Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 2.

ASSEMBLY CONSTITUENCIES AND ASSEMBLY ELECTORAL REGIONS

Commencement Information
I1 Sch. 1 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

General

1 The Assembly constituencies shall be the parliamentary constituencies in Wales.

2 (1) There shall be five Assembly electoral regions.

(2) The Assembly electoral regions shall be the five European Parliamentary constituencies in Wales provided for by the [M1]European Parliamentary Constituencies (Wales) Order 1994.

(3) There shall be four Assembly seats for each Assembly electoral region.

Marginal Citations
M1 S.I. 1994/428.

3 Paragraphs 1 and 2(2) and (3) are subject to any Order in Council under the [M2]Parliamentary Constituencies Act 1986 ("the 1986 Act"), as that Act has effect as extended by this Schedule.

Marginal Citations
M2 1986 c. 56.

Consideration of, and of number of seats for, Assembly electoral regions

4 When the Boundary Commission for Wales ("the Commission") provisionally determine (in pursuance of the 1986 Act) to recommend the making of alterations affecting any parliamentary constituencies, the Commission shall consider whether any alteration—

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(a) in the Assembly electoral regions, or

(b) in the allocation of seats to the Assembly electoral regions,

will be required in order to give effect to the rules set out in paragraph 8.

Notices of proposed recommendations affecting Assembly electoral regions

5 (1) Where, after the consideration required by paragraph 4, the Commission have provisionally determined to make recommendations affecting any Assembly electoral region, they shall publish a notice in at least one newspaper circulating in the Assembly electoral region.

(2) The notice shall state—

(a) the effect of the proposed recommendations,

(b) (except where the Commission propose to recommend that no alteration affecting the Assembly electoral region be made) that a copy of the proposed recommendations is open to inspection at one or more specified places within each Assembly constituency included in the Assembly electoral region, and

(c) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice.

(3) The Commission shall take into consideration any representations duly made in accordance with any notice published under sub-paragraph (1).

(4) Where the Commission revise any proposed recommendations after publishing a notice of them under sub-paragraph (1), the Commission shall comply again with that sub-paragraph in relation to the revised proposed recommendations, as if no earlier notice had been published.

(5) The Commission is not required to comply with sub-paragraph (1) or (4) if the proposed recommendations (or the revised proposed recommendations)—

(a) are only for an alteration in the number of Assembly seats for the Assembly electoral region, and

(b) the proposed (or the revised proposed) total number of Assembly seats for the Assembly electoral regions is exactly divisible by five.

(6) Where the proposed (or the revised proposed) total number of Assembly seats for the Assembly electoral regions is not exactly divisible by five, a recommendation for an alteration in the number of Assembly seats for any Assembly electoral region shall be taken (for the purposes of this paragraph and paragraph 6) to be one which also affects all the other Assembly electoral regions.

Local inquiries in respect of Assembly electoral regions

6 (1) The Commission may, if they think fit, cause a local inquiry to be held in respect of any Assembly electoral region or regions.

(2) Where, on the publication of the notice under paragraph 5(1) of a proposed recommendation of the Commission for an alteration affecting any Assembly

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electoral regions, the Commission receive any representations objecting to the proposed recommendation from—

(a) an interested local authority, or

(b) a body of electors numbering 500 or more,

the Commission shall not make the recommendation unless, since the publication of the notice, a local inquiry has been held in respect of those Assembly electoral regions.

(3) Where a local inquiry was held in respect of those Assembly electoral regions before the publication of notice mentioned in sub-paragraph (2), that sub-paragraph shall not apply if the Commission, after considering—

(a) the matters discussed at the local inquiry,

(b) the nature of the representations received on the publication of the notice, and

(c) any other relevant circumstances,

are of opinion that a further local inquiry would not be justified.

(4) In sub-paragraph (2)—

"interested local authority" means the council of a county or county borough whose area is wholly or partly included in the Assembly electoral regions affected by the proposed recommendation, and

"elector" means a person who, at the time when the representations are made, is registered in the register of local government electors at an address within any of the Assembly constituencies included in any of those Assembly electoral regions.

(5) Section 250(2) and (3) of the [M3]Local Government Act 1972 (witnesses at local inquiries) shall apply in relation to any local inquiry which the Commission may cause to be held in pursuance of this paragraph.

Marginal Citations

M3 1972 c. 70.

Reports to show any alterations affecting Assembly electoral regions

7 (1) This paragraph applies where the Commission submit to the Secretary of State—

(a) a report under subsection (1) of section 3 of the 1986 Act recommending alterations in parliamentary constituencies, or

(b) a report under subsection (3) of that section.

