Welsh Language (Wales) Measure 2011

2011 nawm 1

PART 5

ENFORCEMENT OF STANDARDS

CHAPTER 4

APPEALS

95 Appeals to the Tribunal

(1) This section applies if the Commissioner—

(a) undertakes an investigation under section 71, and

(b) determines that D has failed to comply with a relevant requirement.

(2) D may appeal to the Tribunal on the grounds that D did not fail to comply with the relevant requirement.

(3) But D may not appeal to the Tribunal under subsection (2) if the Commissioner has been directed, following an appeal under section 99 or 101, or any further appeal, to determine that D did fail to comply with the relevant requirement.

(4) If the Commissioner takes enforcement action in connection with D's failure to comply with the relevant requirement, D may appeal to the Tribunal on the grounds that the enforcement action is unreasonable or disproportionate.

(5) An appeal under this section must be made before the end of the relevant 28 day period.

(6) But the Tribunal may, on a written application by D, allow an appeal to be made after the end of the relevant 28 day period if the Tribunal is satisfied that there is a good reason—

(a) for the failure to appeal before the end of that period, and

(b) if there has been any delay in applying for permission to appeal out of time, for that delay.

(7) An application under subsection (6) may be made before or after the end of the relevant 28 day period.

(8) D may appeal under subsection (4) whether or not D also appeals under subsection (2).

(9) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).

(10) In this Chapter "relevant 28 day period" means the period of 28 days beginning with the day on which the Commissioner gives D the decision notice in relation to the investigation.

96 Powers of Tribunal on appeal

(1) On an appeal under section 95(2), the Tribunal may—
- (a) affirm the Commissioner's determination, or
- (b) annul the Commissioner's determination.

(2) On an appeal under section 95(4), the Tribunal may—
- (a) affirm the enforcement action,
- (b) vary the enforcement action (including, but not limited to, by taking enforcement action of a different kind), or
- (c) annul the enforcement action.

(3) The Tribunal must notify D and the Commissioner of its decision on an appeal under section 95.

(4) Any decision of the Tribunal on an appeal under section 95 has the same effect, and may be enforced in the same manner, as a determination of the Commissioner.

97 Appeals from Tribunal

(1) This section applies if the Tribunal has decided an appeal under section 95.

(2) The Commissioner or D may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.

(3) If the High Court find that the Tribunal has made an error on a point of law, the High Court—
- (a) may set aside the decision of the Tribunal, and
- (b) if it sets the decision aside, must either—
  - (i) remit the case to the Tribunal with directions for its reconsideration, or
  - (ii) re-make the decision.

(4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following—
- (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
- (b) procedural directions in connection with the reconsideration of the case.

(5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court—
- (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and

(b) may make such findings of fact as the High Court thinks appropriate.

(6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its decision on the appeal under section 95.

(7) But the Tribunal or High Court may, on a written application by the Commissioner or D, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason—

(a) for the failure to apply for permission to appeal before the end of that period, and

(b) if there has been any delay in applying for permission to appeal out of time, for that delay.

(8) This section is subject to Tribunal Rules.

98 Commissioner's duty on an appeal

(1) This section applies if—

(a) the Commissioner has carried out an investigation under section 71 following a complaint under section 93, and

(b) an appeal under section 95 or 97, or any further appeal, is made in relation to the investigation, and

(c) P is not a party to those proceedings.

(2) The Commissioner must—

(a) as soon as reasonably practicable after being informed of the outcome of an appeal under section 95, give the person who made the complaint notice of the outcome,

(b) as soon as reasonably practicable after being informed of an appeal under section 97 or any further appeal, give the person who made the complaint notice that the appeal has been made, and

(c) as soon as reasonably practicable after being informed of the outcome of an appeal under section 97 or of the outcome of a further appeal, give the person who made the complaint notice of the outcome.