

## SCHEDULES

### SCHEDULE 12

Section 125.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Exchequer and Audit Departments Act 1866 (c. 39)*

- 1 At the end of section 3 of the Exchequer and Audit Departments Act 1866 (tenure of Comptroller and Auditor General) insert—

“But a person may at the same time hold both the office of Comptroller and Auditor General and the office of Auditor General for Wales.”

##### *The Statutory Instruments Act 1946 (c. 36)*

- 2 In section 1 of the Statutory Instruments Act 1946 (document by which a power conferred on a Minister of the Crown and expressed to be exercisable by statutory instrument is exercised to be known as a statutory instrument), after subsection (1) insert—

“(1A) The references in subsection (1) to a Minister of the Crown shall be construed as including references to the National Assembly for Wales.”

##### *The Public Records Act 1958 (c. 51)*

- 3 (1) The First Schedule to the Public Records Act 1958 (definition of public records) is amended as follows.
- (2) In paragraph 2(2) (excluded departmental records), at the end insert “or  
(e) to Welsh public records (as defined in the Government of Wales Act 1998).”
- (3) In Part I of the Table at the end of paragraph 3 (boards and establishments under government departments)—
- (a) at the end of the entry relating to National Health Service Authorities insert “and Authorities for districts or localities in Wales, or for areas in or consisting of Wales (including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales)”;
- (b) at the end of the entry relating to Family Practitioner Committees insert “for localities in England”, and
- (c) in the entry relating to health service hospitals, after “1977” insert “, in England”.
- (4) In paragraph 5 (Chancery records), after “England” insert “, other than any which are Welsh public records (as defined in the Government of Wales Act 1998),”.
- (5) In paragraph 6 (records in Public Record Office), at the end (but not as part of paragraph (c)) insert—

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“other than any which are Welsh public records (as defined in the Government of Wales Act 1998).”

- (6) In paragraph 7(1) (power to add further categories of records), after “provisions of this Schedule” insert “and not being Welsh public records (as defined in the Government of Wales Act 1998)”.

*The Parliamentary Commissioner Act 1967 (c. 13)*

- 4 The Parliamentary Commissioner Act 1967 has effect subject to the following amendments.
- 5 In section 3(2) (performance of functions of Parliamentary Commissioner by officers of his or of a Health Service Commissioner), for the words “or may be performed” onwards substitute “, by any member of the staff so authorised of the Welsh Administration Ombudsman or of the Health Service Commissioner for Wales or by any officer so authorised of the Health Service Commissioner for England or of the Health Service Commissioner for Scotland.”
- 6 In section 4 (departments etc. subject to investigation), after subsection (3) insert—
- “(3A) No entry shall be made if the result of making it would be that the Parliamentary Commissioner could investigate action which can be investigated by the Welsh Administration Ombudsman under Schedule 9 to the Government of Wales Act 1998.”
- 7 In section 11(2A) (disclosure of information between Parliamentary Commissioner and a Health Service Commissioner)—
- (a) after “office as” insert “Welsh Administration Ombudsman or”, and
- (b) for “such a Commissioner” substitute “Welsh Administration Ombudsman or a Health Service Commissioner”.
- 8 (1) Section 11A (consultations between Parliamentary Commissioner and Health Service Commissioners) is amended as follows.
- (2) In subsection (1) (duty of consultation)—
- (a) after “jurisdiction of” insert “the Welsh Administration Ombudsman or of”,
- (b) for “office as that Commissioner” substitute “the office concerned”, and
- (c) after “a complaint under” insert “the Government of Wales Act 1998 or”.
- (3) In subsection (2) (matters which may be covered by consultation), after “with the” insert “Welsh Administration Ombudsman or a”.
- (4) In the sidenote, after “and” insert “Welsh Administration Ombudsman or”.
- 9 In Schedule 2 (departments etc. subject to investigation by Parliamentary Commissioner)—
- (a) in the entry relating to urban development corporations, after “corporations” insert “established for urban development areas wholly in England”,
- (b) in note 1A, insert at the end “; and no investigation under this Act shall be conducted in respect of any action in connection with functions of the Environment Agency in relation to Wales (within the meaning of the Government of Wales Act 1998).”, and
- (c) after that note insert—

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“1B. In the case of the Forestry Commission no investigation under this Act shall be conducted in respect of any action in connection with functions of the Forestry Commissioners in relation to Wales (within the meaning of the Government of Wales Act 1998).”

