WELSH STATUTORY INSTRUMENTS

2005 No. 2800 (W.199) (C.116)

WELSH PUBLIC SERVICES OMBUDSMAN

The Public Services Ombudsman (Wales) Act 2005 (Commencement No. 1 and Transitional Provisions and Savings) Order 2005

Made - - - - 11 October 2005

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 40, 43(1)(b), 44(1) and 44(2) of the Public Services Ombudsman (Wales) Act 2005(**1**), hereby makes the following Order:

Title and interpretation

1. The name of this Order is the Public Services Ombudsman (Wales) Act 2005 (Commencement No.1 and Transitional Provisions and Savings) Order 2005.

2.—(1) In this Order—

"a Local Commissioner in Wales" ("*Comisiynydd Lleol yng Nghymru*") means a Local Commissioner (within the meaning of Part 3 of the Local Government Act 1974(**2**)) who is a member of the Commission,

"the Act" ("*y Ddeddf*") means the Public Services Ombudsman (Wales) Act 2005,

"the Commission" ("*Y Comisiwn*") means the Commission for Local Administration in Wales established by section 23(1)(b) of the Local Government Act 1974,

"the Ombudsman" ("*yr Ombwdsmon*") means the Public Services Ombudsman for Wales, and

"the 2000 Act" ("*Deddf 2000*") means the Local Government Act 2000(**3**).

(2) In this Order references to sections and Schedules are, unless otherwise stated, references to sections of and Schedules to the Act.

Provisions coming into force on 12 October 2005

3. The following provisions come into force on 12 October 2005 for the purposes referred to—

(**1**) 2005 c. 10.
(**2**) 1974 c. 7.
(**3**) 2000 c. 22.

(a) the provisions specified in the first column of the Table in Part 1 of Schedule 1 to this Order come into force for the purposes specified in the second column of that Table, and

(b) the provisions specified in the first column of the Table in Part 2 of Schedule 1 to this Order come into force for the purposes specified in the second column of that Table.

4.—(1) Section 35 and the following paragraphs of Schedule 4 come into force in accordance with paragraphs (2) and (3) below—

(a) 1, 2, 4,

(b) 11(a) and (c) to (e),

(c) 14(a), and

(d) 23.

(2) Save as provided for in paragraph (3) below, the provisions referred to in paragraph (1) above come into force on 12 October 2005 for the purpose of making orders and regulations (as the case may be) relating to the functions of the Ombudsman under Part 3 of the 2000 Act.

(3) Until 1 April 2006 the provisions referred to in sub-paragraph (a) below continue to have effect, for the purpose referred to in sub-paragraph (b) below, as if the amendments made by the provisions referred to in paragraph (1) above did not have effect—

(a) the provisions referred to above are the following sections of the 2000 Act—

(i) 49,

(ii) 53,

(iii) 68(1), (3) and (4),

(iv) 70(2)(b), and

(v) 82.

(b) the purpose referred to above is the purpose of making orders and regulations (as the case may be) relating to the functions of the Commission or a Local Commissioner in Wales under Part 3 of the 2000 Act.

Provisions coming into force on 1 April 2006

5.—(1) Save as provided for in paragraph (2) below, and except as provided for in paragraph (3) below, the provisions of the Act, insofar as they are not already in force, come into force on 1 April 2006.

(2) For the purposes of the financial year ending 31 March 2006—

(a) subject to sub-paragraph (b) below and despite the coming into force of section 39 and Schedule 7, the provisions of the Acts referred to in the first column of the Table in Schedule 2 to this Order continue to have effect as if those provisions had not been repealed by the Act, and

(b) those provisions continue to have effect in accordance with sub-paragraph (a) above subject to the modifications specified in the second column of the Table in Schedule 2 to this Order.

(3) The following provisions do not come into force on 1 April 2006—

(a) section 20, and

(b) paragraph 15(5) of Schedule 1.

Complaints spanning commencement date

6.—(1) Where this article applies the Ombudsman must consider the complaint in accordance with the provisions of Part 2 of the Act.

(2) This article applies where—

(a) a complaint has been duly made or referred to the Ombudsman in respect of a matter which relates to events that occurred before 1 April 2006 and events that occurred after that date, and

(b) as regards the events that occurred before 1 April 2006 a complaint could (but for the other provisions of the Act) have been but has not been made to an existing Welsh Ombudsman under the relevant existing enactment.

(3) For the purposes of this article the Ombudsman is not prevented from investigating a matter (or part of a matter) in accordance with Part 2 of the Act only because it relates to events that occurred before 1 April 2006.

(4) For the purposes of paragraph (2) above—

(a) "existing Welsh Ombudsman", and

(b) "the relevant existing enactment",

have the same meanings as in section 38(6).

Transitional Provision — estimates

7.—(1) The following provisions of this article apply to the Ombudsman in relation to the financial year ending 31 March 2007.

(2) The Ombudsman must prepare an estimate of the income and expenses of that office for that financial year and submit it to the Assembly Cabinet not later than one month before the beginning of that financial year.

(3) The Assembly Cabinet must examine the estimate and then lay it before the Assembly with any modifications it thinks appropriate.

(4) If the Assembly Cabinet proposes to lay the estimate before the Assembly with modifications, it must first consult the Secretary of State.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**4**).

D. Elis-Thomas
The Presiding Officer of the National Assembly

11 October 2005

(**4**) 1998 c. 38.