



# Wales Act 2017

## 2017 CHAPTER 4

VALID FROM 10/07/2017

### PART 3

#### WELSH TRIBUNALS

#### 59 The Welsh tribunals

- (1) In this Part “Welsh tribunal” means—
- (a) the Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru;
  - (b) the Mental Health Review Tribunal for Wales;
  - (c) a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal);
  - (d) the Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru;
  - (e) a tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27);
  - (f) a tribunal drawn from the Adjudication Panel for Wales or Panel Dyfarnu Cymru;
  - (g) the Welsh Language Tribunal or Tribiwnlys y Gymraeg.
- (2) Her Majesty may by Order in Council amend subsection (1)—
- (a) so as to remove or revise a paragraph,
  - (b) so as to add or substitute a tribunal whose functions—
    - (i) are exercisable only in relation to Wales, and
    - (ii) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006), or

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(c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).

(3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the National Assembly for Wales.

(4) Subsection (3) does not apply to a statutory instrument containing an Order in Council that only makes—

- (a) provision for the omission of a paragraph in subsection (1) where the tribunal concerned has ceased to exist,
- (b) provision for the variation of a paragraph in consequence of a change of name or transfer of functions, or
- (c) amendments within subsection (2)(c).

Such an Order in Council is subject to annulment in pursuance of a resolution of the Assembly.

## **60 President of Welsh Tribunals**

(1) The Lord Chief Justice of England and Wales may appoint a person to the office of President of Welsh Tribunals or Llywydd Tribiwnlysoedd Cymru.

(2) The President of Welsh Tribunals is not a devolved Welsh authority for the purposes of the Government of Wales Act 2006.

(3) Schedule 5 makes further provision about the President of Welsh Tribunals and about appointments under subsection (1).

(4) A holder of the office of President of Welsh Tribunals must, in carrying out the functions of that office, have regard to—

- (a) the need for the Welsh tribunals to be accessible;
- (b) the need for proceedings before those tribunals—
  - (i) to be fair, and
  - (ii) to be handled quickly and efficiently;
- (c) the need for members of those tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters;
- (d) the need to develop innovative methods of resolving disputes that are of a type that may be brought before those tribunals.

(5) The President of Welsh Tribunals is responsible—

- (a) for the maintenance of appropriate arrangements for the training, guidance and welfare of members of the Welsh tribunals within the resources made available by the Welsh Ministers;
- (b) for representing the views of members of the Welsh tribunals to the Welsh Ministers and to other members of the National Assembly for Wales.

## **61 Directions as to practice and procedure**

(1) The President of Welsh Tribunals may give directions as to the practice and procedure to be followed by the Welsh tribunals.

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- (2) The president or chairman of a Welsh tribunal may give directions as to the practice and procedure to be followed by that tribunal.
- (3) A power under this section to give directions includes—
  - (a) power to vary or revoke directions made in the exercise of the power;
  - (b) power to make different provision for different purposes (including different provision for different areas);
  - (c) (in the case of directions by the President of Welsh Tribunals) power to make different provision for different tribunals.
- (4) Directions under this section may not be given without the approval of the Welsh Ministers.
- (5) Subsection (4) does not apply to directions to the extent that they consist of guidance about any of the following—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the Welsh tribunals.
- (6) Subsection (4) does not apply to directions to the extent that they consist of criteria for determining which members of the Welsh tribunals may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Welsh Ministers.
- (7) Before the President of Welsh Tribunals gives directions under this section he or she must consult the president or chairman of each Welsh tribunal to which the directions relate.
- (8) Before the president or chairman of a Welsh tribunal gives directions under this section he or she must consult the President of Welsh Tribunals.
- (9) A person giving, varying or revoking directions under this section must publish the directions, or the variation or revocation, in whatever way the person thinks appropriate.

## **62 Cross-deployment of members of the Welsh tribunals**

- (1) In Schedule 9 to the Agriculture Act 1947 (Agricultural Land Tribunal etc), in paragraph 15A, after sub-paragraph (1) insert—

“(1A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Agricultural Land Tribunal may, at the request of the Chairman of the Agricultural Land Tribunal and with the approval of the President of Welsh Tribunals, act as a member of the Agricultural Land Tribunal.”
- (2) In Schedule 10 to the Rent Act 1977 (rent assessment committees), after paragraph 5A insert—

“5B A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of a rent assessment committee in Wales may, at the request of the president or vice-president of the panel and with the approval of the President of Welsh Tribunals, act as a member of such a committee.”

