

*Status: Point in time view as at 14/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Commissioner for Older People (Wales) Act 2006, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### THE COMMISSIONER FOR OLDER PEOPLE IN WALES

##### *Status*

- 1 (1) The Commissioner is a corporation sole.
- (2) The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (3) The Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

##### *Appointment and term of office*

- 2 Regulations may make provision—
  - (a) as to the appointment of the Commissioner (including any conditions to be fulfilled for appointment);
  - (b) as to the term of office of the Commissioner (including the circumstances in which he ceases to hold office or may be removed or suspended from office).

##### *Remuneration etc*

- 3 (1) The Assembly must—
  - (a) pay the Commissioner such remuneration and allowances, and
  - (b) pay, or make provision for the payment of, such pensions or gratuities to or in respect of him,as may be provided for under the terms of his appointment.
- (2) The Assembly must pay to or in respect of a person who has ceased to hold office as the Commissioner—
  - (a) such amounts by way of pensions and gratuities, and
  - (b) such amounts by way of provision for those benefits,as may have been provided for under the terms of his appointment.
- (3) If a person ceases to be the Commissioner and it appears to the Assembly that there are special circumstances which make it right that the person should receive compensation, the Assembly may pay to that person a sum of such amount as it thinks appropriate.

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*Deputy Commissioner and other staff*

- 4 (1) The Commissioner must appoint a deputy Commissioner.
- (2) The deputy Commissioner is a member of the Commissioner's staff.
- (3) The deputy Commissioner may discharge the functions of the Commissioner during a vacancy in the office of Commissioner or at any time when the Commissioner is for any reason unable to act.
- (4) At any time when the deputy Commissioner has power to act under subparagraph (3), any property or rights vested in the Commissioner may be dealt with by the deputy Commissioner as if vested in him.
- (5) The Commissioner may appoint such other staff as he thinks necessary for assisting him in the discharge of his functions.

*Delegation*

- 5 A function of the Commissioner may be discharged on his behalf by any person including any member of his staff, to the extent authorised by the Commissioner.

*Superannuation Act 1972 (c. 11)*

- 6 (1) In the Superannuation Act 1972 in Schedule 1 (kinds of employment to which section 1 of that Act applies)—
- (a) in the list of “Other Bodies”, at the end insert “ Employment as a member of staff of the Commissioner for Older People in Wales ”;
- (b) in the list of “Offices”, at the appropriate place insert “ Commissioner for Older People in Wales ”.
- (2) The Assembly must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to subparagraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c. 11).

*Payments by the Assembly*

- 7 The Assembly may make payments to the Commissioner of such amounts, at such times and on such conditions (if any) as it thinks appropriate.

*Reports to the Assembly*

- 8 (1) Regulations may make provision about the making by the Commissioner of periodic or other reports to the Assembly relating to the discharge of his functions.
- (2) The regulations may in particular—
- (a) specify the contents of a report and the persons to whom copies of a report must be sent;
- (b) make provision about the publication of a report.

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- (3) Subject to sub-paragraph (4), a report made by the Commissioner under the regulations must not—
- (a) mention the name of any person, or
  - (b) include any particulars which, in the opinion of the Commissioner, are likely to identify any person and which, in his opinion, can be omitted without impairing the effectiveness of the report.
- (4) Sub-paragraph (3) does not apply if, after taking account of the interests of any persons he thinks appropriate, the Commissioner considers it to be in the public interest to include that information in the report.

#### *Estimates*

- 9
- (1) For each financial year other than the first, the Commissioner must prepare an estimate of the income and expenses of his office.
  - (2) The Commissioner must submit the estimate to the Assembly Cabinet at least five months before the beginning of the financial year to which it relates.
  - (3) The Assembly Cabinet must examine an estimate submitted to it in accordance with sub-paragraph (2) and must then lay the estimate before the Assembly with any modifications it thinks appropriate.

#### *Accounts*

- 10
- (1) The Commissioner must—
    - (a) keep proper accounting records, and
    - (b) prepare accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Assembly.
  - (2) The directions which the Assembly may give under sub-paragraph (1)(b) include, in particular, directions as to—
    - (a) the information to be contained in the accounts and the manner in which it is to be presented;
    - (b) the methods and principles in accordance with which the accounts are to be prepared;
    - (c) the additional information (if any) that is to accompany the accounts.
  - (3) A direction given by the Assembly under sub-paragraph (1)(b) may be amended or revoked by a subsequent such direction.

