
WELSH STATUTORY INSTRUMENTS

2006 No. 362 (W.48)

WELSH PUBLIC SERVICES OMBUDSMAN

The Public Services Ombudsman (Wales)
Act 2005 (Transitional Provisions and
Consequential Amendments) Order 2006

Made - - - - *14 Febraury 2006*
Coming into force - - *1 April 2006*

The National Assembly for Wales, in exercise of powers conferred on it by sections 43(1) and (2) and 44(1) of the Public Services Ombudsman (Wales) Act 2005⁽¹⁾ hereby makes the following Order:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Public Services Ombudsman (Wales) Act 2005 (Transitional Provisions and Consequential Amendments) Order 2006 and it shall come into force on 1 April 2006.

(2) This Order applies in relation to Wales.

(3) In this Order—

“the Act” (“*y Ddeddf*”) means the Public Services Ombudsman (Wales) Act 2005;

“co-opted member” (“*aelod cyfetholedig*”) means, in relation to a relevant authority, a person who is not a member of the authority but who—

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee; and

“relevant authority” (“*awdurdod perthnasol*”) means a county council, a county borough council, a National Park authority established under section 63 of the Environment Act 1995⁽²⁾ or a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004⁽³⁾ or a scheme to which section 4 of that Act applies.

(1) 2005 c. 1
(2) 1995 c. 25.
(3) 2004 c. 21.

Revocation and amendment of subordinate legislation

2. The subordinate legislation referred to in Schedule 1 is revoked.
3. Schedule 2 contains amendments to subordinate legislation.

Transitional provisions

- 4.—(1) Paragraph (2) applies if—
- (a) an allegation has been made to a Local Commissioner in Wales under section 69 of the Local Government Act 2000⁽⁴⁾ before the date on which section 38 of the Act comes into force, and
 - (b) the allegation has not been determined by that Commissioner before that date.
- (2) On and after the date on which section 38 of the Act comes into force, Part III of the Local Government Act 2000 and regulations and orders made thereunder continue to apply for the purposes of the allegation despite the provisions of the Act or this Order.
- (3) Paragraph (4) applies if—
- (a) an allegation could (but for the provisions of the Act) have been made to a Local Commissioner in Wales, and
 - (b) the allegation is an allegation that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed or may have failed to comply with the authority's code of conduct before the date on which section 38 of the Act comes into force.
- (4) On and after the date on which section 38 of the Act comes into force, Part III of the Local Government Act 2000⁽⁵⁾ and regulations and orders made thereunder continue to apply for the purposes of enabling the allegation to be made, and for the purposes of the allegation if made, despite the provisions of the Act or this Order.
- (5) Where paragraphs (2) and (4) apply, Part III of the Local Government Act 2000 and regulations and orders made thereunder have effect as if for references to the Local Commissioner in Wales there were substituted references to the Public Services Ombudsman for Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁶⁾.

14 February 2006

John Marek
The Deputy Presiding Officer of the National
Assembly

(4) 2000 c. 22.
(5) 2000 c. 22.
(6) 1998 c. 38.

SCHEDULE 1

Article 2

SUBORDINATE LEGISLATION REVOKED

The following subordinate legislation is revoked—

- (a) The Government of Wales Act (Complaints of Maladministration) (Transitional and Saving Provisions) Order 1999(7);
- (b) The Commission for Local Administration in Wales and Local Commissioner in Wales (Functions and Expenses) Regulations 2001(8); and
- (c) The Regulatory Reform (Local Commissioner for Wales) Order 2004(9).

SCHEDULE 2

Article 3

SUBORDINATE LEGISLATION AMENDED

Official Secrets Act 1989 (Prescription) Order 1990

1. In the Official Secrets Act 1989 (Prescription) Order 1990(10), in Schedule 2 (Prescriptions), in the entry in the first column for “Officer of the Health Service Commissioner for England or Wales” omit the words “or Wales”.

Child Support (Information, Evidence and Disclosure) Regulations 1992

2. In the Child Support (Information, Evidence and Disclosure) Regulations 1992(11), in Regulation 11 (Employment to which section 50 of the Act applies)—

- (a) omit paragraph (d);
- (b) omit “and” after paragraph (h);
- (c) after paragraph (i), insert—
 - “; and
 - (j) the Public Services Ombudsman for Wales, a member of his or her staff, or another person acting on his or her behalf or assisting him or her in the discharge of any of his or her functions”.

Public Services Contracts Regulations 1993

3. In the Public Services Contracts Regulations 1993(12), in Schedule 3 (GPA Annex I Contracting Authorities)—

- (a) for the entry “Office of the Parliamentary Commissioner for Administration and Health Service Commissioners”, substitute “Office of the Parliamentary Commissioner for Administration”;
- (b) after the entry referred to in paragraph (a) above insert, “Office of the Public Services Ombudsman for Wales”;

(7) S.I.1999/1791.

(8) S.I.2001/2275 (W.165).

(9) S.I. 2004/2359.

(10) S.I. 1990/200, amended by S.I. 1999/1042 and S.I.2004/1823; there are other amending instruments but none is relevant.

(11) S.I.1992/1812, amended by S.I.2004/1823; there are other amending instruments but none is relevant.

(12) S.I. 1993/3228, amended by the Police (Northern Ireland) Act 2000 (c. 32), and by S.I. 2000/2009, S.I. 2001/1149, and S.S.I. 2003/242, there are other amendments but none is relevant.

Status: This is the original version (as it was originally made).

- (c) after the entry for “Office of Fair Trading” insert “Office of the Health Service Commissioner for England”.

