

SCHEDULES

SCHEDULE 5

Section 37

TRANSFER OF STAFF, PROPERTY ETC.

Interpretation

1 In this Schedule—

“the commencement date” means the date on which this Schedule comes into force;

“existing authority” means each of—

- (a) the Welsh Administration Ombudsman;
- (b) the Health Service Commissioner for Wales;
- (c) the Commission for Local Administration in Wales;
- (d) a Local Commissioner who is a member of the Commission for Local Administration in Wales;
- (e) the Social Housing Ombudsman for Wales;

“relevant employee” means a person who, immediately before the commencement date, was an officer or member of staff of an existing authority;

“the relevant existing authority”, in relation to a relevant employee, means the existing authority of which he was an officer or member of staff immediately before the commencement date.

Transfer of staff

2 On the commencement date each relevant employee transfers to and becomes a member of the staff of the Ombudsman.

3 The contract of employment of a relevant employee transferred under paragraph 2—

- (a) is not terminated by the transfer;
- (b) has effect on and after the commencement date as if originally made between the employee and the Ombudsman.

4 Accordingly—

- (a) all rights, powers, duties and liabilities of the relevant existing authority under or in connection with the contract of employment are transferred to the Ombudsman on the commencement date;
- (b) anything done before that date by or in relation to the relevant existing authority in respect of that contract or the relevant employee is to be treated on and after that date as having been done by or in relation to the Ombudsman.

5 But if a relevant employee informs the relevant existing authority or the Ombudsman before the commencement date that he objects to the transfer—

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, SCHEDULE 5. (See end of Document for details)

- (a) paragraphs 2 to 4 do not apply; and
- (b) the contract of employment is terminated immediately before the commencement date but the relevant employee is not to be treated, for any purpose, as having been dismissed by the relevant existing authority.

6 Paragraph 5 does not affect any right of a relevant employee to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

Transfer of property, rights and liabilities

7 On the commencement date all property, rights and liabilities to which each existing authority was entitled or subject immediately before that date transfer to and vest in the Ombudsman.

8 The reference in paragraph 7 to rights and liabilities does not include any rights and liabilities under a contract of employment transferred to the Ombudsman under paragraph 2.

9 Paragraph 7 has effect in relation to any property, rights and liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer.

10 Anything (including legal proceedings) which is in the process of being done by or in relation to an existing authority immediately before the commencement date and which relates to—

- (a) any function of that existing authority, or
- (b) any property, rights or liabilities of that existing authority transferred to the Ombudsman under paragraph 7,

may, on and after the commencement date, be continued by or in relation to the Ombudsman.

11 Anything done by an existing authority for the purpose of, or in connection with—

- (a) any function of that existing authority, or
- (b) any property, rights or liabilities of that existing authority transferred to the Ombudsman under paragraph 7,

and which is in effect immediately before the commencement date is to have effect on and after the commencement date as if done by the Ombudsman.

12 On and after the commencement date, the Ombudsman is to be substituted for each existing authority in any instruments, contracts or legal proceedings which relate to—

- (a) any function of that existing authority, or
- (b) any property, rights or liabilities of that existing authority transferred to the Ombudsman under paragraph 7,

and which are made or commenced before the commencement date.

Changes to legislation:

There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, SCHEDULE 5.