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## SCHEDULES

### SCHEDULE 9

#### WELSH ADMINISTRATION OMBUDSMAN

##### Commencement Information

- II** Sch. 9 wholly in force at 1.7.1999; Sch. 9 not in force at Royal Assent see s. 158; Sch. 9 Pt. I in force (1.2.1999) by S.I. 1999/118, art. 2; Sch. 9 para. 17(9) in force 1.5.1999 and Sch. 9 paras. 14-16, 17(1)-(8)(10), 18-17 in force at 1.7.1999 by S.I. 1999/1290, arts. 3, 4

#### PART I

##### THE OMBUDSMAN

###### *Appointment*

- 1 (1) The Welsh Administration Ombudsman shall be appointed by Her Majesty.
- (2) Subject to sub-paragraphs (3) and (4), the Welsh Administration Ombudsman shall hold office until the end of the year of service in which he attains the age of 65.
- (3) Her Majesty may relieve the Welsh Administration Ombudsman of office before the end of that year of service—
- (a) at his request, or
  - (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (4) Her Majesty may remove the Welsh Administration Ombudsman from office before the end of the year of service in which he attains the age of 65 if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.

###### *Status*

- 2 (1) The person for the time being holding the office of Welsh Administration Ombudsman shall by the name of that office be a corporation sole.
- (2) The Welsh Administration Ombudsman shall be regarded as holding office under Her Majesty and as exercising his functions on behalf of the Crown.

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- (3) Service as the Welsh Administration Ombudsman shall not be service in Her Majesty's Home Civil Service but he shall be taken to be a Crown servant for the purposes of the <sup>M1</sup>Official Secrets Act 1989.

**Marginal Citations**

**M1** 1989 c. 6.

*Acting Welsh Administration Ombudsman*

- 3 (1) Where the office of Welsh Administration Ombudsman becomes vacant, Her Majesty may, at any time during the period of twelve months beginning with the date on which the vacancy arose, appoint a person to act as the Welsh Administration Ombudsman.
- (2) Subject to sub-paragraphs (3) to (5), an acting Welsh Administration Ombudsman shall hold office in accordance with the terms of his appointment.
- (3) An acting Welsh Administration Ombudsman shall not hold office after—
- (a) the appointment of a new Welsh Administration Ombudsman, or
  - (b) the end of the period of twelve months beginning with the date on which the vacancy arose,
- whichever occurs first.
- (4) Her Majesty may at any time relieve an acting Welsh Administration Ombudsman of office—
- (a) at his request, or
  - (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (5) Her Majesty may remove an acting Welsh Administration Ombudsman from office at any time if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.
- (6) A person appointed under this paragraph shall, while he holds office, be regarded for all purposes (except those of paragraph 1 and this paragraph) as the Welsh Administration Ombudsman.

*Remuneration*

- 4 (1) The Assembly shall—
- (a) pay the Welsh Administration Ombudsman such salary and any such allowances, and
  - (b) make any such payments towards the provision of superannuation benefits for or in respect of him,
- as may be provided for by or under the terms of his appointment.

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- (2) But where a person is both Parliamentary Commissioner for Administration and Welsh Administration Ombudsman he shall not be entitled to any salary as Welsh Administration Ombudsman.
- (3) The Assembly shall pay to or in respect of a person who has ceased to hold office as Welsh Administration Ombudsman such amounts (if any) by way of—
  - (a) pension or gratuities, or
  - (b) provision for those benefits,as may have been provided for by or under the terms of his appointment.
- (4) In Schedule 1 to the <sup>M2</sup>Superannuation Act 1972 (offices etc. to which section 1 of that Act applies), in the list of “Offices” insert—

“Welsh Administration Ombudsman.”
- (5) The Assembly shall 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 (4) in the sums payable out of money provided by Parliament under the <sup>M3</sup>Superannuation Act 1972.

#### Marginal Citations

**M2** 1972 c. 11.

**M3** 1972 c. 11.

#### *Staff and advisers*

- 5 (1) The Welsh Administration Ombudsman may appoint such staff as he considers necessary for assisting him in the exercise of his functions.
- (2) The Welsh Administration Ombudsman shall include among his staff such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.
- (3) Service as a member of the staff of the Welsh Administration Ombudsman shall be service in Her Majesty’s Home Civil Service.
- (4) The Assembly shall 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 (3) in the sums payable out of money provided by Parliament under the <sup>M4</sup>Superannuation Act 1972.
- (5) Any function of the Welsh Administration Ombudsman may be exercised by—
  - (a) a member of his staff,
  - (b) a member of the staff of the Health Service Commissioner for Wales, or
  - (c) an officer of the Parliamentary Commissioner for Administration or of either of the other Health Service Commissioners,if authorised by the Welsh Administration Ombudsman for that purpose; and references in any enactment to a member of the staff of the Welsh Administration Ombudsman include any person exercising any function of his by virtue of paragraph (b) or (c).