Public Supply Contracts Regulations 1995

4. In the Public Supply Contracts Regulations 1995(**13**), in Schedule 1 (GPA Annex I Contracting Authorities)—

- (a) for the entry “Office of the Parliamentary Commissioner for Administration and Health Service Commissioners”, substitute “Office of the Parliamentary Commissioner for Administration”;
- (b) after the entry referred to in paragraph (a) above insert, “Office of the Public Services Ombudsman for Wales”;
- (c) after the entry for “Office of Fair Trading” insert “Office of the Health Service Commissioner for England”.

Health Authorities Act 1995 (Transitional Provisions) Order 1996

5. In the Health Authorities Act 1995 (Transitional Provisions) Order 1996(**14**), in Article 9(1) omit “or Wales”.

Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

6. In the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001(**15**)—

- (a) In Regulations 3(2), 5(1)(b), 7 and 8(3)(a) for “a Local Commissioner in Wales” substitute “the Public Services Ombudsman for Wales”;
- (b) In Regulations 7(a), 9(3) and 13(1) for “Local Commissioner in Wales” substitute “Public Services Ombudsman for Wales, and
- (c) In Regulation 12 for “Local Commissioner for Wales” substitute “Public Services Ombudsman for Wales.”

Standards Committees (Wales) Regulations 2001

7. In the Standards Committees (Wales) Regulations 2001(**16**), in Regulation 29(2) for “Commission for Local Administration in Wales” substitute “Public Services Ombudsman for Wales”.

Local Authorities (Alternative Arrangements) (Wales) Regulations 2001

8. In the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001(**17**), in Part I (Miscellaneous functions) of Schedule 1, in paragraph 16, column 1, for “Local Commissioner” substitute “Public Services Ombudsman for Wales”.

(13) S.I. 1995/201, amended by the Police (Northern Ireland) Act 2000 (c. 32), and by S.I. 2000/209, 2002/881, and S.S.I. 2003/242; there are other amendments but none is relevant.

(14) S.I. 1996/709, to which there are amendments not relevant to this Order.

(15) S.I. 2001/2281 (W.171), amended by S.I. 2005/761.

(16) S.I. 2001/2283 (W.172).

(17) S.I. 2001/2284 (W.173), amended by S.I. 2002/810 (W.90), S.I. 2004/3092, S.I. 2005 /368; there are other amendments but none is relevant.

Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001

9. In the Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (18), in the Schedule—

- (a) in paragraph 1, in the definition of “report” (“*adroddiad*”), paragraph 2, paragraph 8 and paragraph 16 (in each place where it appears) for “a Local Commissioner in Wales” substitute “the Public Services Ombudsman for Wales”;
- (b) In paragraph 2(a), for “Local Commissioner” substitute “Public Services Ombudsman for Wales”; and
- (c) In paragraph 8, for “the Commission for Local Administration in Wales” substitute “the Public Services Ombudsman for Wales”.

Conduct of Members (Model Code of Conduct) (Wales) Order 2001

10. In the Conduct of Members (Model Code of Conduct) (Wales) Order 2001(19), in Part II of the Schedule, in paragraph 6(1)(c), for “the Local Commissioner for Local Administration in Wales” substitute “the Public Services Ombudsman for Wales”.

Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001

11. In the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001(20), in Part I (Miscellaneous functions) of Schedule 1, in paragraph 16, column 1, for “Local Commissioner” substitute “Public Services Ombudsman for Wales”.

National Assembly for Wales (Disqualification) Order 2003

12. In the National Assembly for Wales (Disqualification) Order 2003(21)—

- (a) In Part 1 of the Schedule omit the reference to “The Commission for Local Administration in Wales”; and
- (b) In Part 2 of the Schedule omit the reference to “Health Service Commissioner for Wales”.

Adoption Agencies (Wales) Regulations 2005

13. In the Adoption Agencies (Wales) Regulations 2005(22), in Regulation 43(1), in subparagraph (d), substitute “Public Services Ombudsman for Wales” for “Commissioner for Local Administration in Wales”.

(18) S.I. 2001/2288 (W.176).

(19) S.I. 2001/2289 (W.177).

(20) S.I. 2001/2291 (W.179), amended by S.I. 2002/783 (W.84) and S.I. 2004/3093; there are other amendments but none is relevant.

(21) S.I. 2003/437, amended by S.I. 2004/664.

(22) S.I. 2005/1313 (W. 95).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes three statutory instruments and amends others in consequence of the Public Services Ombudsman (Wales) Act 2005 (2005 c. 10) (“the Act”). This Order also makes transitional provisions in respect of the functions of the Local Commissioner in Wales under Part III of the Local Government Act 2000 (c. 22).

The Act establishes the office of the Public Services Ombudsman for Wales (“the Ombudsman”). The Act abolishes the offices of the Welsh Administration Ombudsman, the Health Service Commissioner for Wales and the Social Housing Ombudsman for Wales. It also abolishes the Commission for Local Administration in Wales (including the office of the Local Commissioner for Wales). Broadly speaking, the Act makes provision for the Ombudsman to investigate those matters that were within the remit of those ombudsmen and commissioners in Wales.

The Ombudsman will have responsibility for investigating maladministration and service failure by the National Assembly for Wales; its sponsored public bodies (the equivalent, in Wales, of non-departmental public bodies) and a number of other publicly funded bodies; Welsh health service bodies (primarily NHS Trusts and Local Health Boards in Wales); certain health service providers in Wales; local government bodies in Wales and social landlords in Wales. Thus there will be a unified ombudsman service in Wales.

The amendments and revocations made by this Order are consequential upon those changes.