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WELSH STATUTORY INSTRUMENTS

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**2012 No. 990 (W.130)**

**WELSH LANGUAGE, WALES**

**The Welsh Language (Wales) Measure  
2011 (Transfer of functions, Transitional  
and Consequential Provisions) Order 2012**

*Made* - - - - 29 March 2012  
*Coming into force* - - 1 April 2012

A draft of this Order was laid before and approved by a resolution of the National Assembly for Wales in accordance with section 150(2)(k) of the Welsh Language (Wales) Measure 2011(1).

The Welsh Ministers in exercise of the powers conferred upon them by section 150(5) and section 154 of the Welsh Language (Wales) Measure 2011 makes the following Order:

**Title and commencement**

1.—(1) The title of this Order is the Welsh Language (Wales) Measure 2011 (Transfer of functions, Transitional and Consequential provisions) Order 2012.

(2) This Order comes into force on 1 April 2012.

**Interpretation**

2. In this Order “1993 Act” (“*Deddf 1993*”) means the Welsh Language Act 1993(2).

**Transfer of functions in section 3 of the 1993 Act**

3. The functions conferred on the Welsh Language Board by section 3 of the 1993 Act are transferred to the Welsh Ministers (in addition to being transferred to the Welsh Language Commissioner by section 143(2) of the Welsh Language (Wales) Measure 2011).

### ***Transitional provisions***

#### *Final statement of accounts of the Welsh Language Board*

**4.—(1)** The Welsh Ministers must prepare a statement of accounts in respect of the Welsh Language Board for the period 1 April 2011 to 31 March 2012.

(2) The Welsh Ministers must send a copy of the statement of accounts to the Auditor General for Wales not later than 31 August 2012.

(3) The Auditor General for Wales must examine, certify and report on the statement of accounts and must lay copies of the statement and of the report before the National Assembly for Wales.

#### *Final annual report of the Welsh Language Board*

**5.—(1)** The Welsh Ministers must prepare a report on the discharge by the Welsh Language Board of its functions during the period 1 April 2011 to 31 March 2012.

(2) The Welsh Ministers must lay a copy of the report before the National Assembly for Wales.

### ***Consequential amendments***

#### *Government of Wales Act 1998*

**6.** In Part I (Bodies which may lose or gain functions) of Schedule 4 (Public bodies subject to reform by Assembly) to the Government of Wales Act 1998(3), omit paragraph 13.

#### *Care Standards Act 2000*

**7.** In paragraph 23 of Schedule 2A (Persons subject to review by the Commissioner under section 72B) to the Care Standards Act 2000(4), for “The Welsh Language Board.” substitute “Comisiynydd y Gymraeg (The Welsh Language Commissioner).”.

#### *Freedom of Information Act 2000*

**8.** In Part VI (Other public bodies and offices: general) of Schedule 1 (Public authorities) to the Freedom of Information Act 2000(5), omit “The Welsh Language Board.” and insert in the appropriate place “Comisiynydd y Gymraeg (The Welsh Language Commissioner).”.

#### *Public Services Ombudsman (Wales) Act 2005*

**9.** Under the heading “Miscellaneous” in Schedule 3 (Listed authorities) to the Public Services Ombudsman (Wales) Act 2005(6), for “The Welsh Language Board.” substitute “Comisiynydd y Gymraeg (The Welsh Language Commissioner).”.

#### *Commissioner for Older People (Wales) Act 2006*

**10.** Under the heading “Miscellaneous” in Schedule 2 (Persons whose functions are subject to review under section 3) to the Commissioner for Older People (Wales) Act 2006(7), for “The Welsh Language Board.” substitute “Comisiynydd y Gymraeg (The Welsh Language Commissioner).”.

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(3) 1998 c. 38.

(4) 2000 c. 14. The reference to the Welsh Language Board was inserted by section 3(2) of, and the Schedule to, the Children’s Commissioner for Wales Act 2001 (c. 18).

(5) 2000 c. 36.

