commencement Information**

**I22** Sch. 2 para. 22 in force at 16.10.2015 by S.I. 2015/1785, art. 2(o)

*Seal and validity of documents*

- 23 (1) The Commissioner may have a seal.
- (2) A document purporting to be—
- (a) duly executed under the seal of the Commissioner, or
  - (b) signed by or on behalf of the Commissioner,
- is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

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**Commencement Information**

**I23** [Sch. 2 para. 23](#) in force at 16.10.2015 by [S.I. 2015/1785](#), [art. 2\(o\)](#)

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