

PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1: Public Services Ombudsman for Wales: Appointment Etc.

7. Generally, the Schedule makes provision with regard to the office of the Ombudsman; his/her powers to appoint staff and expert advisers; his/her power of delegation; requirements in relation to annual and extraordinary reports and estimates of the income and expenditure of his/her office and accounts, audit and value for money examinations into the use of the resources of the Ombudsman's office.
8. ***Paragraphs 1 to 3*** make provision as to the appointment, status and term of office of the Ombudsman.
9. ***Paragraph 4*** makes provision for the appointment of an acting Ombudsman where the office of the Ombudsman becomes vacant. Sub-paragraph (8) provides that, generally, an acting Ombudsman is to be regarded as the Ombudsman during the period for which the acting Ombudsman holds office. Consequently, an acting Ombudsman is able, for example, to exercise the Ombudsman's full range of powers with regard to the obtaining of information, evidence and the production of documents under sections 13, 14 and 15.
10. ***Paragraphs 5, 6, 7 and 8*** make provision with regard to:
 - a) the persons who are disqualified from being the Ombudsman (or acting Ombudsman),
 - b) the offices etc. which the Ombudsman (or acting Ombudsman) is disqualified from holding whilst he or she is the Ombudsman, and
 - c) the offices etc. which a person who has ceased to be the Ombudsman (or acting Ombudsman) is disqualified from holding for the period of three years from the time at which he or she ceased to hold office as the Ombudsman (or acting Ombudsman as the case may be).

In addition, the Ombudsman's disqualification from being a member of the Assembly is governed by sections 12 and 13 of the GOWA (as amended by paragraphs 62 and 63 of Schedule 6 to this Act).

11. ***Paragraph 9*** makes provision with regard to the remuneration of the Ombudsman (or acting Ombudsman as the case may be).
12. ***Paragraph 10*** makes provision for the expenses of the Ombudsman to be met by the Assembly, so far as they are not met out of income received by the Ombudsman.
13. ***Paragraph 11*** makes provision for the Ombudsman to appoint such staff on such terms and conditions as he/she considers necessary. Members of the Ombudsman's staff are not civil servants.

*These notes refer to the Public Services Ombudsman (Wales)
Act 2005 (c.10) which received Royal Assent on 7 April 2005*

14. **Paragraph 12** enables the Ombudsman to obtain advice (whether on payment or not) as the Ombudsman considers appropriate in relation to the discharge of his/her functions.
15. **Paragraph 13** provides that the Ombudsman may authorise any person to discharge his/her functions on his/her behalf. However, the Ombudsman cannot make arrangements, under this Act or otherwise, with the Assembly for the exercise by one of the other's functions or for the provision of certain specified services by one to the other.
16. **Paragraph 14** makes provision for annual and extraordinary reports by the Ombudsman.
17. **Paragraph 15** makes provision so that in each financial year the Ombudsman must prepare an estimate of the income and expenses of his/her office which is then considered by the Assembly Cabinet which must then lay the estimate, with or without modifications, before the Assembly.
18. **Paragraphs 16, 17, 18, 19 and 20** make provision with regard to the accounts that the Ombudsman is required to keep, audit of those accounts by the Auditor General for Wales, accounting officer arrangements and examinations by the Auditor General for Wales and/or the Comptroller and Auditor General in relation to the economy, efficiency and effectiveness with which the Ombudsman has used the resources of his/her office.
19. **Paragraph 21** provides the Ombudsman with supplementary powers.