(2) The report shall show any alteration—

(a) in the Assembly electoral regions, or

(b) in the allocation of seats to the Assembly electoral regions,

which the Commission recommend in order to give effect to the rules set out in paragraph 8.

(3) If, in the opinion of the Commission, no alteration is required for that purpose, they shall state that in the report.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If the report recommends any alteration in any Assembly electoral regions, it shall state the name (in English and in Welsh) by which the Commission recommend that the Assembly electoral regions (as proposed to be altered) should be known.

(5) The Commission shall send a copy of the report to the Assembly.

The rules

8 (1) The rules referred to in paragraphs 4 and 7(2) are—

(1) Each Assembly constituency shall be wholly included in one Assembly electoral region.

(2) The regional electorate for an Assembly electoral region shall be as near the regional electorate for each other Assembly electoral region as is reasonably practicable, having regard (where appropriate) to special geographical considerations.

(3) The total number of Assembly seats for the Assembly electoral regions shall be—
- (a) one half of the total number of the Assembly constituencies, or
- (b) (if that total number is not exactly divisible by two) one half of the number produced by adding one to that total number.

(4) The number of Assembly seats for the Assembly electoral regions shall be—
- (a) one fifth of the total number of Assembly seats for the electoral Assembly regions, or
- (b) (if that total number is not exactly divisible by five) either one fifth of the highest number which is less than that total number and exactly divisible by five or the number produced by adding one to one fifth of that highest number (as provided by sub-paragraphs (2) to (4)).

(2) If the total number of Assembly seats for the electoral Assembly regions is not exactly divisible by five, the Commission shall calculate the difference between—
- (a) the total number of seats for the Assembly electoral regions, and
- (b) the highest number which is less than that total number and exactly divisible by five,

and that is the number of residual seats to be allocated by the Commission.

(3) The Commission shall not allocate more than one residual seat to an Assembly electoral region.

(4) The Commission shall divide the regional electorate for each Assembly electoral region by the aggregate of—
- (a) the number of Assembly constituencies in the Assembly electoral region, and
- (b) one fifth of the highest number which is less than the total number of seats for the electoral Assembly regions and exactly divisible by five,

and, in allocating the residual seat or seats to an Assembly electoral region or Assembly electoral regions, shall have regard to the desirability of allocating the residual seat or seats to the Assembly electoral region or regions for which that calculation produces the highest number or numbers.

Status: *Point in time view as at 14/07/2005.*
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Orders in Council giving effect to reports of Commission

9 (1) An Order in Council under the 1986 Act for giving effect, with or without modifications, to the recommendations contained in a report of the Commission may specify different dates for its coming into force—

(a) for the purposes of elections to the House of Commons, and

(b) for the purposes of the return of Assembly members.

(2) The coming into force of an Order in Council under the 1986 Act shall not affect the operation of section 8 or 9, or the constitution of the Assembly, at any time before the next ordinary election.

Interpretation

10 (1) For the purposes of any report of the Commission the regional electorate for an Assembly electoral region is the number of persons who, on the enumeration date, are registered in the register of local government electors at addresses within any of the Assembly constituencies included in the Assembly electoral region.

(2) In sub-paragraph (1) "the enumeration date" means the date on which notice that the Commission intended to consider making the report was published in accordance with section 5(1) of the 1986 Act.

11 In this Schedule—

"the 1986 Act" means the [M4]Parliamentary Constituencies Act 1986, and

"the Commission" means the Boundary Commission for Wales.

Marginal Citations

M4 1986 c. 56.

SCHEDULE 2

Section 22(2).

FIELDS IN WHICH FUNCTIONS ARE TO BE TRANSFERRED BY FIRST ORDER IN COUNCIL

Commencement Information

I2 Sch. 2 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

1 Agriculture, forestry, fisheries and food.

2 Ancient monuments and historic buildings.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

3 Culture (including museums, galleries and libraries).

4 Economic development.

5 Education and training.

6 The environment.

7 Health and health services.

8 Highways.

9 Housing.

10 Industry.

11 Local government.

12 Social services.

13 Sport and recreation.

14 Tourism.

15 Town and country planning.

16 Transport.

17 Water and flood defence.

18 The Welsh language.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 3

Section 22(5).

TRANSFER ETC. OF FUNCTIONS: FURTHER PROVISIONS

Modifications etc. (not altering text)

C1 Sch. 3 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), **ss. 8(4)(5)**, 53(1); S.I. 2005/1126, **art. 2(2)(e)**

Commencement Information

I3 Sch. 3 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

PART I

FUNCTIONS TRANSFERABLE ETC

Existing and future functions

1 (1) Subject to sub-paragraph (2), an Order in Council under section 22 may make provision about any function of a Minister of the Crown (including a function conferred or imposed after the passing of this Act).