(6) 2005 c. 10.

(7) 2006 c. 30.

*Equality Act 2010*

**11.** Under the heading “Other public authorities” in Part 2 (Public authorities: relevant Welsh authorities) of Schedule 19 (Public authorities) to the Equality Act 2010<sup>(8)</sup>, for “The Welsh Language Board or Bwrdd yr Iaith Gymraeg.” substitute “Comisiynydd y Gymraeg (The Welsh Language Commissioner).”.

*Local Government (Wales) Measure 2009*

**12.** In section 16 (Meaning of “relevant regulators” and “relevant functions”) of the Local Government (Wales) Measure 2009<sup>(9)</sup>, for paragraph (d) of subsection (2) substitute “(d) the Welsh Language Commissioner in the exercise of functions under section 17 of the Welsh Language Act 1993 (c. 38) (investigations);”.

*The Children and Young People’s Plan (Wales) Regulations 2007*

**13.** In regulation 7 (Consultation) of the Children and Young People’s Plan (Wales) Regulations 2007 <sup>(10)</sup> for sub-paragraph (h) of paragraph (2) substitute “(h) the Welsh Language Commissioner;”.

29 March 2012

*Leighton Andrews*  
Minister for Education and Skills, one of the  
Welsh Ministers

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<sup>(8)</sup> 2010 c. 15. The reference to 'the Welsh Language Board or Bwrdd yr Iaith Gymraeg' was inserted by S.I.2011/1063 (W.154), article 2 sub-paragraph (d).

<sup>(9)</sup> 2009 nawm 2.

<sup>(10)</sup> S.I. 2007/2316 (W.187)

## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Welsh Language (Wales) Measure 2011 creates the office of the Welsh Language Commissioner and abolishes the Welsh Language Board. The Measure also provides for the transfer of the Board's functions to the Commissioner.

Section 154 (Transitional and consequential provision etc) of the Measure gives the Welsh Ministers the power, by order, to make transitional, consequential and such other provision as they think necessary or appropriate in connection with, or to give full effect to the Measure.

Section 143 (Abolition of Board and transfer of functions), subsection (3) of the Measure envisages that the Welsh Ministers may, in an order made under section 154 of the Measure, provide for the functions conferred on the Board by section 3 of the Welsh Language Act 1993 to be transferred to the Welsh Ministers, whether instead of, or in addition to, the functions being transferred to the Commissioner. The Board's principal function under section 3 is the function of promoting and facilitating the use of the Welsh language.

This Order is made under section 154 of the Measure. It makes provision about the transfer of the Board's functions, makes transitional provisions in relation to the Board's final statement of accounts and annual report and makes amendments which are consequential upon the Measure to other legislation.

Article 3 provides that the functions conferred upon the Board by section 3 of the 1993 Act transfer to the Welsh Ministers in addition to being transferred to the Commissioner. This means that both the Commissioner and the Welsh Ministers will exercise the functions conferred upon the Board by section 3 of the 1993 Act. Paragraph 3 of Schedule 12 to the Measure provides that, if the functions conferred upon the Board under section 3 of the 1993 Act are transferred to the Welsh Ministers, the following provisions of the 1993 Act do not apply to the functions as they are exercisable by the Welsh Ministers, namely section 3(2)(a) (provision of advice to the Welsh Ministers on matters concerning the Welsh language), section 3(3) and (4) (powers to make grants or loans etc as well as restrictions on those powers) and section 4(1) (duty to comply with directions given by the Welsh Ministers).

Articles 4 and 5 provide for the preparation and audit of the Board's statement of accounts and the preparation of its annual report on the exercise of its functions in relation to its final financial year (namely from 1 April 2011 to 31 March 2012).

Articles 6 to 13 amend specified primary and secondary legislation, either to omit references to the Board or to substitute references to the Board with references to the Commissioner, as is appropriate in each case.

A Regulatory Impact Assessment for this Order has been prepared and a copy can be obtained from the Welsh Language Unit, Department for Education and Skills, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.