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- (6) To assist him in the exercise of his functions the Welsh Administration Ombudsman may obtain advice from any person who, in his opinion, is qualified to give it.
- (7) The Welsh Administration Ombudsman may pay to any person from whom he obtains advice under sub-paragraph (6) any such fees or allowances as he may determine.
- (8) No arrangements shall be made—
  - (a) for any of the functions of the Welsh Administration Ombudsman or of the Assembly to be exercised by the other or by a member of the other’s staff, or
  - (b) for the provision of any administrative, professional or technical services by the Welsh Administration Ombudsman or the Assembly for the other.

**Marginal Citations**

**M4** 1972 c. 11.

*Reports*

- 6 (1) The Welsh Administration Ombudsman—
  - (a) shall annually prepare and lay before the Assembly a general report on the performance of his functions, and
  - (b) may from time to time prepare and lay before the Assembly such other reports with respect to his functions as he thinks fit.
- (2) The Assembly shall, and the Welsh Administration Ombudsman may, publish reports laid before the Assembly under this paragraph.

*Expenses*

- 7 (1) The expenses of the Welsh Administration Ombudsman shall, so far as they cannot be met out of income received by him, be met by the Assembly.
- (2) Those expenses include any sums payable by the Welsh Administration Ombudsman in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him in the exercise of his functions).

*Estimates*

- 8 (1) For each financial year after the first financial year of the Assembly, the Welsh Administration Ombudsman shall prepare, and submit to the executive committee, an estimate of the income and expenses of his office.
- (2) Each such estimate shall be submitted to the executive committee at least five months before the beginning of the financial year to which it relates.

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- (3) The executive committee shall examine each such estimate submitted to it and, after having done so, shall lay the estimate before the Assembly with any such modifications as the committee thinks fit.
- (4) Where the executive committee proposes to lay such an estimate before the Assembly with modifications, the committee shall first consult the Secretary of State and have regard to any advice which he may give.

### *Accounts*

- 9 (1) The Welsh Administration Ombudsman shall keep proper accounting records.
- (2) The Welsh Administration Ombudsman shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
- (3) The directions which the Treasury may give under sub-paragraph (2) 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, and
  - (c) the additional information (if any) that is to accompany the accounts.

### *Audit*

- 10 (1) The accounts prepared by the Welsh Administration Ombudsman for any financial year shall be submitted by him to the Auditor General for Wales [<sup>F1</sup>no later than 30th November of the following financial year].
- (2) The Auditor General for Wales shall—
  - (a) examine and certify any 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 any accounts submitted to him under this paragraph, the Auditor General for Wales shall, 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.

#### **Textual Amendments**

**F1** Words in Sch. 9 para. 10(1) substituted (1.4.2001) by 2000 c. 20, s. 29, Sch. 1 para. 23(d); S.I. 2000/3349, art. 3(1)

#### **Modifications etc. (not altering text)**

**C1** Sch. 9 para. 10(1): power to amend conferred (1.4.2001) by 2000 c. 20, s. 29, Sch. 1 para. 27; S.I. 2000/3349, art. 3(1)

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### *Accounting officer*

- 11 (1) The accounting officer for the Office of the Welsh Administration Ombudsman shall be the Welsh Administration Ombudsman.
- (2) But where—
- (a) the Welsh Administration Ombudsman is incapable of discharging his responsibilities as accounting officer, or
  - (b) the office of Welsh Administration Ombudsman is vacant (and there is no acting Welsh Administration Ombudsman),
- the Treasury may designate a member of the Welsh Administration Ombudsman’s staff to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Office of the Welsh Administration Ombudsman shall have, in relation to the accounts of the Welsh Administration Ombudsman and the finances of the Office of the Welsh Administration Ombudsman, the responsibilities which are from time to time specified by the Treasury.
- (4) 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 Office of the Welsh Administration Ombudsman, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Welsh Administration Ombudsman are used.
- (5) The responsibilities which may be specified under this paragraph include responsibilities owed to—
- (a) the Assembly, the executive committee or the Audit Committee, or
  - (b) the House of Commons or its Committee of Public Accounts.
- (6) 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 for the Office of the Welsh Administration Ombudsman, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (7) In this paragraph and paragraphs 12 and 13 “the Office of the Welsh Administration Ombudsman” means the Welsh Administration Ombudsman and the members of his staff.

### *Examinations into use of resources*

- 12 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Welsh Administration Ombudsman has used the resources of the Office of the Welsh Administration Ombudsman in discharging his functions.

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- (2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Welsh Administration Ombudsman.
- (3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this paragraph.
- (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.
- (5) <sup>F2</sup> .....

**Textual Amendments**

**F2** Sch. 9 para. 12(5) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 72, 73, Sch. 2 para. 50, Sch. 4; S.I. 2005/558, art. 2, Sch. 1 (subject to Sch. 2)

*Examinations by the Comptroller and Auditor General*

- 13 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Welsh Administration Ombudsman, the Comptroller and Auditor General—
  - (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Welsh Administration Ombudsman, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
  - (b) shall be 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 shall—
  - (a) consult the Auditor General for Wales, and
  - (b) take into account 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 Welsh Administration Ombudsman under section 7 of the <sup>M5</sup>National Audit Act 1983 (economy etc. examinations).

**Marginal Citations**

**M5** 1983 c. 44.

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