(2) Such an Order in Council may not make provision about any function conferred or imposed by any provision of this Act except—

(a) section 3(4),

(b) section 36(5),

(c) paragraph 17(9) of Schedule 9,

(d) sections 126 to 143, and

(e) Part VII so far as relating to the provisions specified in paragraphs (a) to (d).

Functions relating to culture

2 If and to the extent that any function is exercisable by a Minister of the Crown in relation to the Welsh language or any other aspect of Welsh culture it shall be regarded for the purposes of section 22 as exercisable by the Minister in relation to Wales.

Cross-border functions

3 (1) The power conferred by section 22 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to Wales includes (as well as power to make provision about a function so far as exercisable by a Minister of the Crown in relation to the whole or any part of Wales) power to make provision about a function so far as exercisable by a Minister of the Crown in relation to—

(a) a cross-border body, or

(b) subject to sub-paragraph (3), an English border area.

Status: *Point in time view as at 14/07/2005.*
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(2) In this Act—

"cross-border body" means any body (including a government department) or undertaker exercising functions, or carrying on activities, in or with respect to Wales (or any part of Wales) and anywhere else, and

"English border area" means a part of England adjoining Wales (but not the whole of England).

(3) An Order in Council under section 22 may only include provision about a function so far as exercisable by a Minister of the Crown in relation to an English border area if—

(a) the function relates to water resources management, water supply, rivers or other watercourses, control of pollution of water resources, sewerage or land drainage, and

(b) the Order in Council makes (or another such Order in Council has made) corresponding provision about the function so far as so exercisable in relation to a part of Wales adjoining England or the whole of Wales.

Functions exercisable beyond the territorial sea

4 (1) The power conferred by section 22(1)(c) includes power to direct that any function under—

(a) Part II of the [M5]Food and Environment Protection Act 1985 (deposits in the sea), or

(b) Part IV of the [M6]Petroleum Act 1998 (abandonment of offshore installations),

so far as exercisable by a Minister of the Crown in relation to Welsh controlled waters shall be exercisable by the Minister only after consultation with the Assembly.

(2) In this paragraph "Welsh controlled waters" means so much of the sea beyond the seaward boundary of the territorial sea as is adjacent to Wales.

(3) The power conferred by section 22(3) includes (in particular) power to determine, or make provision for determining, for the purposes of the definition of "Welsh controlled waters" any boundary between—

(a) the parts of the sea which are to be treated as adjacent to Wales, and

(b) those which are not,

including power to make different determinations or provision for different purposes; and an order under section 155(2) may include any provision that by virtue of this sub-paragraph may be included in an Order in Council under section 22.

Marginal Citations

M5 1985 c. 48.

M6 1998 c. 17.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

CONTINUING ROLE FOR TRANSFEROR ETC

Community obligations

5 Any power of a Minister of the Crown to make subordinate legislation which has been transferred by an Order in Council under section 22 shall continue to be exercisable by the Minister of the Crown (as it would be had it not been transferred) for the purpose of—

(a) implementing any Community obligation of the United Kingdom, or enabling any such obligation to be implemented, or enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Community Treaties to be exercised, or

(b) dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the [M7]European Communities Act 1972.

Marginal Citations

M7 1972 c. 68.

Intervention in case of functions relating to water etc.

6 (1) Where it appears to the Secretary of State that the exercise of a relevant transferred environmental function (or the failure to exercise such a function) in any particular case might have a serious adverse impact on—

(a) water resources,

(b) water supply, or

(c) the quality of water,

in England, he may intervene under this paragraph in that case.

(2) If the Secretary of State intervenes in a case under this paragraph—

(a) he may in that case exercise the function concerned, and

(b) that function shall not in that case be exercisable by the Assembly.

(3) For the purposes of sub-paragraph (1) a function is a relevant transferred environmental function if it is a function—

(a) under Part I of the [M8]Environmental Protection Act 1990, or

(b) under Part II, III or VII of the [M9]Water Resources Act 1991,

[[F1](c) under, or under regulations under section 2 of, the Pollution Prevention and Control Act 1999,**]**

and it has been transferred to the Assembly by an Order in Council under section 22 which states that this paragraph is to apply in relation to it.

(4) An intervention by the Secretary of State under this paragraph shall be made by giving notice to the Assembly.

(5) The notice—

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(a) shall state the reason for the Secretary of State's intervention,
(b) may make provision about the effect of any steps previously taken by the Assembly or any other person, and
(c) may extend the time for the taking of any steps by the Secretary of State or any other person (even if the time for taking them would otherwise have expired before the notice is given).