*The Pensions (Increase) Act 1971 (c. 56)*

- 10 In Part II of Schedule 2 to the Pensions (Increase) Act 1971 (official pensions), before paragraph 39 insert—

*“National Assembly for Wales*

- 38B A pension payable under a scheme established under section 18(2)(b) of the Government of Wales Act 1998.”

*The Local Government Act 1974 (c. 7)*

- 11 The Local Government Act 1974 has effect subject to the following amendments.

- 12 (1) Section 23 (the Commissions for Local Administration) is amended as follows.

- (2) After subsection (2) insert—

“(2A) The Welsh Administration Ombudsman shall be a member of the Commission for Local Administration in Wales (so that, where the offices of Parliamentary Commissioner and Welsh Administration Ombudsman are held by different persons, the Commission for Local Administration in Wales shall consist of at least three commissioners).”

- (3) In subsection (3) (meaning of “Local Commissioner”), after “other than the Parliamentary Commissioner” insert “, the Welsh Administration Ombudsman”.

- (4) In subsection (12) (reports by the Commissions), after “government departments” insert “or the National Assembly for Wales”.

- 13 In section 26(6)(b) (no investigation where person aggrieved has right of appeal to Minister of the Crown), after “Minister of the Crown” insert “or the National Assembly for Wales”.

- 14 In section 27(1) (authorities not entitled to make a complaint)—

- (a) in paragraph (a), after “government” insert “(including the National Assembly for Wales)”, and  
(b) in paragraph (b), after “department” insert “or by the National Assembly for Wales” and after “Parliament” insert “or the National Assembly for Wales”.

- 15 (1) Section 29 (provisions about investigations) is amended as follows.

- (2) In subsection (3) (disclosure to Local Commissioner of communications between local authorities and government departments), after “any Government department” insert “or the National Assembly for Wales”.

- (3) In subsection (5) (section does not affect restrictions on disclosure of information), before “or” at the end of paragraph (a) insert—

“(aa) the restriction, imposed by paragraph 25(1) of Schedule 9 to the Government of Wales Act 1998, on the disclosure of information by the Welsh Administration Ombudsman or members of his staff;”.

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- 16 In section 32(5) (inclusion in Local Commissioner’s report of information derived from government communications disclosed under section 29(3))—
- (a) after “department”, in the first place, insert “or the National Assembly for Wales”,
  - (b) after “department”, in the second place, insert “or a member of the Assembly’s staff”, and
  - (c) after “department”, in the third place, insert “or the Assembly”.
- 17 (1) Section 33 (consultation with other Commissioners) is amended as follows.
- (2) In subsection (1) (duty to consult), before “or” at the end of paragraph (a) insert—
- “(aa) by the Welsh Administration Ombudsman, in accordance with the Government of Wales Act 1998,” and, in the words following paragraph (b), after “Commissioner” insert “or the Ombudsman” and after “under the Act of 1967” insert “, under the Government of Wales Act 1998”.
- (3) In subsection (2) (matters which may be covered by consultation)—
- (a) after “the Parliamentary Commissioner” insert “, the Welsh Administration Ombudsman”, and
  - (b) after “that Commissioner” insert “or the Ombudsman”.
- (4) In subsection (5) (confidentiality)—
- (a) after “Act of 1993,” insert “in paragraph 25(1) of Schedule 9 to the Government of Wales Act 1998”, and
  - (b) omit “by any of the Commissioners mentioned in this section, or by any of their officers,”.

*The Juries Act 1974 (c. 23)*

- 18 In Part III of Schedule 1 to the Juries Act 1974 (excusal from jury service as of right: England and Wales), before the heading “The Forces” insert—

*“National Assembly for Wales*  
Members of the National Assembly for Wales.  
The Auditor General for Wales.”

*The House of Commons Disqualification Act 1975 (c. 24)*

- 19 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (certain disqualifying offices) insert at the appropriate places—
- “Auditor General for Wales.”,
- “Member of the staff of the Auditor General for Wales.”, and
- “Welsh Administration Ombudsman.”

*The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)*

- 20 In Part III of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (excusal from jury service as of right: Scotland), before Group C insert—

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## “GROUP BA

### NATIONAL ASSEMBLY FOR WALES

Members of the National Assembly for Wales.”

#### *The Mental Health Act 1983 (c. 20)*

- 21 The Mental Health Act 1983 has effect subject to the following amendments.
- 22 In section 134(3)(c) (no power to withhold correspondence between patients and ombudsmen), after “Parliamentary Commissioner for Administration,” insert “the Welsh Administration Ombudsman.”
- 23 In section 141 (members of House of Commons suffering from mental illness), at the end insert—
- “(9) This section also has effect in relation to members of the National Assembly for Wales but as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the presiding officer, and
  - (b) in subsection (7), for “defrayed out of moneys provided by Parliament” there were substituted “paid by the National Assembly for Wales”.

