

Status: Point in time view as at 25/07/2006.

Changes to legislation: Government of Wales Act 2006, Cross Heading: Public Services Ombudsman (Wales) Act 2005 (c. 10) is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Services Ombudsman (Wales) Act 2005 (c. 10)

67 The Public Services Ombudsman (Wales) Act 2005 is amended as follows.

Commencement Information

I1 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

68 In section 7(3)(b) (relevant action: Welsh health service bodies), for "Assembly" substitute "Welsh Ministers".

Commencement Information

I2 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

69 In section 8(2) (exclusion from investigation for matters not relating to Wales: exception for Assembly), for "Assembly" substitute "Welsh Assembly Government".

Commencement Information

I3 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

70 In section 9(1)(b) (exclusion from investigation of matters: right of appeal to Assembly), for "or the Assembly" substitute " , the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government".

Commencement Information

I4 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

71 (1) Section 10 (other excluded matters) is amended as follows.

(2) For "Assembly" (in both places) substitute "Welsh Ministers".

(3) After subsection (3) insert—

“(3A) 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.”

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Commencement Information

I5 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

72 In section 12 (decisions not to investigate etc.), omit subsection (9).

Commencement Information

I6 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

73 (1) Section 16 (reports of investigations) is amended as follows.

(2) In subsection (2)(f)—

- (a) for “Assembly First Secretary” substitute “ First Minister for Wales ”, and
- (b) for “Assembly” substitute “ Welsh Assembly Government ”.

(3) Omit subsection (9).

Commencement Information

I7 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

74 In section 21 (reports: alternative procedure), omit subsection (11).

Commencement Information

I8 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

75 In section 23 (special reports: supplementary), omit subsection (6).

Commencement Information

I9 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

76 (1) Section 24 (special reports relating to the Assembly) is amended as follows.

(2) In subsection (1), for “Assembly” substitute “ Welsh Assembly Government or the National Assembly for Wales Commission ”.

(3) In subsection (2)—

- (a) for “Assembly First Secretary” substitute “ relevant person ”, and
- (b) omit paragraph (b).

(4) After that subsection insert—

“(2A) In subsection (2) “the relevant person” means—

- (a) if the complaint was made in respect of the Welsh Assembly Government, the First Minister for Wales, and
- (b) if the complaint was made in respect of the National Assembly for Wales Commission, a member of that Commission.”

(5) Omit subsection (3).

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(6) In the side-note, for “Assembly” substitute “ Welsh Assembly Government etc. ”.

Commencement Information

I10 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

77 (1) Section 25 (consultation and co-operation with other ombudsmen) is amended as follows.

(2) In subsections (8) and (9), for “Assembly” substitute “ Welsh Ministers ”.

(3) After subsection (9) insert—

“(10) No order is to be made under subsection (8) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

Commencement Information

I11 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

78 (1) Section 28 (listed authorities) is amended as follows.

(2) In subsections (2) and (4), for “Assembly” substitute “ Welsh Ministers ”.

(3) After subsection (4) insert—

“(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.”

Commencement Information

I12 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

79 (1) Section 29 (restrictions on power to amend Schedule 3) is amended as follows.

(2) In subsection (1), for “Assembly” substitute “ Welsh Assembly Government or the National Assembly for Wales Commission ”.

(3) In subsection (2)(b), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”.

(4) In subsection (3)—

(a) in paragraphs (a) and (b), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ”, and

(b) in paragraph (c), for “directly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities ”.

(5) In subsection (5)—

(a) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ”, and

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- (b) in paragraph (b), for “directly or indirectly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities ”.

Commencement Information

I13 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 80 (1) Section 30 (provisions in orders adding persons to Schedule 3) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly proposes” substitute “ Welsh Ministers propose ”, and
- (b) for “it must” substitute “ they must ”.
- (3) In subsection (2), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”.
- (4) In subsection (3)—
- (a) in paragraph (a), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”, and
- (b) in paragraph (b), for “Assembly” substitute “ Welsh Ministers ”.

Commencement Information

I14 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 81 In section 40 (commencement), for “Assembly” substitute “ Welsh Ministers ”.

Commencement Information

I15 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 82 (1) Section 41 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “Assembly Cabinet”,
- (b) in the definition of “relevant tribunal”, for “Assembly” substitute “ Welsh Ministers ”,
- (c) in the definition of “social landlord in Wales”—
- (i) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
- (ii) in paragraph (b), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”, and
- (d) in the definition of “Welsh health service body”, for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (2), for “Assembly” (in both places) substitute “ Welsh Ministers ”.

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(4) After that subsection insert—

“(2A) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Assembly.”

(5) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.

(6) In subsection (4)—

- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “it thinks” substitute “ they think ”.

(7) After that subsection insert—

“(4A) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

Commencement Information

I16 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

83 (1) Section 42 (former health care providers and social landlords) is amended as follows.

(2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.

(3) In subsection (4)(a)—

- (a) in sub-paragraph (i), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
- (b) in sub-paragraph (ii), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”.

(4) After subsection (5) insert—

“(6) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.”

Commencement Information

I17 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

84 (1) Section 43 (consequential and transitional provision) is amended as follows.

(2) In subsection (1)—

- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “it thinks” substitute “ they think ”.