(6) Where the Secretary of State has made an intervention under this paragraph in a case he shall, in addition to the notice under sub-paragraph (4), give notice to—
(a) any person who has previously been given notice of any steps taken, or proposed to be taken, in the case,
(b) the Environment Agency (if concerned in the case), and
(c) any water undertaker or sewerage undertaker concerned in the case.

Textual Amendments
F1 Sch. 3 para. 6(3)(c) inserted (21.3.2000) by 1999 c. 24, s. 6(1), **Sch. 2 para. 20**; S.I. 2000/800, **art. 2**

Marginal Citations
M8 1990 c. 43.
M9 1991 c. 57.

Agreement or consultation

7 An Order in Council under section 22 which includes provision—
(a) transferring to the Assembly any function so far as exercisable by a Minister of the Crown in relation to a cross-border body or an English border area, or
(b) directing that any function shall be exercisable by the Assembly in relation to a cross-border body or an English border area concurrently with the Minister of the Crown by whom it is exercisable,

may provide that (either generally or to such extent as may be specified in the Order in Council) the function may be exercised by the Assembly only with the agreement of, or after consultation with, a Minister of the Crown.

8 If an Order in Council under section 22 includes provision transferring to the Assembly the function of determining a formula for the purposes of section 80 of the [M10]Local Government and Housing Act 1989 (calculation of Housing Revenue Account subsidy), the Order in Council may provide that the Assembly shall not exercise the function without the agreement of the Secretary of State to the inclusion in the formula of any variable framed (in whatever way) by reference to rent rebates.

Marginal Citations
M10 1989 c. 42.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

9 (1) This paragraph applies where a function is exercisable by a Minister of the Crown—

(a) only with the agreement of, or after consultation with, another Minister of the Crown, or

(b) only with the authorisation of Parliament or either House of Parliament.

(2) If an Order in Council under section 22 transfers the function, it shall be exercisable by the Assembly free from that requirement unless the Order in Council provides otherwise.

(3) If an Order in Council under that section directs that the function shall be exercisable by the Assembly concurrently with the Minister of the Crown by whom it is exercisable, the Order in Council may provide that it shall be exercisable by the Assembly free from that requirement.

PART III

SUPPLEMENTARY

Interpretation

10 References in section 22 and this Schedule to a Minister of the Crown include references to—

(a) two or more Ministers of the Crown acting jointly, and

(b) an officer of a Minister of the Crown or of a government department,

and, in relation to functions of such an officer, the references in section 22(1) and this Schedule to the Assembly include a member of the Assembly's staff.

11 References in sections 22 to 25 and this Schedule to a Minister of the Crown include a member of the Scottish Executive.

Saving

12 An Order in Council under section 22—

(a) transferring a function exercisable by a Minister of the Crown, or

(b) directing that a function shall be so exercisable only with the agreement of, or after consultation with, the Assembly,

shall not affect the validity of anything done by or in relation to the Minister before the coming into force of the Order in Council.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 4

Section 28.

PUBLIC BODIES SUBJECT TO REFORM BY ASSEMBLY

Commencement Information

I4 Sch. 4 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

PART I

BODIES WHICH MAY LOSE OR GAIN FUNCTIONS

1 An agricultural dwelling-house advisory committee for an area wholly in, or consisting of, Wales.

2 An agricultural wages committee for an area wholly in, or consisting of, Wales.

3 The Ancient Monuments Board for Wales.

[F2 3A The Care Council for Wales.]

Textual Amendments

F2 Sch. 4 para. 3A inserted (1.4.2001) by 2000 c. 14, ss. 6, 54, 66, **Sch. 1 para. 27(b)**; S.I. 2000/2992, **art. 2(2)**

4 The committee established under section 11 of the M11 Environment Act 1995 to advise about the carrying out in Wales of the Environment Agency's functions.

Marginal Citations

M11 1995 c. 25.

[F3 5 The National Council for Education and Training for Wales.]

Textual Amendments

F3 Sch. 4 para. 5 substituted (1.4.2001 for W.) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 94** (with s. 150); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

6 The sub-committee for Wales of the advisory committee for England, Wales and Northern Ireland constituted under section 32 of the M12 Hill Farming Act 1946 to advise about the exercise of powers under that Act.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M12 1946 c. 73.

7 The Historic Buildings Council for Wales.

8 The Library Advisory Council for Wales (known as the Library and Information Services Council (Wales)).

9 The Qualifications, Curriculum and Assessment Authority for Wales.

10 The Wales Tourist Board.

11 The Welsh Development Agency.

12 The Welsh Industrial Development Advisory Board.

13 The Welsh Language Board.

PART II

BODIES WHICH MAY LOSE FUNCTIONS OR GAIN FUNCTIONS WITH CONSENT

14 The committees referred to in section 19(1) of, or paragraph 1(1)(a) or (b) of Schedule 6 to, the [M13]National Health Service Act 1977 (advisory committees for Wales).

