



Welsh Language (Wales) Measure 2011

2011 nawm 1

PART 5

ENFORCEMENT OF STANDARDS

CHAPTER 5

APPEALS BY THE COMPLAINANT

Appeals against a determination that D has not failed to comply with a standard

99 Right of appeal by P

- (1) This section applies if—
 - (a) a person (P) makes a complaint under section 93,
 - (b) the Commissioner undertakes an investigation under section 71 following the complaint, and
 - (c) the Commissioner determines that D has not failed to comply with a standard.
- (2) P may appeal to the Tribunal on the grounds that D did fail to comply with the standard.
- (3) An appeal under this section must be made before the end of the relevant 28 day period.
- (4) But the Tribunal may, on a written application by P, allow an appeal to be made after the end of that period if the Tribunal is satisfied that there is a good reason—
 - (a) for the failure to appeal before the end of that period, and
 - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (5) An application under subsection (4) may be made before or after the end of the relevant 28 day period.
- (6) The Tribunal must notify P and the Commissioner of its decision on an appeal made under this section.

Status: This is the original version (as it was originally enacted).

- (7) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).
- (8) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gives P the decision notice in relation to the investigation.

100 Powers of Tribunal on appeal by P

- (1) On an appeal under section 99, the Tribunal may—
 - (a) affirm the Commissioner’s determination, or
 - (b) annul the Commissioner’s determination.
- (2) If the Tribunal annuls the Commissioner’s determination (the “original determination”), the Tribunal must direct the Commissioner to determine under section 73 that D has failed to comply with the standard (the “new determination”).
- (3) If the Tribunal gives the Commissioner a direction under subsection (2), the Commissioner must revoke the decision notice and investigation report given under section 73 in relation to the original determination.
- (4) Section 73(3) and (4), and the other provisions of this Measure, apply to the new determination as they apply to any other determination under section 73.
- (5) The investigation report given under section 73(3) in relation to the new determination must include a statement that the Commissioner has made the new determination in compliance with a direction by the Tribunal.
- (6) In their application in relation to the new determination, sections 77, 78, 79, 82 and 84 are subject to section 86 but not to section 85.

101 Appeals from Tribunal

- (1) This section applies if the Tribunal has decided an appeal under section 99.
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court—
 - (a) may set aside the decision of the Tribunal, and
 - (b) if it sets the decision aside, must either—
 - (i) remit the case to the Tribunal with directions for its reconsideration, or
 - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following—
 - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
 - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court—
 - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and

- (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its decision on the appeal under section 99.
- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason—
 - (a) for the failure to apply for permission to appeal before the end of that period, and
 - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.

102 Commissioner's duty on an appeal by P

- (1) This section applies if—
 - (a) the Commissioner has carried out an investigation under section 71 following a complaint under section 93,
 - (b) an appeal under section 99 or 101, or any further appeal, is made in relation to the investigation, and
 - (c) D is not a party to those proceedings.
- (2) The Commissioner must—
 - (a) as soon as reasonably practicable after being informed of the outcome of an appeal under section 99, give D notice of the outcome,
 - (b) as soon as reasonably practicable after being informed of an appeal under section 101 or any further appeal, give D notice that the appeal has been made, and
 - (c) as soon as reasonably practicable after being informed of the outcome of an appeal under section 101 or of the outcome of a further appeal, give D notice of the outcome.