



Public Services Ombudsman (Wales) Act 2005

2005 CHAPTER 10

PART 2

INVESTIGATION OF COMPLAINTS [^{F1}RELATING TO LISTED AUTHORITIES]

Listed authorities

28 Listed authorities

- (1) The persons specified in Schedule 3 are listed authorities for the purposes of this Act.
- (2) The [^{F1}Welsh Ministers] may by order amend Schedule 3 by—
 - (a) adding a person;
 - (b) omitting a person;
 - (c) changing the description of a person.
- (3) An order under subsection (2) adding a person to Schedule 3 may provide for this Act to apply to the person with the modifications specified in the order.
- (4) Before making an order under subsection (2), the [^{F1}Welsh Ministers] must consult the Ombudsman and any other persons it thinks appropriate.
- [^{F2}(4A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.]
- (5) Sections 29 and 30 contain further restrictions on the power in subsection (2).

Textual Amendments

- F1** Words in s. 28(2)(4) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 78\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for

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certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

- F2** S. 28(4A) inserted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 78\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

29 Restrictions on power to amend Schedule 3

- (1) An order under section 28(2) may not omit the [^{F3}Welsh Assembly Government or the National Assembly for Wales Commission] from Schedule 3.
- (2) An order under section 28(2) may add a person to Schedule 3 only if—
 - (a) the person has functions dischargeable in relation to Wales or a part of Wales (whether or not the functions are also dischargeable otherwise than in relation to Wales),
 - (b) all or some of the person's functions are in a field in which the [^{F4}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions, and
 - (c) the person falls within subsection (3), (4) or (5).
- (3) A person falls within this subsection if—
 - (a) it is a body established by or under an enactment or by virtue of Her Majesty's prerogative or in any other way by a Minister of the Crown, a government department, the [^{F5}Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government] or another listed authority,
 - (b) it is a body wholly or partly constituted by appointment made by Her Majesty, a Minister of the Crown, a government department, the [^{F5}Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government] or another listed authority, and
 - (c) at least half of its expenditure on the discharge of its functions in relation to Wales is met [^{F6}out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities].
- (4) A person falls within this subsection if—
 - (a) it is a body established by or under an enactment, and
 - (b) it has power to issue a precept or a levy.
- (5) A person falls within this subsection if—
 - (a) it appears to the [^{F7}Welsh Ministers] that the person discharges functions of a public nature, and
 - (b) at least half of the person's expenditure on the discharge of those functions in relation to Wales is met [^{F8}out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities].
- (6) An order under section 28(2) may not add to Schedule 3—
 - (a) a Special Health Authority discharging functions only or mainly in England;
 - (b) a person who carries on under national ownership an industry or undertaking or part of an industry or undertaking.

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Textual Amendments

- F3** Words in s. 29(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F4** Words in s. 29(2)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F5** Words in s. 29(3)(a)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(4\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F6** Words in s. 29(3)(c) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(4\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F7** Words in s. 29(5)(a) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(5\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F8** Words in s. 29(5)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(5\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

30 Provisions in orders adding persons to Schedule 3

- (1) If the [^{F9}Welsh Ministers propose] to make an order under section 28(2) adding a person to Schedule 3, [^{F10}they must] also specify in the order—
- whether all or only some of the person's functions are to fall within the remit of the Ombudsman under this Part;
 - if only some of the person's functions are to fall within the remit of the Ombudsman under this Part, which those functions are.
- (2) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(3) or (4), the order may specify a function under subsection (1) only if the

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function is in a field in which the [^{F11}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions.

- (3) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(5), the order may specify a function under subsection (1) only if—
- (a) the function is in a field in which the [^{F12}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions, and
 - (b) the function appears to the [^{F13}Welsh Ministers] to be a function of a public nature.
- (4) The order may specify all a person's functions under subsection (1) only if all the person's functions satisfy the requirements of subsection (2) or (as the case may be) subsection (3).

Textual Amendments

- F9** Words in s. 30(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(2\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F10** Words in s. 30(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(2\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F11** Words in s. 30(2) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F12** Words in s. 30(3)(a) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(4\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F13** Words in s. 30(3)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(4\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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