(3) After subsection (3) insert—

“(4) No order is to be made under subsection (1) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

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Commencement Information

I18 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 85 (1) Section 44 (orders, regulations and directions) is amended as follows.
- (2) In subsections (1) and (2), for “Assembly” substitute “ Welsh Ministers ”.
- (3) Omit subsection (3).

Commencement Information

I19 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 86 (1) Schedule 1 (Public Service Ombudsman for Wales: appointment etc.) is amended as follows.
- (2) For paragraph 1 (appointment) substitute—
- “1 The Ombudsman is to be appointed by Her Majesty on the nomination of the Assembly.”
- (3) In paragraph 3 (term of office)—
- (a) in sub-paragraph (3), for paragraph (b) substitute—
- “(b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office.”,
- (b) in sub-paragraph (4), for the words following “Ombudsman” substitute “ on the making of a recommendation, on the ground of the person's misbehaviour, that Her Majesty should do so. ”, and
- (c) for sub-paragraph (5) substitute—
- “(5) A recommendation for the removal of a person from office as the Ombudsman may not be made unless—
- (a) the Assembly has resolved that the recommendation should be made, and
- (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.”
- (4) In paragraph 4 (acting Public Service Ombudsman for Wales), for sub-paragraphs (1) and (2) substitute—
- “(1) If the office of the Ombudsman becomes vacant, Her Majesty may, on the nomination of the Assembly, appoint a person to act as the Ombudsman.”
- (5) In paragraph 5(1)(d) (disqualification from being Ombudsman or acting Ombudsman), for “section 12(1)(ca) of the Government of Wales Act 1998 (c. 38)” substitute “ section 16(1)(d) of the Government of Wales Act 2006 ”.
- (6) In paragraph 7(3) (exceptions from disqualifications applying to former Ombudsman or acting Ombudsman)—
- (a) in paragraph (a), after “Assembly” insert “ or the National Assembly for Wales Commission ”, and

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- (b) in paragraph (b), for “Assembly First Secretary or Assembly Secretary” substitute “ First Minister for Wales, Welsh Minister appointed under section 48 of the Government of Wales Act 2006, Counsel General to the Welsh Assembly Government or Deputy Welsh Minister ”.
- (7) In paragraph 9 (remuneration etc.), after sub-paragraph (5) insert—
- “(6) Sums required for the making of payments under sub-paragraphs (1), (2) and (5) are to be charged on the Welsh Consolidated Fund.”
- (8) For paragraph 10 (expenses) substitute—
- “ Special financial provisions*
- 10 (1) Any sums payable by the Ombudsman in consequence of a breach, in the performance of any of the Ombudsman's functions, of any contractual or other duty are to be charged on the Welsh Consolidated Fund.
- (2) And sub-paragraph (1) applies whether the breach occurs by reason of an act or omission of—
- (a) the Ombudsman,
 - (b) a member of the Ombudsman's staff, or
 - (c) any other person acting on the Ombudsman's behalf or assisting the Ombudsman in the exercise of functions.
- (3) The Ombudsman may retain income derived from fees charged by virtue of sections 12(6), 16(6), 21(8) and 23(2) (rather than pay it into the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by this Act.”
- (9) In paragraph 11(5) (payments by Assembly to Minister for the Civil Service in respect of superannuation benefits for Ombudsman's staff)—
- (a) for “Assembly” substitute “ Ombudsman ”, and
 - (b) for “he” (in both places) substitute “ the Minister ”.
- (10) In paragraph 13 (delegation), for sub-paragraph (4) substitute—
- “(4) No arrangements may be made between the Ombudsman, on the one hand, and the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Assembly Government), on the other, for—
- (a) any functions of one of them to be exercised by the other,
 - (b) any functions of the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Assembly Government) to be exercised by members of staff of the Ombudsman,
 - (c) any functions of the Ombudsman to be exercised by members of the staff of the Welsh Assembly Government, or
 - (d) the provision of administrative, professional or technical services by one of them for the other.”
- (11) In paragraph 14(3) (duty to send copy of extraordinary report to listed authorities other than the Assembly)—
- (a) after “time” insert “ send a copy to the Welsh Assembly Government and ”, and

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(b) for “than the Assembly” substitute “ than the Welsh Assembly Government ”.

(12) In paragraph 15 (estimates)—

(a) in sub-paragraph (2), for the words following “estimate” substitute “ at least five months before the beginning of the financial year to which it relates to the committee or committees of the Assembly specified in the standing orders of the Assembly. ”,

(b) in sub-paragraph (3)—

(i) for “Assembly Cabinet” substitute “ committee or committees ”,

(ii) omit “to it”, and

(iii) for “it thinks” substitute “ thought ”, and

(c) for sub-paragraph (4) substitute—

“(4) Before laying before the Assembly with modifications an estimate submitted in accordance with sub-paragraph (2), the committee or committees must—

(a) consult the Ombudsman, and

(b) take into account any representations which the Ombudsman may make.”

(13) In paragraph 18 (accounting officer)—

(a) for “Treasury” (in each place) substitute “ Audit Committee ”, and

(b) in sub-paragraph (6)(a), for “Assembly Cabinet” substitute “ Welsh Ministers ”.

Commencement Information

I20 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

87 In paragraph 1 of Schedule 2 (excluded matters), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ”.

Commencement Information

I21 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

88 In Schedule 3 (listed authorities), under the heading “Government of Wales”, for the entry relating to the Assembly substitute—

“The Welsh Assembly Government.

The National Assembly for Wales Commission.”

Commencement Information

I22 This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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