#### *Accounting officer*

- 11
- (1) The Commissioner is the accounting officer for the office of the Commissioner.
  - (2) The accounting officer has, in relation to the accounts and the finances of the Commissioner, the responsibilities which are from time to time specified by the Treasury.

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- (3) In this paragraph references to responsibilities include in particular—
- (a) responsibilities in relation to the signing of accounts,
  - (b) responsibilities for the propriety and regularity of the finances of the Commissioner, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commissioner are used.
- (4) The responsibilities which may be specified under this paragraph include responsibilities owed to—
- (a) the Assembly, the Assembly Cabinet or the Audit Committee, or
  - (b) the House of Commons or its Committee of Public Accounts.
- (5) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

#### *Audit*

- 12 (1) The accounts prepared by the Commissioner for a financial year must be submitted by him to the Auditor General for Wales no later than 30 November in the following financial year.
- (2) The Auditor General for Wales must—
- (a) examine, certify and report on each set of accounts submitted to him under this paragraph, and
  - (b) no later than four months after the accounts are submitted to him, lay before the Assembly a copy of them as certified by him together with his report on them.
- (3) In examining accounts submitted to him under this paragraph, the Auditor General for Wales must, in particular, satisfy himself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

#### *Examinations into the use of resources*

- 13 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Commissioner has used his resources in discharging his functions.
- (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Commissioner.
- (3) In determining how to discharge his functions under this paragraph, the Auditor General for Wales must take into account the views of the Audit Committee as to the examinations which he should carry out.
- (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this paragraph.

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### *Examinations by the Comptroller and Auditor General*

- 14 (1) For the purposes of enabling him to carry out examinations into, and report to Parliament on, the finances of the Commissioner, the Comptroller and Auditor General—
- (a) has a right of access at all reasonable times to all such documents in the custody of or under the control of the Commissioner, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
  - (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General must—
- (a) consult the Auditor General for Wales, and
  - (b) take account of any relevant work done or being done by the Auditor General for Wales,
- before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Commissioner under section 7 of the National Audit Act 1983 (c. 44) (economy etc. examinations).

### *Evidence*

- 15 A document purporting to be duly executed under the seal of the Commissioner or to be signed by him or on his behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

### *Disqualifications*

- 16 In the House of Commons Disqualification Act 1975 (c. 24) in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “ Commissioner for Older People in Wales ”; “ Member of staff of the Commissioner for Older People in Wales ”.
- 17 In the Northern Ireland Assembly Disqualification Act 1975 (c. 25) in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “ Commissioner for Older People in Wales ”; “ Member of staff of the Commissioner for Older People in Wales ”.

### *Welsh language scheme*

- 18 In section 6(1) of the Welsh Language Act 1993 (c. 38) (public bodies for the purposes of Part 2 of that Act), after paragraph (n) insert—
- “(na) the Commissioner for Older People in Wales;”.

### *Supplementary powers*

- 19 (1) Subject to any directions given by the Assembly, the Commissioner may do anything (including acquire or dispose of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of his functions.
- (2) A direction given by the Assembly under sub-paragraph (1) may be amended or revoked by a subsequent such direction.

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*Miscellaneous*

20 In section 144 of the Government of Wales Act 1998 (c. 38) (accounts, audit and reports), in subsection (8)(a), after “the Children's Commissioner for Wales,” insert “ the Commissioner for Older People in Wales, ”.

21 In the Freedom of Information Act 2000 (c. 36)—  
 (a) in the table in section 76(1) (disclosure of information between Information Commissioner and ombudsmen), at the end insert—

“The Commissioner for Older People in Wales	The Commissioner for Older People (Wales) Act 2006”;
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(b) in Part 6 of Schedule 1 (other public bodies: general), at the appropriate place insert “ The Commissioner for Older People in Wales ”.

*Financial year*

22 Regulations must specify the periods which are to be treated, for the purposes of this Schedule, as the first and subsequent financial years of the Commissioner.

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