
WELSH STATUTORY INSTRUMENTS

2007 No. 1049 (W.107)

CHILDREN'S COMMISSIONER, WALES

The Children's Commissioner for Wales
(Appointment) (Amendment) Regulations 2007

Made - - - - 27 March 2007

Coming into force - - 1 April 2007

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 118(7) and paragraph 2 of Schedule 2 to the Care Standards Act 2000(1).

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Children's Commissioner for Wales (Appointment) (Amendment) Regulations 2007 and they come into force on 1 April 2007.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

the Commissioner (“*y Comisiynydd*”) means the Children's Commissioner for Wales (2);

the First Secretary (“*y Prif Ysgrifennydd*”) means the person elected from time to time as the Assembly First Secretary pursuant to section 53(1) of the Government of Wales Act 1998(3);

“the First Minister (“*y Prif Weinidog*”) means the person appointed from time to time as the First Minister for Wales under section 46 of the Government of Wales Act 2006(4);

“the initial period” (“*y cyfnod cychwynnol*”) means the initial period as defined in section 161(5) of the Government of Wales Act 2006;

“relevant children” (“*plant perthnasol*”) means such children resident in Wales as are selected for the purposes of a particular appointment in such a manner—

(a) as the relevant committee may determine in accordance with the terms of reference of the committee, or

(b) in the absence of such a determination, as the First Secretary may determine;

“relevant committee” (“*pwyllgor perthnasol*”) means such a committee as may be established from time to time by the National Assembly for Wales under section 54(1)(b) of the

(1) 2000 c. 14

(2) The Office of the Children's Commissioner for Wales is established by section 72(1) of the Care Standards Act 2000

(3) 1998 c. 38

(4) 2006 c. 32

Government of Wales Act 1998 for the purpose of providing advice and determining matters relating to the appointment of the Commissioner.

- (4) In these Regulations, a reference —
- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
 - (b) in a regulation to a numbered paragraph, is to the paragraph in that regulation bearing that number.

Amendment of the Children’s Commissioner for Wales (Appointment) Regulations 2000

2. The Children’s Commissioner for Wales (Appointment) Regulations 2000⁽⁵⁾ is amended in accordance with regulations 3 to 6 of these Regulations.

3. In regulation 1 (2), in the interpretation section, add the following definitions in the appropriate place in accordance with the alphabet:—

“the First Minister” (“*y Prif Weinidog*”) means the person appointed from time to time as the First Minister for Wales under section 46(1) of the Government of Wales Act 2006⁽⁶⁾;

“the initial period” (“*y cyfnod cychwynnol*”) means the initial period as defined in section 161(5) of the Government of Wales Act 2006.

4. The following regulation is substituted for regulation 2:—

“Appointment of the Commissioner

2.—(1) Until the end of the initial period, the Commissioner may be appointed by the First Secretary.

(2) The appointment of the Commissioner under paragraph (1) may be made only after taking into account of—

- (a) the advice of a relevant committee,
- (b) the views of relevant children as to any candidates interviewed for the appointment, and
- (c) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(3) Following the end of the initial period, the Commissioner may be appointed by the First Minister.

(4) The appointment of the Commissioner under paragraph (3) may be made only after taking into account of—

- (a) the views of relevant children as to any candidates interviewed for the appointment, and
- (b) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(5) Subject to regulation 3, the term of office of the Commissioner appointed under these Regulations must be seven years.

(6) The Commissioner is not eligible for re-appointment upon the expiry or earlier termination of the term of office.”

5. The following regulation is substituted for regulation 3:—

(5) 2000/3121 (W.199)
(6) 2006 c. 32.

“3.—(1) Until the end of the initial period the First Secretary may relieve the Commissioner of office prior to the expiry of the term of office—

- (a) at the request of the Commissioner,
- (b) on the ground of misbehaviour,
- (c) on being satisfied that the Commissioner is incapable by reason of mental or physical infirmity of performing the Commissioner’s functions.

(2) Following the end of the initial period any functions that were exercisable immediately before the end of the initial period by the First Secretary under paragraph (1) may be exercised by the First Minister.”

6. Add the following regulation after regulation 4.—(1)

“(2) Anything which is done by the First Secretary under these Regulations is to be regarded after the end of the initial period as if done by the First Minister.”

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

27 March 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly
for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the appointment of the Children's Commissioner for Wales whose office is established under the Care Standards Act 2000.

The Regulations amend the Children's Commissioner for Wales (Appointment) Regulations 2000, as a result of the Government of Wales Act 2006. The Regulations make alternative provision for the appointment and removal of the Commissioner depending on when the appointment or removal occurs. The Regulations take account of changes to be brought into effect under the Government of Wales Act 2006 and is intended to ensure that these changes will not unduly delay or disrupt any appointment of the Commissioner.

The Regulations make amendments so as to provide that the Commissioner may be appointed by the Assembly First Secretary, as defined in the Government of Wales Act 1998, if the appointment is made before a new First Minister is appointed under the Government of Wales Act 2006. An appointment during this period may only be made following advice from any committee of the Assembly which has been established for the purpose of advising as to the appointment, after candidates are interviewed by a selection panel, as to their suitability for appointment. The First Secretary is also under a duty to take account of the views of children in Wales as to the proposed appointment.

Following the appointment of a new First Minister under the Government of Wales Act 2006 the Commissioner is to be appointed by the First Minister, without the advice of a relevant committee, but after the First Minister has taken into account the views of children in Wales, and the advice of any selection panel.

The Regulations also make provision as to the term of office, and the circumstances in which the Commissioner may be relieved of office. Until the appointment of a new First Minister under the Government of Wales Act 2006 the Commissioner may be relieved of office by the First Secretary. Following the appointment of the new First Minister for Wales the Commissioner may be relieved of office by the First Minister.

By way of clarification as to legal responsibility for the exercise of functions by the First Secretary, the regulations contain incidental provision to treat functions so exercised as the exercise of functions by the Assembly constituted by the Government of Wales Act 1998. The Regulations also provide that any anything done by the First Secretary immediately before the appointment of a new First Minister for Wales under the Government of Wales Act 2006 will be treated following the appointment of the First Minister for Wales as if done by the First Minister.