

PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2019

EXPLANATORY NOTES

INTRODUCTION

Part 7

Section 72 - Welsh language standards

263. **Section 72** brings the Ombudsman within the Welsh Language Standards regime. It does so by adding the Ombudsman to the list of bodies in Schedule 6 to the Welsh Language Standards (No. 2) Regulations 2016. This will enable the Welsh Language Commissioner to give the Ombudsman a compliance notice requiring the Ombudsman to conform with the standards set out in those Regulations.

Section 73 - Review of Act

264. **Section 73(1)** requires the Assembly to prepare and publish a report on the operation and effect of the Act at the end of the 5 year period beginning with the day on which the Act receives Royal Assent. Section 73(2) also gives the Assembly a discretion to prepare and publish such a report on the Act at any other time.
265. When the Assembly prepares a report under this section, the Assembly has a duty to consult such persons as it considers appropriate (see section 73(3)).

Section 74 - Investigations commenced before **section 3, 4, 43 and 44** come into force

266. This section provides a saving provision for the Public Services Ombudsman (Wales) Act 2005 (“the 2005 Act”) in relation to investigations that the Ombudsman has commenced under the 2005 Act but has not concluded before the relevant sections of this Act come into force. This means that if the Ombudsman is part way through an investigation on the day sections 3, 4, 43 and 44 come into force, then the investigation carries on under the provisions of the 2005 Act.

Section 75 - Repeals, savings and consequential amendments

267. This section repeals the Public Services Ombudsman (Wales) Act 2005. However:
- (a) the 2005 Act continues to apply to investigations commenced before this Act receives Royal Assent (see section 74), and
 - (b) various provisions of the 2005 Act are saved and will therefore continue to have effect (for example, changes made by section 35 of the 2005 Act in relation to the conduct of local government members and employees remain in force and are not affected); subordinate legislation made under the 2005 is also saved.

268. [Section 75](#) also introduces Schedule 5, which makes various amendments to primary legislation in consequence of this Act.

Section 76 - Functions of the Assembly

269. This section says that the Assembly can make standing orders to deal with the exercise of the functions conferred on the Assembly under the Act.
270. The standing orders may, among other things, provide for the delegation of the Assembly's functions to an Assembly committee or sub-committee, or to the chair of an Assembly committee or sub-committee. But the standing orders may only delegate those functions conferred on the Assembly by section 73 and paragraphs 5 and 8(1) of Schedule 1.

Section 77 - Commencement

271. This section provides that sections 1 to 76 and the Schedules come into force in accordance with regulations made by the Welsh Ministers.
272. [Sections 77 to 82](#) come into force on Royal Assent.

Section 78 - Interpretation

273. This section defines terms used in the Act.
274. [Section 78\(3\)](#) provides a power for the Welsh Ministers to make regulations to amend the definitions of “family health service provider in Wales”, “independent provider in Wales” and “social landlord in Wales”. Those regulations are subject to a consultation requirement and the affirmative procedure.
275. [Section 78\(7\)](#) enables the Ombudsman to investigate action taken on behalf of a listed authority in the same way as the Ombudsman can investigate action by the listed authority itself.

Section 79 - Former health care providers, social landlords, social care providers and palliative care providers: modifications

276. This section confers power on the Welsh Ministers to make regulations modifying the application of the Act in respect of former family health service providers in Wales, former independent providers in Wales former social landlords in Wales former care home providers in Wales, former domiciliary care providers in Wales, and former independent palliative care providers in Wales.
277. This gives the Welsh Ministers power to modify appropriately the application of the Act in respect of a family health service provider in Wales, an independent provider in Wales, a social landlord in Wales, a care home provider in Wales, a domiciliary care provider in Wales or an independent palliative care provider in Wales but which have subsequently ceased to be such a listed authority.
278. For example, it will enable the Welsh Ministers to modify sections 23 (reports of investigations); 25 (as it relates to publicising reports: health care providers); and section 26 (action following receipt of a report) in such cases.

Section 80 - Consequential, transitional provisions etc.

279. This section allows the Welsh Ministers by regulations to make consequential, incidental, supplementary, transitional, saving etc. provision that is necessary in consequence of the Act.

Section 81 - Regulations and directions

280. This section contains provision applicable to any power in the Act to make regulations or to issue directions. Section 81(1) provides that regulations made under the Act are exercisable by statutory instrument.

Section 82 - Short title

281. This section provides that the short title of this Act is the Public Services Ombudsman (Wales) Act 2019.