Marginal Citations
M13 1977 c. 49.

PART III

BODIES WHICH MAY ONLY GAIN FUNCTIONS

15 The Countryside Council for Wales.

16 The Higher Education Funding Council for Wales.

17 [F4] . . . . . .

Textual Amendments
F4 Sch. 4 Pt. 3 para. 17 omitted by virtue of The Nursing and Midwifery Order 2001 (S.I. 2002/253), art. 54(3), **Sch. 5 para. 15** (with art. 3(18)) (the amendment coming into force in accordance with art. 1(2)(3) of the amending S.I.)

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART IV

BODIES WHICH MAY ONLY GAIN FUNCTIONS AND ONLY WITH CONSENT

18 The Arts Council of Wales.

19 The National Library of Wales.

20 The National Museum of Wales.

21 The Royal Commission on Ancient and Historical Monuments of Wales.

22 The Sports Council for Wales.

SCHEDULE 5

Section 74.

BODIES AND OFFICES COVERED BY SECTION 74

Commencement Information

I5 Sch. 5 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

1 The bodies specified in Schedule 4.

2 The Advisory Committee on Pesticides.

3 The Committee on Agricultural Valuation.

4 The Agricultural Wages Board for England and Wales.

5 The Apple and Pear Research Council.

6 The Committee on Aquaculture Research and Development.

7 The Audit Commission for Local Authorities and the National Health Service in England and Wales.

8 The British Tourist Authority.

9 The British Waterways Board.

10 The British Wool Marketing Board.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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11 [F5] . . . . . .

Textual Amendments

F5 Sch. 5 para. 11 repealed (1.4.2002) by The Abolition of the Central Council for Education and Training in Social Work Order 2002 (S.I. 2002/797), **art. 2(b)**

12 The Clinical Standards Advisory Group.

[[F6]12A The Commission for Healthcare Audit and Inspection.**]**

Textual Amendments

F6 Sch. 5 para. 12A substituted (8.1.2004 for E.W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 147, 199(1)(4), **Sch. 9 para. 13**; S.I. 2003/3346, **art. 5**

13 A Community Health Council [F7]. . . .

Textual Amendments

F7 Words in Sch. 5 para. 13 repealed (20.10.2003 for W. and 1.12.2003 for E.) by Health (Wales) Act 2003 (c. 4), ss. 7, 10(2), Sch. 3 para. 12(a), **Sch. 4**; S.I. 2003/2660, **art. 2(1)(iii)**; S.I. 2003/3064, {art. 2(1)(iii}

14 The Standing Dental Advisory Committee.

15 The Dental Practice Board.

16 The Committee on Dental and Surgical Materials.

17 The Environment Agency.

18 The Family Health Services Appeal Authority.

19 Food from Britain.

[[F8]Food Standards Agency.
Food Standards Agency advisory committee for Wales.**]**

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F8 Words in Sch. 5 para. 19 inserted (1.4.2000) by virtue of 1999 c. 28, s. 40(1), **Sch. 5 para. 45** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

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20 [F9] . . . . . .

Textual Amendments

F9 Sch. 5 para. 20 repealed (1.10.2002 for E.W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 2(5), 37(2), **Sch. 2 Pt. 2 para. 66(2)**, **Sch. 9 Pt. 1**; S.I. 2002/2478, arts. 2(1), **3(1)(d)** (subject to art. 3(3) and with transitional provisions in art. 4) (S.I. 2002/2532, arts. 1(3), 2, Sch. purports to bring Sch. 2 Pt. 2 para. 66(2) of the repealing Act into force on 10.10.2002 in relation to Wales only)

20A The Health Protection Agency.

21 The advisory committee for England, Wales and Northern Ireland constituted under section 32 of the [M14]Hill Farming Act 1946 to advise about the exercise of powers under that Act.

Marginal Citations

M14 1946 c. 73.

22 The Home Grown Cereals Authority.

23 The Horticultural Development Council.

24 The Joint Nature Conservation Committee.

25 The Local Government Boundary Commission for Wales.

25A A Local Health Board.

26 The Meat and Livestock Commission.

27 The Standing Medical Advisory Committee.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

28 The Mental Health Act Commission.

29 The Milk Development Council.

30 The Museums and Galleries Commission.

31 The National Biological Standards Board.

32 A National Health Service trust all or some of whose hospitals, establishments or other facilities are situated in Wales.

33 The Trustees of the National Heritage Memorial Fund.

34 The National Lottery Charities Board.

. . . . . .