#### *The Insolvency Act 1986 (c. 45)*

- 24 In section 427 of the Insolvency Act 1986 (members of House of Commons adjudged bankrupt etc.), before subsection (7) insert—
- “(6B) Subsections (4) to (6) have effect in relation to a member of the National Assembly for Wales but as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the presiding officer, and
  - (b) in subsection (4), for “under this section” there were substituted “under section 12(2) of the Government of Wales Act 1998 by virtue of this section”.

#### *The Finance Act 1987 (c. 16)*

- 25 In section 55(1) of the Finance Act 1987 (Crown exemption from stamp duty), after “Her Majesty’s Treasury,” insert “or to the National Assembly for Wales.”

#### *The Copyright, Designs and Patents Act 1988 (c. 48)*

- 26 The Copyright, Designs and Patents Act 1988 has effect subject to the following amendments.
- 27 In section 49 (copying of public records not to constitute infringement of copyright), after “1923” insert “, or in Welsh public records (as defined in the Government of Wales Act 1998).”
- 28 In section 163 (Crown copyright), after subsection (1) insert—

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“(1A) For the purposes of this section, works made by Her Majesty include any sound recording, film, live broadcast or live cable programme of the proceedings of the National Assembly for Wales (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which is made by or under the direction or control of the Assembly; but a work shall not be regarded as made by or under the direction or control of the Assembly by reason only of its being commissioned by or on behalf of the Assembly.”

- 29 In paragraph 10(1) of Schedule 2 (copying of public records not to constitute infringement of rights in performances), after “1923” insert “, or in Welsh public records (as defined in the Government of Wales Act 1998),”.

*The Official Secrets Act 1989 (c. 6)*

- 30 In section 12(2) of the Official Secrets Act 1989 (which defines a “government contractor” as including a person who provides goods or services for the purposes of a Minister), before “or” at the end of paragraph (a) insert—  
 “(aa) for the purposes of the National Assembly for Wales,”.

*The Finance Act 1989 (c. 26)*

- 31 (1) Section 182 of the Finance Act 1989 (restrictions on disclosure of information about taxpayers) is amended as follows.
- (2) In subsection (4)(a) (offence for Parliamentary Commissioner for Administration and others to disclose information about taxpayers), after sub-paragraph (ii) insert—  
 “(iii) of the Auditor General for Wales and any member of his staff, or  
 (iv) of the Welsh Administration Ombudsman and any member of his staff,”.
- (3) In subsection (6) (authorised disclosures), in the words after paragraph (e), for “or the Parliamentary Commissioner,” substitute “, the Parliamentary Commissioner, the Auditor General for Wales or the Welsh Administration Ombudsman,”.

*The Social Security Administration Act 1992 (c. 5)*

- 32 In section 123(8) of the Social Security Administration Act 1992 (auditors and investigators of complaints who may not disclose social security information)—  
 (a) after paragraph (b) insert—  
 “(ba) the Auditor General for Wales and any member of his staff,” and  
 (b) after paragraph (hc) insert—  
 “(hd) the Welsh Administration Ombudsman and any member of his staff,”.

*The Tribunals and Inquiries Act 1992 (c. 53)*

- 33 In section 16(1) of the Tribunals and Inquiries Act 1992 (interpretation), in the definition of “Minister”, after “includes” insert “the National Assembly for Wales and”.

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*The European Communities (Amendment) Act 1993 (c. 32)*

- 34 In section 6 of the European Communities (Amendment) Act 1993 (which provides that a person may be proposed for membership of the Committee of the Regions constituted under Article 198a of the Treaty establishing the European Community only if he is an elected member of a local authority), before “an elected member of a local authority” insert “a member of the National Assembly for Wales or”.

*The Value Added Tax Act 1994 (c. 23)*

- 35 In section 41(6) of the Value Added Tax Act 1994 (meaning of government department), before “a Northern Ireland department,” insert “, the National Assembly for Wales,”.

*The Deregulation and Contracting Out Act 1994 (c. 40)*

- 36 In section 79(1) of the Deregulation and Contracting Out Act 1994 (interpretation of Part II), in the definition of “office-holder”—
- (a) after “officer of either House of Parliament,” insert “the Auditor General for Wales,” and
  - (b) after “the Parliamentary Commissioner for Administration” insert “, the Welsh Administration Ombudsman”.