

NATIONAL ASSEMBLY FOR WALES

S T A T U T O R Y I N S T R U M E N T S

2007 No. (W.)

**COMMISSIONER FOR OLDER
PEOPLE IN WALES, WALES**

The Commissioner for Older
People in Wales (Appointment)
Regulations 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the appointment of the Commissioner for Older People in Wales whose office is established under the Commissioner for Older People (Wales) Act 2006.

The Regulations make alternative provision for the appointment and removal of the Commissioner depending on when the appointment or removal occurs. The Regulations take account of changes to be brought into effect under the recently enacted Government of Wales Act 2006 and seek to ensure that these changes will not unduly delay or disrupt the appointment of the Commissioner.

In particular the Regulations provide that the Commissioner may be appointed by the Assembly First Secretary, as defined in the Government of Wales Act 1998, if the appointment is made before a new First Minister for Wales is appointed under the Government of Wales Act 2006.

An appointment during this period may only be made following advice from any committee of the Assembly which has been established for the purpose of providing advice and determining matters relating to the appointment and after candidates are interviewed as to their suitability for appointment by a selection panel. The First Secretary is also under a duty to take account of the views of older people resident in Wales as to the proposed appointment.

Following the appointment of a new First Minister for Wales under the Government of Wales Act 2006 the Commissioner may be appointed by the First Minister

for Wales. In appointing the Commissioner the First Minister for Wales must take into account the advice of any selection panel established for the purposes of the appointment and the views of selected older people resident in Wales as to the proposed appointment. The Regulations also make provision as to the term of office, and the circumstances in which the Commissioner may be relieved of office. Until the appointment of a new First Minister for Wales under the Government of Wales Act 2006 the Commissioner may be relieved of office by the First Secretary. Following the appointment of the new First Minister for Wales the Commissioner may be relieved of office by the First Minister for Wales. By way of clarification as to legal responsibility for the exercise of functions by the First Secretary, the regulations contain incidental provision to treat functions so exercised as the exercise of functions by the Assembly as constituted by the Government of Wales Act 1998. The Regulations also provide that anything done by the First Secretary immediately before the appointment of a new First Minister for Wales under the Government of Wales Act 2006 will be treated following the appointment of the First Minister for Wales as if done by the First Minister for Wales.

2007 No. (W.)

**COMMISSIONER FOR OLDER
PEOPLE IN WALES, WALES**

The Commissioner for Older
People in Wales (Appointment)
Regulations 2007

Made 2007

Coming into force 16 February 2007

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 28(2) of and paragraph 2 of Schedule 1 to, the Commissioner for Older People (Wales) Act 2006.

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Commissioner for Older People in Wales (Appointment) Regulations 2007 and they come into force on 16 February 2007.

(2) These Regulations apply in relation to Wales.

2.—(1) In these Regulations—

“the National Assembly” (“y Cynulliad Cenedlaethol”) means the National Assembly for Wales as constituted by the Government of Wales Act 1998(1);

“the Commissioner” (“y Comisiynydd”) means the Commissioner for Older People in Wales;

“the First Secretary” (“y Prif Ysgrifennydd”) means the person elected from time to time as the Assembly First Secretary pursuant to section 53(1) of the Government of Wales Act 1998;

“the First Minister (“y Prif Weinidog”) means the person appointed from time to time as the First Minister for Wales under section 46(1) of the Government of Wales Act 2006;

(1) 1998 c. 38

“the initial period” means the initial period as defined in section 161(5) the Government of Wales Act 2006 ;

“relevant older persons” (“*pobl hŷn berthnasol*”) means such older people resident in Wales as are selected for the purposes of a particular appointment by and in such manner—

- (a) as the relevant committee may determine in accordance with the terms of reference of the committee, or
- (b) in the absence of such a determination, as the First Secretary may determine;

“a relevant committee” (“*pwylgor perthnasol*”) means such a committee as may be established from time to time by the National Assembly under section 54(1)(b) of the Government of Wales Act 1998 for the purpose of providing advice and determining matters relating to the appointment of the Commissioner.

- (2) In these Regulations, a reference –
 - (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
 - (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Appointment of the Commissioner

3.—(1) Until the end of the initial period the Commissioner may be appointed by the First Secretary.

(2) The appointment of the Commissioner under paragraph (1) may be made only after taking account of—

- (a) the advice of a relevant committee,
- (b) the views of relevant older persons as to any candidates interviewed for the appointment, and
- (c) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(3) Following the end of the initial period the Commissioner may be appointed by the First Minister.

(4) The appointment of the Commissioner under paragraph (3) may be made only after taking account of –

- (a) the views of such older people resident in Wales as selected by the First Minister as to any candidates interviewed for the appointment; and

- (b) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(5) Subject to regulation 4, the term of office of the Commissioner appointed under these Regulations must be four years.

(6) A person who has been appointed for one term as the Commissioner may be appointed for a second term (whether or not consecutive) but not for any additional term.

4.—(1) Until the end of the initial period the First Secretary may relieve the Commissioner of office prior to the expiry of the term of office—

- (a) at the request of the Commissioner,
- (b) on the ground of misbehaviour, or
- (c) on being satisfied that the Commissioner is incapable by reason of mental or physical infirmity of performing the Commissioner's functions.

(2) Following the end of the initial period any functions that were exercisable immediately before the end of the initial period by the First Secretary under paragraph (1) may be exercised by the First Minister.

5.—(1) Where the First Secretary exercises functions conferred by these Regulations, the exercise of such functions is to be treated as that of the National Assembly.

(2) Anything which is done by the First Secretary under these Regulations is to be regarded after the end of the initial period as if done by the First Minister.

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

Date

The Presiding Officer of the National Assembly