35 F10 . . . . . .

Textual Amendments

F10 Sch. 5 para. 35 repealed (1.4.2005) by Health Protection Agency Act 2004 (c. 17), ss. 11, 12, **Sch. 4**; S.I. 2005/121, **art. 2(2)**

36 The Standing Nursing and Midwifery Advisory Committee.

37 The Standing Pharmaceutical Advisory Committee.

38 The Potato Industry Development Council (known as the British Potato Council).

. . . . . .

39 F11 . . . . . .

Textual Amendments

F11 Sch. 5 para. 39 repealed (1.4.2005) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 190, 196, 199(1)(4), Sch. 13 para. 9, **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2(1)(b)**

40 The Residuary Milk Marketing Board.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

41 The Sea Fish Industry Authority.

42 A Special Health Authority performing functions only or mainly in respect of Wales.

43 The Sugar Beet Research and Education Committee.

44 The United Kingdom Sports Council.

45 The United Kingdom Transplant Support Service Authority.

46 The Wales Centre for Health.

SCHEDULE 6

Section 104.

[[F12]HER MAJESTY'S CHIEF INSPECTOR OF EDUCATION AND TRAINING IN WALES OR PRIF AROLYGYDD EI MAWRHYDI DROS ADDYSG A HYFFORDDIANT YNG NGHYMRU]

Textual Amendments

F12 Words in Heading to Sch. 6 substituted (1.1.2001) by 2000 c. 21 s. 73(3)(a); S.I. 2000/3230, art. 2, **Sch.**

Modifications etc. (not altering text)

C2 Sch. 6 restricted (16.2.2000) by S.I. 2000/253, **arts. 1(2)**, 11

Interpretation

1 In this Schedule—

"the Chief Inspector" means [[F13]Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], and

"the Office of the Chief Inspector" means the Chief Inspector and the persons who (in accordance with section 4(3) of, and Schedule 1 to, the [M15]School Inspections Act 1996) are members of his staff.

Textual Amendments

F13 Words in Sch. 6 para. 1 substituted (1.1.2001) by 2000 c. 21 s. 73(3)(a); S.I. 2000/3230, art. 2, **Sch.**

Marginal Citations

M15 1996 c. 57.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Status of the Office of the Chief Inspector

2 The Secretary of State may by order provide that the Office of the Chief Inspector is, for the purposes of the enactments specified in the order, to be treated as if it were a government department.

Status of the Chief Inspector and his staff

3 (1) Despite the provision made by section 104—
(a) the functions of the Chief Inspector and his staff shall continue to be regarded as exercised on behalf of the Crown, and
(b) service as a member of the Chief Inspector's staff shall continue to be service in Her Majesty's Home Civil Service.

(2) Whether service as the Chief Inspector is service in Her Majesty's Home Civil Service shall continue to be a matter which falls to be determined in accordance with the terms of the Chief Inspector's appointment, but the Chief Inspector shall in any event be a person to whom section 1 of the [M16]Superannuation Act 1972 (superannuation schemes for civil servants) applies.

Marginal Citations
M16 1972 c. 11.

Receipts

4 (1) The Treasury may direct that any requirement that sums be paid into the Consolidated Fund shall not have effect in relation to sums received by the Chief Inspector if the sums are, or are of a description, specified in the direction.

(2) Any sums received by the Chief Inspector which are not required to be paid into the Consolidated Fund shall be applied by him towards meeting his expenses.

Accounts

5 (1) The Chief Inspector shall keep proper accounting records.

(2) The Chief Inspector 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.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Audit

6 (1) The accounts prepared by the Chief Inspector for any financial year shall be submitted by him to the Auditor General for Wales **[**[F14]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

F14 Words in Sch. 6 para. 6(1) substituted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 23(b)**; S.I. 2000/3349, **art. 3(1)**

Modifications etc. (not altering text)

C3 Sch. 6 para. 6(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)**

Accounting officer

7 (1) The accounting officer for the Office of the Chief Inspector shall be the Chief Inspector.

(2) But where the Chief Inspector is incapable of discharging his responsibilities as accounting officer, or where the office of Chief Inspector is vacant, the Treasury may designate a member of the Chief Inspector's staff to be the accounting officer for so long as the incapacity or vacancy continues.

(3) The accounting officer for the Office of the Chief Inspector shall have, in relation to the accounts of the Chief Inspector and the finances of the Office of the Chief Inspector, 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 Chief Inspector, and

(c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Chief Inspector are used.

(5) The responsibilities which may be specified under this paragraph include responsibilities owed to—

(a) the Assembly or the Audit Committee, or

(b) the House of Commons or its Committee of Public Accounts.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 Chief Inspector, and

(b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

Examinations into use of resources

8 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Chief Inspector has used the resources of the Office of the Chief Inspector in discharging his functions.

