

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 1 – The Welsh Language Commissioner***

311. *Schedule 1* is introduced by section 2 of the Measure. Schedule 1 makes provision about the Commissioner's status, appointment, and financial matters.

#### ***Paragraph 1 – Status***

312. This paragraph makes provision regarding the Commissioner's legal status. The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown, and that the Commissioner's property is not to be regarded as property of, or property held on behalf, of the Crown. Subsection (4) places a duty on Welsh Ministers, when exercising functions in relation to the Commissioner, to have regard to specified matters relating to the Commissioner's operational independence.

#### ***Paragraph 2 – Validity of acts***

313. This paragraph ensures that the validity of acts undertaken by the Commissioner, or of a person exercising functions of the Commissioner, are not affected by a defect in the appointment of the Commissioner or any member of the Advisory Panel (or in the case of a person exercising functions on behalf the Commissioner, a defect in the appointment of that person).

#### ***Paragraph 3 – Appointment***

314. This paragraph sets out the parameters within which the First Minister must operate in appointing the Commissioner.

#### ***Paragraph 4 – Remuneration, allowances and pensions***

315. This paragraph allows the Welsh Ministers to pay remuneration, allowances, gratuities and pensions to the Commissioner, and amounts for or towards the pensions of persons who have been Commissioner.

#### ***Paragraph 5 – Terms of appointment***

316. This paragraph ensures that the Commissioner holds office subject to the terms of his or her appointment, subject to the other provisions of Schedule 1. Sub-paragraph (3) requires the terms of the Commissioner's appointment to provide for the Commissioner to hold office on a full-time basis.

#### ***Paragraph 6 – Duration of appointment***

317. This paragraph provides that a person appointed as Commissioner holds office for a period of 7 years subject to the provisions in Part 3 of Schedule 1 which deal with disqualification, and the Commissioner's resignation or dismissal from office.

***Paragraph 7 – Appointment regulations***

318. This paragraph requires the Welsh Ministers to make provision about the appointment of the Commissioner by regulations (“appointment regulations”).

***Paragraph 8 – Delegation of appointment functions etc***

319. This paragraph provides the First Minister with the power, by order, to delegate the function of appointing the Commissioner and any or all of his or her functions that relate to the Commissioner to the Welsh Ministers.

***Paragraph 9 – Resignation***

320. This paragraph allows the Commissioner to resign his or her post by giving written notice to the First Minister of not less than 3 months.

***Paragraph 10 – Disqualification***

321. A person ceases to be Commissioner if the person is disqualified from being Commissioner on grounds of employment.

***Paragraph 11 – Dismissal***

322. This paragraph provides the First Minister with the power to dismiss the Commissioner in certain circumstances.

***Paragraph 12 – Payments on ceasing to hold office***

323. This paragraph provides the Welsh Ministers with the discretion to make compensatory payment to a person who ceases to hold the office of Commissioner.

***Paragraph 13 – Disqualification from being Commissioner***

324. This paragraph provides that a person employed in one of the listed offices is disqualified from being Commissioner.

***Paragraph 14 – Payments by the Welsh Ministers***

325. This paragraph provides the Welsh Ministers with an express power to fund the Commissioner.

***Paragraph 15 – Financial year***

326. This paragraph makes provision about the Commissioner’s financial year.

***Paragraph 16 – Accounting officer***

327. This paragraph makes provision about the Commissioner’s responsibilities as accounting officer for the office of the Commissioner.
328. Subparagraph (5) provides the Public Accounts Committee of the National Assembly for Wales with the power, if requested to do so by the Committee of Public Accounts of the House of Commons (“the Parliamentary Committee”), to take evidence from the Commissioner on its behalf and to report on, and transmit, the evidence taken to the Parliamentary Committee.

***Paragraph 17 – Estimates***

329. This paragraph places a duty upon the Commissioner to prepare an estimate of the income and expenses of the Commissioner’s office for each financial year other than the first, and submit the estimate to the Welsh Ministers. The Welsh Ministers, in turn,

must examine the estimate submitted to them and lay that estimate before the National Assembly for Wales.

***Paragraph 18 – Accounts***

330. This paragraph places a duty upon the Commissioner to keep proper accounting records, and prepare accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Welsh Ministers.

***Paragraph 19 – Audit***

331. This paragraph requires the Commissioner to submit the accounts prepared for a financial year to the Auditor General for Wales.
332. The paragraph also requires the Auditor General for Wales to examine, certify and report on each set of accounts submitted to him and lay them before the National Assembly for Wales.

***Paragraph 20 – Examinations into the use of resources***

333. This paragraph provides that the Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging the Commissioner’s functions. In carrying out examinations under this paragraph, the Auditor General for Wales is not entitled to question the merits of the policy objectives of the Commissioner.

***Paragraph 21 – Interpretation***

334. This paragraph defines “appointment regulations” and “selection panel” for the purposes of this Schedule.