



Welsh Language (Wales) Measure 2011

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PART 7

WELSH LANGUAGE TRIBUNAL

The Tribunal

120 The Welsh Language Tribunal

- (1) There is to be a Welsh Language Tribunal (referred to in this Measure as the “Tribunal”).
- (2) The Tribunal is to consist of the following members—
 - (a) the President of the Welsh Language Tribunal (referred to in this Measure as the “President”);
 - (b) legally-qualified members; and
 - (c) lay members.
- (3) The Welsh Ministers must appoint the members of the Tribunal.
- (4) Schedule 11 makes further provision about the Tribunal.

121 Composition for proceedings before Tribunal

- (1) The President must select the members of the Tribunal who are to deal with particular proceedings before the Tribunal.
- (2) The President must select three members of the Tribunal to deal with the proceedings.
- (3) The President must ensure that—
 - (a) at least one of the three members is a legal member, and
 - (b) at least one of the three members is a lay member.
- (4) If only one of the three members is a legal member, that legal member is to chair the proceedings.

Status: This is the original version (as it was originally enacted).

- (5) If more than one of the three members are legal members, the President is to select the legal member who is to chair the proceedings.
- (6) This section is subject to Tribunal Rules.
- (7) In this section “legal member” means—
 - (a) the President, or
 - (b) a legally-qualified member of the Tribunal.

122 Hearings in public

- (1) Proceedings before the Tribunal are to be held in public.
- (2) But that is subject to Tribunal Rules.

Practice and procedure etc

123 Welsh Language Tribunal Rules

- (1) The President must make rules governing the practice and procedure to be followed in the Tribunal.
- (2) The rules are to be known as “Welsh Language Tribunal Rules” (but are referred to in this Measure as “Tribunal Rules”).
- (3) Tribunal Rules must include the following—
 - (a) provision about the selection under section 121(2) of the three members of the Tribunal to deal with proceedings;
 - (b) provision about the selection under section 121(5) of the legal member to chair proceedings;
 - (c) provision about conflicts of interest that arise—
 - (i) in relation to the participation of members of the Tribunal in the determination of proceedings, or
 - (ii) in relation to the exercise of the President’s functions under section 121.
- (4) Tribunal Rules may, amongst other things, include provision about the following matters—
 - (a) the exercise by the President, or by the member chairing any proceedings, of any functions which relate to matters that are preliminary or incidental to the proceedings;
 - (b) the conduct of proceedings in the absence of any member other than the member chairing them;
 - (c) the disclosure or inspection of documents, and such right to further particulars as might be granted by a county court;
 - (d) the determination of proceedings without a hearing in circumstances prescribed in Tribunal Rules;
 - (e) frivolous and vexatious proceedings;
 - (f) the award of costs (including, but not limited to, punitive costs) or expenses;
 - (g) assessing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be assessed in the county court);

- (h) the publication of reports of the Tribunal's decisions;
 - (i) the Tribunal's powers to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with Tribunal Rules;
 - (j) the date upon which a notice is deemed to have been given by the Tribunal.
- (5) The power to make Tribunal Rules includes power—
- (a) to make different provision for different purposes, and
 - (b) to confer functions on the President or the Welsh Ministers (as well as on any other person), including functions involving the exercise of a discretion.
- (6) The President must submit Tribunal Rules to the Welsh Ministers.
- (7) The Welsh Ministers may allow or disallow Tribunal Rules submitted to them.
- (8) Rules allowed by the Welsh Ministers—
- (a) come into force on such day that the Welsh Ministers direct, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by the Welsh Ministers.
- (9) A statutory instrument containing rules made by the President is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

124 Practice directions

- (1) The President may give directions as to the practice and procedure of the Tribunal.
- (2) But the President may not give practice directions unless they have been approved by the Welsh Ministers.
- (3) Subsection (2) does not apply to practice directions to the extent that they relate to—
- (a) the application or interpretation of the law, or
 - (b) the making of decisions by members of the Tribunal.
- (4) The power under this section to give practice directions includes—
- (a) power to vary or revoke practice directions given in exercise of the power, and
 - (b) power to make different provision for different purposes.