(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 Chief Inspector.

(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) [F15] . . . . . .

Textual Amendments

F15 Sch. 6 para. 8(5) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 72, 73, Sch. 2 para. 48, **Sch. 4**; S.I. 2005/558, art. 2, **Sch. 1** (subject to Sch. 2)

Examinations by the Comptroller and Auditor General

9 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Chief Inspector, 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 Chief Inspector, 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 Chief Inspector under section 7 of the [M17]National Audit Act 1983 (economy etc. examinations).

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M17 1983 c. 44.

SCHEDULE 7

Section 105.

FORESTRY COMMISSIONERS

Separate exercise of functions in relation to Wales

1 (1) The Secretary of State may by order make provision for securing—
(a) the separate exercise in relation to Wales of functions of the Forestry Commissioners, and
(b) the exercise of functions by the Forestry Commissioners in relation to Wales free from so much of any requirements as would oblige them to have regard to circumstances outside Wales or to interests other than those of Wales.

(2) An order under this paragraph may include provisions in the form of amendments or repeals of the [M18]Forestry Act 1967 or any other enactment.

(3) The functions of the Forestry Commissioners—
(a) may be exercised in relation to Wales whether or not they are exercised in relation to England or Scotland, and
(b) may be exercised differently in relation to Wales on the one hand and England or Scotland on the other.

Commencement Information
I6 Sch. 7 para. 1 wholly in force; Sch. 7 para. 1 not in force at Royal Assent; Sch. 7 para. 1(1)(2) in force at 1.4.1999 by S.I. 1999/782, **art. 2**; Sch. 7 para. 1(3) in force at 14.5.2001 by S.I. 2001/1756, **art. 2**

Marginal Citations
M18 1967 c. 10.

2 (1) This paragraph applies where a function of the Forestry Commissioners to make any subordinate legislation is exercised by the making of a statutory instrument containing only provision relating to Wales.

(2) Any relevant Parliamentary procedural provision within section 44(3)(a), (b) or (c) which relates to the function shall not have effect in relation to the exercise of the function.

(3) Instead (but subject to sub-paragraph (4)), the subordinate legislation shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by the Assembly.

(4) But the subordinate legislation may be made without compliance with sub-paragraph (3) if the Forestry Commissioners determine that, in the particular circumstances, it is not reasonably practicable to comply with that sub-paragraph.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) If the subordinate legislation is made without compliance with sub-paragraph (3)—
  (a) the statutory instrument containing it shall be laid before the Assembly after it is made, and
  (b) any Assembly member shall be entitled to move, within the period of forty working days (construed in accordance with section 67(7)) beginning with the day on which the instrument is laid before the Assembly, that the subordinate legislation be revoked.

(6) If, pursuant to a motion made within that period, the Assembly resolves that the subordinate legislation be revoked, the resolution revokes it.

(7) The provision imposing or conferring the function of making the subordinate legislation includes power to make any provision which appears appropriate in consequence of its revocation by the resolution.

(8) Neither the passing of a resolution under sub-paragraph (6) revoking any subordinate legislation nor the making of any subordinate legislation under sub-paragraph (7) in consequence of the revocation—
  (a) affects the validity of anything done under the revoked subordinate legislation before its revocation, or
  (b) prevents the making of new subordinate legislation.

Status of Commissioners and staff

3 Nothing in section 105 or this Schedule affects the status of the Forestry Commissioners as a government department or the status of the officers and servants appointed or employed by them.

Receipts

4 (1) Any sums received by the Forestry Commissioners—
  (a) under section 105, or
  (b) (subject to sub-paragraphs (2) and (3)) in respect of any transactions carried out by them in the exercise of any of their functions in relation to Wales,

shall be applied by them towards meeting their expenditure on the exercise of their functions in relation to Wales.

(2) The Treasury may direct that any sums within sub-paragraph (1)(b) which are, or are of a description, specified in the direction shall be paid into the Consolidated Fund.

(3) The Assembly may direct that any sums within sub-paragraph (1)(b) which are, or are of a description, specified in the direction shall be paid to the Assembly.

(4) A direction under sub-paragraph (3) may be varied or revoked by a direction under sub-paragraph (2) (as well as by another direction under sub-paragraph (3)).

Accounts

5 (1) The Forestry Commissioners shall keep proper accounting records relating to their Welsh finances.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In this Schedule references to the Welsh finances of the Forestry Commissioners are to—

(a) sums within paragraph 4(1) received by them, and

(b) expenditure by them on the exercise of their functions in relation to Wales.

(3) The Forestry Commissioners shall, for each financial year, prepare accounts relating to their Welsh finances in accordance with directions given to them by the Treasury.

