

# **WELSH LANGUAGE (WALES) MEASURE 2011**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 103 – P’s right of review***

200. This section provides a person who has made a complaint under section 93 (“P”), with the right to apply to the Tribunal for the Tribunal to review a decision of the Commissioner which falls within any of the five cases specified in subsections (5) to (9).
- Case 1 is a case where a complaint which satisfies the conditions in section 93(3)-(6) is made and the Commissioner is under a duty to consider whether to carry out an investigation but decides not to carry out an investigation.
  - Case 2 is a case where the Commissioner is not under a duty to consider whether to carry out an investigation as the complaint is of a kind that falls within section 93(7) and the Commissioner makes the decision not to consider whether to carry out an investigation.
  - Case 3 is a case where a complaint is made and the Commissioner decides that the duty under section 93 to consider whether to carry out an investigation does not apply.
  - Case 4 is a case where a complaint is made and the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply and the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 93(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.
  - Case 5 is a case where a complaint is made and the Commissioner having originally decided to carry out an investigation then decides to discontinue the investigation.
201. To make an application, P must obtain the Tribunal’s permission. Permission must be granted where the Tribunal considers that the application would have a reasonable prospect of success or there is some other compelling reason why the application should be heard.
202. The Tribunal must deal with an application for review as if it were an application for judicial review made to the High Court. However, on an application for review, the Tribunal can, under section 104 either affirm or annul the Commissioner’s determination.
203. Applications for review must be made within a period of 28 days beginning with the day on which the Commissioner gives P notice of his or her decision under section 94. The Tribunal may accept applications after the 28 day period if P applies in writing and the Tribunal is satisfied that there is a good reason for the failure to appeal before the end of that period, and for the delay (if any) in applying for permission to appeal out of time.