

SCHEDULES

SCHEDULE 9

WELSH ADMINISTRATION OMBUDSMAN

PART II

INVESTIGATION OF COMPLAINTS

Matters which may be investigated

- 17 (1) The Welsh Administration Ombudsman may investigate any action taken by or on behalf of a body subject to investigation by him if—
- (a) the action was taken in the exercise of administrative functions of that body, and
 - (b) a written complaint is duly made to him (in accordance with paragraph 18) by or on behalf of a person who claims to have sustained injustice in consequence of maladministration in connection with the action (“the person aggrieved”).
- (2) For the purposes of this Schedule administrative functions exercisable by any person appointed as a member of the administrative staff of a relevant tribunal—
- (a) by a body subject to investigation by the Welsh Administration Ombudsman, or
 - (b) with the consent (whether as to remuneration and other terms and conditions of service or otherwise) of such a body,
- shall be taken to be administrative functions of the body.
- (3) The Welsh Administration Ombudsman shall not conduct an investigation in respect of any action in respect of which the person aggrieved has or had—
- (a) a right of appeal, reference or review to or before a tribunal constituted under any enactment or by virtue of Her Majesty’s prerogative, or
 - (b) a remedy by way of proceedings in any court of law,
- unless the Welsh Administration Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person aggrieved to resort or have resorted to it.
- (4) The Welsh Administration Ombudsman shall not conduct an investigation in respect of any action if the person aggrieved has or had the opportunity to make a complaint under a procedure operated by the body in the exercise of whose functions the action was taken unless he is satisfied—
- (a) that the procedure has been invoked and exhausted, or
 - (b) that, in the particular circumstances, it is not reasonable to expect the procedure to be or have been invoked or exhausted.

Status: This is the original version (as it was originally enacted).

- (5) The Welsh Administration Ombudsman shall not conduct an investigation in respect of—
- (a) action taken by or with the authority of a body for the purposes of investigating crime,
 - (b) the commencement or conduct of any civil or criminal proceedings before any court of law in the United Kingdom,
 - (c) action which could be investigated under the Health Service Commissioners Act 1993,
 - (d) action taken by any member of the administrative staff of a relevant tribunal so far as taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as a member of the tribunal,
 - (e) action taken in matters relating to contractual or other commercial transactions, other than compulsory land transactions, or
 - (f) action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to relevant service.
- (6) In sub-paragraph (5)—
- “compulsory land transactions” means transactions for or relating to—
- (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily, or
 - (b) the disposal as surplus of land acquired compulsorily or in such circumstances, and
- “relevant service” means service—
- (a) in any office or employment under the Crown or under any body subject to investigation by the Welsh Administration Ombudsman, or
 - (b) in any office or employment, or under any contract for services, in respect of which power to take action, or to determine or approve the action to be taken, in personnel matters is vested in Her Majesty or any such body.
- (7) The Assembly may by order amend sub-paragraph (5) or (6) so as to exclude any actions or matters from the provisions of sub-paragraph (5).
- (8) In determining whether to initiate, continue or discontinue an investigation, the Welsh Administration Ombudsman shall (subject to the preceding provisions of this paragraph) act in accordance with his own discretion; but the Welsh Administration Ombudsman may not question the merits of a decision taken without maladministration in the exercise of a discretion.
- (9) In this paragraph “relevant tribunal” means a tribunal specified by order made by the Secretary of State; and references to a tribunal include the person constituting a tribunal consisting of one person.
- (10) References in this Schedule to “action” include failure to act (and related expressions shall be construed accordingly).