125 Guidance, advice and information

- (1) The President may give guidance to other members of the Tribunal in relation to the exercise of their functions as members of the Tribunal.
- (2) A member of the Tribunal must have regard to such guidance in exercising such functions.
- (3) The President may give advice and information in respect of the Tribunal and its functions (including, but not limited to, its practice and procedure).
- (4) The President may give such advice—
- (a) to particular persons, or
 - (b) more generally.

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126 Supplementary powers

- (1) In relation to the matters mentioned in subsection (2), the Tribunal has the same powers, rights, privileges and authority as the High Court.
- (2) The matters are—
 - (a) the attendance and examination of witnesses,
 - (b) the production and inspection of documents, and
 - (c) all other matters incidental to the Tribunal's functions.
- (3) Subsection (1)—
 - (a) does not limit any power to make Tribunal Rules, or
 - (b) is not limited by anything in Tribunal Rules, except an express limitation.
- (4) The Tribunal may direct that a party or witness is to be examined on oath or affirmation.
- (5) The Tribunal may administer any oath, or take any affirmation, that is necessary for that purpose.

Staff and other resources

127 Staff, accommodation and other resources of Tribunal

- (1) The Welsh Ministers must ensure that the Tribunal is provided with—
 - (a) staff,
 - (b) accommodation, and
 - (c) financial and other resources,
 that are appropriate for the Tribunal to exercise its functions.
- (2) It is for the Welsh Ministers to determine what staff, accommodation and financial and other resources are appropriate for that purpose.
- (3) The Welsh Ministers may satisfy the duty under subsection (1) by—
 - (a) providing staff, accommodation or other resources, or
 - (b) entering into arrangements with any other person for the provision of staff, accommodation or other resources.
- (4) The Welsh Ministers may pay remuneration to the staff of the Tribunal.
- (5) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the staff of the Tribunal.
- (6) The Welsh Ministers may pay—
 - (a) pensions to, or in respect of, persons who have been staff of the Tribunal, and
 - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been staff of the Tribunal.

128 Specially qualified advisers

- (1) The President may appoint specially qualified advisers to provide assistance to the Tribunal (whether in relation to particular proceedings before the Tribunal or otherwise).

- (2) The President may pay remuneration to specially qualified advisers.
- (3) The President may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to specially qualified advisers.
- (4) But the Welsh Ministers must approve the amount of any remuneration, allowances or gratuities payable to a specially qualified adviser before the President agrees to pay, or pays, the remuneration, allowances or gratuities.

Administrative matters

129 Seal

- (1) The Tribunal is to have an official seal.
- (2) purporting to be sealed with the official seal of the Tribunal is to be received in evidence in England and Wales without further proof.
- (3) But subsection (2) does not apply if the document is shown not to be sealed with the official seal of the Tribunal.

130 Financial year

- (1) The Tribunal's first financial year is the period that begins with the commencement day and ends with—
 - (a) the following 31 March (if the commencement day is 1 April), or
 - (b) the second following 31 March (if the commencement day is not 1 April).
- (2) Subject to that, the Tribunal's financial year is the period of 12 months ending with 31 March.
- (3) In this section "commencement day" means the day when section 120 comes into force.

131 Vacancy in the office of President

- (1) This section applies if the office of President is vacant.
- (2) The Welsh Ministers may appoint one or more of the legally-qualified members of the Tribunal to exercise any or all of the President's functions.
- (3) If, or to the extent that, the President's functions are not exercisable by a legally-qualified member in accordance with subsection (2), the Welsh Ministers may exercise the functions.
- (4) But the Welsh Ministers may not participate in determining any proceedings before the Tribunal.

Reports, reviews and performance

132 President's annual report

- (1) As soon as practicable after the end of each financial year, the President must—

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- (a) produce a report on the Tribunal's exercise of its functions in that financial year, and
- (b) lay a copy of the report before the National Assembly for Wales.
- (c) The President must comply with any requirements of the National Assembly for Wales in relation to the form of the report and the laying of it.

133 Training etc for members of Tribunal

- (1) The President must maintain appropriate arrangements for the training, guidance and welfare of members of the Tribunal.
- (2) It is for the President to decide what arrangements are appropriate for that purpose.