



Commissioner for Older People (Wales) Act 2006

2006 CHAPTER 30

General

21 Restrictions

- (1) This Act does not authorise or require the Commissioner to discharge a function in relation to a matter to the extent that the matter is the subject of legal proceedings before, or has been determined by, a court or tribunal.
- (2) This Act does not authorise or require the Commissioner to discharge a prescribed function which by virtue of an enactment is also dischargeable by a prescribed person.

22 Minor and consequential amendments

Schedule 4 (which makes minor and consequential amendments relating to other ombudsman with whom the Commissioner may work) has effect.

23 Commencement

The preceding provisions of this Act come into force in accordance with provision made by the Assembly by order.

24 Older people in Wales

- (1) This section applies for the purposes of this Act.
- (2) “Older person” means a person aged 60 or over.
- (3) “Older person in Wales” means an older person—
 - (a) who is ordinarily resident in Wales,
 - (b) to or in respect of whom regulated services in Wales are provided, or

- (c) to or in respect of whom relevant services (within the meaning of section 6(4)) are provided by or on behalf of, or under arrangements with, a person mentioned in Schedule 3.

25 Interests of older people in Wales

In considering, for the purposes of this Act, what constitutes the interests of older people in Wales, the Commissioner must have regard to the United Nations Principles for Older Persons adopted by the General Assembly of the United Nations on 16 December 1991.

26 Regulated services in Wales

- (1) This section applies for the purposes of this Act.
- (2) “Regulated services in Wales” means services which are provided in Wales by or in a regulated establishment or agency.
- (3) An establishment or agency is a regulated establishment or agency if the person carrying it on or managing it is required to be registered in respect of it under Part 2 of the Care Standards Act 2000 (c. 14).
- (4) The services provided by or in a regulated establishment or agency are to be treated as provided by the person who carries it on.

27 Other interpretative provisions

- (1) In this Act—

“the Assembly” means the National Assembly for Wales;

“Assembly Cabinet” means the committee of the Assembly established under section 56(1) of the Government of Wales Act 1998 (c. 38);

“the Commissioner” has the meaning given by section 1;

“enactment” includes an enactment contained in an Act passed in the Session in which this Act is passed or in a later Session;

“family health service provider in Wales” means—

- (a) a person who provides services under a contract entered into by that person with a Local Health Board under section 28K or 28Q of the National Health Service Act 1977 (c. 49);
- (b) a person who has undertaken to provide in Wales general ophthalmic services or pharmaceutical services under Part 2 of that Act;
- (c) an individual who provides in Wales primary medical or dental services in accordance with arrangements made under section 28C of that Act (except as an employee of, or otherwise on behalf of, a Welsh health service body or an independent provider in Wales);
- (d) an individual who has undertaken to provide in Wales general dental services under Part 2 of that Act;

“family health services” means services provided in Wales which are mentioned in any of paragraphs (a) to (d) of the definition of “family health service provider in Wales”;

“further education” has the meaning given in section 2(3) to (5) of the Education Act 1996 (c. 56);

“further education corporation” has the meaning given in section 17(1) of the Further and Higher Education Act 1992 (c. 13);

“higher education corporation” has the meaning given in section 90(1) of the Further and Higher Education Act 1992;

“independent provider in Wales” means a person who—

- (a) provides services of any kind in Wales under arrangements with a Welsh health service body or a family health service provider in Wales, and
- (b) is not a Welsh health service body or a family health service provider in Wales;

“independently provided services” means services provided in Wales which are mentioned in paragraph (a) of the definition of “independent provider in Wales”;

“maintained school” has the meaning given in section 20(7) of the School Standards and Framework Act 1998 (c. 31);

“NHS trust” has the same meaning as in the National Health Service Act 1977 (c. 49);

“prescribed” means prescribed in regulations;

“regulations” means regulations made by the Assembly;

“Welsh health service body” means—

- (a) the Assembly, to the extent that it discharges functions in relation to the National Health Service;
- (b) a Local Health Board;
- (c) an NHS trust managing a hospital or other establishment or facility in Wales;
- (d) a Special Health Authority discharging functions in relation to Wales.

- (2) The Assembly may by order amend the definitions of “family health service provider in Wales” and “independent provider in Wales”.
- (3) Before making an order under subsection (2), the Assembly must consult such persons as it thinks appropriate.
- (4) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as it applies for the purposes of that Act.

28 Orders and regulations

- (1) A power of the Assembly to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) An order or regulations made by the Assembly under this Act may—
 - (a) make different provision for different purposes;
 - (b) make consequential, incidental, supplemental, transitory, transitional or saving provision.
- (3) The power to make consequential, incidental and supplemental provision in connection with—
 - (a) an order under section 16(4) specifying a person for the purposes of that section or providing for a person to cease to be specified for those purposes, or

- (b) an order under section 17(8) adding a person to the list of other ombudsman in that section or omitting a person from that list, includes power to make consequential, incidental and supplemental amendments or repeals in any enactment relating to that person or to his functions.
- (4) But the following consents are required for the making of an order by the Assembly which (whether by virtue of subsection (3) or otherwise) confers functions on a person other than the Commissioner or modifies the functions of such a person—
- (a) if the functions relate wholly or partly to a transferred matter, the consent of a Northern Ireland department; and
 - (b) if the functions relate wholly or partly to a matter which (without being a transferred matter) is a matter in respect of which the Assembly has no functions, the consent of the Secretary of State.
- (5) In this section “transferred matter” means a transferred matter within the meaning of section 4(1) of the Northern Ireland Act 1998 (c. 47).
- (6) An order made by the Assembly under this Act is, and regulations made by the Assembly under this Act are, to be regarded as Assembly general subordinate legislation for the purposes of the Government of Wales Act 1998 (c. 38).

29 Extent

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) Section 28 also extends to Northern Ireland.
- (3) An amendment or repeal made by this Act has the same extent as the provision amended or repealed.

30 Short title

This Act may be cited as the Commissioner for Older People (Wales) Act 2006.