

1999 No. 1791

**CONSTITUTIONAL LAW
DEVOLUTION, WALES**

**The Government of Wales Act (Complaints of
Maladministration) (Transitional and Saving Provisions)
Order 1999**

<i>Made - - - -</i>	<i>23rd June 1999</i>
<i>Laid before Parliament</i>	<i>25th June 1999</i>
<i>Coming into force</i>	<i>1st July 1999</i>

The Secretary of State for Wales, in exercise of the powers conferred upon him by section 153(1) of the Government of Wales Act 1998(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Government of Wales Act 1998 (Complaints of Maladministration) (Transitional and Saving Provisions) Order 1999 and shall come into force on 1st July 1999.

Interpretation

2. In this Order—

“the Act” means the Government of Wales Act 1998;

“the 1967 Act” means the Parliamentary Commissioner Act 1967(b);

“the Assembly” means the National Assembly for Wales;

“Parliamentary Commissioner” means the Parliamentary Commissioner for Administration; and

“Welsh Ombudsman” means the Welsh Administration Ombudsman.

Transfer

3.—(1) On 1st July 1999, there shall be transferred to the Welsh Ombudsman—

(a) any complaint made prior to that date in relation to any of the bodies listed in paragraph 14(2) of Schedule 9 to the Act, which—

(i) has been referred to the Parliamentary Commissioner under section 5(1) of the 1967 Act;

(ii) is made in respect of a matter which if the complaint were made in relation to that body on or after 1st July 1999 would be a matter that may be investigated by the Welsh Ombudsman pursuant to Part II of Schedule 9 to the Act; and

(a) 1998 c. 38.

(b) 1967 c. 13.

- (iii) has not been determined by the Parliamentary Commissioner before 1st July 1999; and
 - (b) any investigation pursuant to any such complaint.
- (2) On 1st July 1999, there shall be transferred to the Welsh Ombudsman–
 - (a) any complaint made prior to that date in relation to the Welsh Office which–
 - (i) has been referred to the Parliamentary Commissioner under section 5(1) of the 1967 Act;
 - (ii) is made in respect of a matter which if the complaint were made on or after 1st July would be a matter that may be investigated by the Welsh Ombudsman in relation to the Assembly; and
 - (iii) has not been determined by the Parliamentary Commissioner before that date; and
 - (b) any investigation pursuant to any such complaint.
- (3) For the purposes of this article,–
 - (a) a complaint is determined by the Parliamentary Commissioner if he has decided–
 - (i) to conduct an investigation pursuant to the complaint and the investigation is concluded; or
 - (ii) not to conduct an investigation into the complaint; and
 - (b) an investigation is concluded if he has reported the results of that investigation as mentioned in section 10(1) of the 1967 Act.

Miscellaneous

4.—(1) Subject to the following provisions of this article, where a complaint or an investigation is transferred by virtue of article 3, it shall thereafter be subject to the provisions of Part II of Schedule 9 to the Act.

(2) Where a complaint or an investigation is transferred by virtue of article 3, the Welsh Ombudsman shall send to the member of Parliament by whom the complaint was referred and the request for an investigation was made (or if he is no longer a member of Parliament, to such member as the Welsh Ombudsman considers appropriate) a copy of the report of the investigation or, as the case may be, of the statement of his reasons for not conducting an investigation and paragraph 24(2)(b) and (c) of Schedule 9 to the Act shall apply for these purposes to a member of Parliament as it applies to a member of the Assembly.

(3) A transfer by virtue of article 3 shall not affect the validity of anything done (or having effect as if done) by or in relation to a complaint or an investigation by the Parliamentary Commissioner before 1st July 1999.

(4) Anything (including legal proceedings) which, on 1st July 1999, is in the process of being done by or in relation to the Parliamentary Commissioner may, so far as it relates to anything transferred by virtue of article 3, be continued by or in relation to the Welsh Ombudsman.

(5) Anything done (or having effect as if done) by or in relation to the Parliamentary Commissioner for the purposes of or in connection with anything transferred by virtue of article 3 shall, if in force on 1st July 1999, have effect, for the purposes of Part II of Schedule 9 of the Act, as if done by or in relation to the Welsh Ombudsman insofar as that is required for continuing its effect on or after 1st July 1999.

- (6) In relation to any complaint or investigation transferred by virtue of article 3,–
 - (a) no person shall be required or authorised to furnish any information or answer any question relating to proceedings of the Cabinet or of any committee of the Cabinet or to produce so much of any document as relates to such proceedings; and for the purposes of this paragraph a certificate issued by the Secretary of the Cabinet with the approval of the Prime Minister and certifying that any information, question, document or part of a document so relates shall be conclusive; and

- (b) the Parliamentary Commissioner and his officers shall not, on or after 1st July 1999, be called upon to give evidence in any proceedings (other than proceedings specified in paragraph 25(1) of Schedule 9 to the Act) of matters coming to his or their knowledge in the course of investigating such complaint under the 1967 Act prior to 1st July 1999.

Date 23rd June 1999

Alun Michael
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and saving provision for the investigation by the Welsh Administration Ombudsman (“WAO”) of complaints of maladministration in connection with action before 1st July 1999 taken in the exercise of certain administrative functions by the Welsh Office and other public bodies which are specified in paragraph 14(2) of Schedule 9 to the Government of Wales Act 1998. It provides for the transfer on 1st July 1999 to the WAO of the future conduct of the investigation of such complaints which at that date had been made to or were in the course of investigation by the Parliamentary Commissioner for Administration. The Order makes consequential transitional and saving provision. The Office of the WAO is established by section 111 of, and Schedule 9 Part 1 to, the said Act of 1998.

£1.50

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WO 5070 7/99 ON (MFK)