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(3) In Schedule 2 to the Mental Health Act 1983 (Mental Health Review Tribunal for Wales), in paragraph 5—

(a) after sub-paragraph (1) insert—

“(1A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Tribunal but who is eligible to decide any matter in a case under this Act may, at the request of the President of the Mental Health Review Tribunal for Wales and with the approval of the President of Welsh Tribunals, act as a member of the Mental Health Review Tribunal for Wales.”;

(b) in sub-paragraph (3), after ““sub-paragraph (1)”” insert “ or (1A) ”.

(4) In section 333 of the Education Act 1996 (Special Educational Needs Tribunal for Wales), after subsection (4) insert—

“(4A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Tribunal may, at the request of the President and with the approval of the President of Welsh Tribunals, serve as a member of the Tribunal.”

(5) In section 75 of the Local Government Act 2000 (Adjudication Panel for Wales), at the end insert—

“(12) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Adjudication Panel for Wales may, at the request of the president or the deputy president (if any) and with the approval of the President of Welsh Tribunals, act as a member of a tribunal drawn from the Panel.”

(6) In Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27), in paragraph 1, after sub-paragraph (3) insert—

“(3A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of a tribunal constituted to hear an appeal under section 27 may act as a member of such a tribunal at the request of its chairman and with the approval of the President of Welsh Tribunals.”

(7) In Schedule 11 to the Welsh Language (Wales) Measure 2011 (nawm 1) (the Welsh Language Tribunal)—

(a) in the Welsh text, after Rhan 2 insert—

## “RHAN 2A

### TRAWS-LEOLI AELODAU'R TRIBIWNLYS

9A

Ar gais y Llywydd a chyda chymeradwyaeth Llywydd Tribiwnlysoedd Cymru, caiff aelod o dribiwnlys sydd wedi'i restru yn adran 59 o Ddeddf Cymru 2017 (Tribiwnlysoedd Cymru), ac nad yw'n aelod o'r Tribiwnlys, weithredu fel aelod o'r Tribiwnlys.”;

(b) in the English text, after Part 2 insert—

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## “PART 2A

### CROSS-DEPLOYMENT OF TRIBUNAL MEMBERS

9A

A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Tribunal may, at the request of the President and with the approval of the President of Welsh Tribunals, act as a member of the Tribunal.”

### **63 Cross-deployment of tribunal members and judges**

- (1) A member of a Welsh tribunal may act as a member of the First-tier Tribunal if—
  - (a) the Senior President of Tribunals asks the member to do so, and
  - (b) the President of Welsh Tribunals agrees to the request being made.
- (2) A judge or other member of—
  - (a) the First-tier Tribunal, or
  - (b) the Upper Tribunal,may act as a member of a specified Welsh tribunal if the President of Welsh Tribunals asks the member to do so and the Senior President of Tribunals agrees to the request being made.
- (3) Subsection (2) does not apply to a tribunal member who is a relevant judge.
- (4) A relevant judge may act as a member of a specified Welsh tribunal if—
  - (a) the President of Welsh Tribunals asks the judge to do so, and
  - (b) the Lord Chief Justice of England and Wales agrees to the request being made.
- (5) In subsections (2) and (4) “specified” means specified in the request.
- (6) In this section “relevant judge” means—
  - (a) a judge of the Senior Courts;
  - (b) a deputy judge of the High Court;
  - (c) a Circuit judge;
  - (d) a deputy Circuit judge;
  - (e) a recorder;
  - (f) a district judge;
  - (g) a deputy district judge;
  - (h) a District Judge (Magistrates' Courts);
  - (i) a Deputy District Judge (Magistrates' Courts);
  - (j) the holder of an office listed in—
    - (i) the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc), or
    - (ii) column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc).
- (7) A reference in this section to—

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- (a) the President of Welsh Tribunals,
- (b) the Senior President of Tribunals, or
- (c) the Lord Chief Justice of England and Wales,

includes a reference to an individual designated by that person to exercise the person's functions under this section.

- (8) A designation made by a person under subsection (7) that is in force immediately before the person ceases to hold the office in question continues in force until varied or revoked by a subsequent holder of that office.

#### **64 Power to amend section 63**

- (1) The Lord Chancellor may by regulations amend subsection (2) of section 63—
  - (a) so as to add a tribunal to those listed,
  - (b) so as to remove or revise a reference to a tribunal added under paragraph (a), or
  - (c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).
- (2) Regulations under this section may not add a tribunal whose functions—
  - (a) are exercisable only in relation to Wales, and
  - (b) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006).
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing regulations that only make—
  - (a) provision for the omission of a reference to a tribunal that has ceased to exist,
  - (b) provision for the variation of a reference in consequence of a change of name or transfer of functions, or
  - (c) amendments within subsection (1)(c).

Such an instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

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