(4) The directions which the Treasury may give under sub-paragraph (3) 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

6 (1) The accounts prepared by the Forestry Commissioners under paragraph 5 for any financial year shall be submitted by them to the Auditor General for Wales **[**[F16]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

F16 Words in Sch. 7 para. 6(1) substituted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 23(c)**

Modifications etc. (not altering text)

C4 Sch. 7 para. 6(1): power to amend conferred (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 27**

Accounting officer

7 (1) The Treasury shall designate one of the Forestry Commissioners or an officer of the Forestry Commissioners as the Forestry Commissioners' accounting officer for Wales.

(2) The person designated as the Forestry Commissioners' accounting officer for Wales shall have, in relation to the Welsh finances of the Forestry Commissioners and to accounts relating to the Welsh finances of the Forestry Commissioners, the responsibilities which are from time to time specified by the Treasury.

(3) In this paragraph references to responsibilities include in particular—

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) responsibilities in relation to the signing of accounts,
(b) responsibilities for the propriety and regularity of finances, and
(c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Forestry Commissioners are used in discharging their functions in relation to Wales.

(4) The responsibilities which may be specified under this paragraph include responsibilities owed to—
(a) the Assembly or the Audit Committee, or
(b) the House of Commons or its Committee of Public Accounts.

(5) 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 Forestry Commissioners' accounting officer for Wales, and
(b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

Examinations into use of resources

8 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Forestry Commissioners have used their resources in discharging their functions in relation to Wales.

(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 Forestry Commissioners.

(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) [F17] . . . . . .

Textual Amendments

F17 Sch. 7 para. 8(5) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 72, 73, Sch. 2 para. 49, **Sch. 4**; S.I. 2005/558, art. 2, **Sch. 1** (subject to Sch. 2)

Examinations by the Comptroller and Auditor General

9 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the Welsh finances of the Forestry Commissioners, 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 Forestry Commissioners, or of the Auditor General for Wales, as he may reasonably require for that purpose, and

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 Forestry Commissioners under section 6 of the [M19]National Audit Act 1983 (economy etc. examinations).

Commencement Information

I7 Sch. 7 para. 9 wholly in force; Sch. 7 para. 9 not in force at Royal Assent; Sch. 7 para. 9(2) in force for certain purposes at 1.4.1999 by S.I. 1999/782, **art. 2**; Sch. 7 para. 9(2) in so far as not already in force and Sch. 7 para. 9(1) in force at 14.5.2001 by S.I. 2001/1756, **art. 2**

Marginal Citations

M19 1983 c. 44.

Reports

10 (1) The Forestry Commissioners shall, no later than such time after the end of each financial year as the Assembly directs, make a report in such form as the Assembly directs about the exercise of the Forestry Commissioners' functions in relation to Wales during that financial year.

(2) The Forestry Commissioners shall lay before the Assembly any report made under sub-paragraph (1) and the Assembly shall publish it.

Interpretation

11 References in this Schedule to the Welsh finances of the Forestry Commissioners shall be construed in accordance with paragraph 5(2).

SCHEDULE 8

Section 109.

DEVOLUTION ISSUES

Commencement Information

I8 Sch. 8 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

PRELIMINARY

1 (1) In this Schedule "devolution issue" means—

(a) a question whether a function is exercisable by the Assembly,

(b) a question whether a purported or proposed exercise of a function by the Assembly is, or would be, within the powers of the Assembly (including a question whether a purported or proposed exercise of a function by the Assembly is, or would be, outside its powers by virtue of section 106(7) or 107(1)),

(c) a question whether the Assembly has failed to comply with a duty imposed on it (including a question whether the Assembly has failed to comply with any obligation which is an obligation of the Assembly by virtue of section 106(1) or (6)), or

(d) a question whether a failure to act by the Assembly is incompatible with any of the Convention rights.

(2) In this Schedule—

(a) "the Judicial Committee" means the Judicial Committee of the Privy Council, and

(b) "civil proceedings" means any proceedings other than criminal proceedings.

2 A devolution issue shall not be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

PART II

PROCEEDINGS IN ENGLAND AND WALES

Application of Part II

3 This Part of this Schedule applies in relation to devolution issues in proceedings in England and Wales.

Institution of proceedings

4 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General.

(2) Sub-paragraph (1) does not limit any power to institute proceedings exercisable apart from that sub-paragraph by any person.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Notice of devolution issue

5 (1) A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Assembly (unless a party to the proceedings).

(2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to High Court or Court of Appeal

6 A magistrates' court may refer any devolution issue which arises in civil proceedings before it to the High Court.

7 (1) A court may refer any devolution issue which arises in civil proceedings before it to the Court of Appeal.

(2) Sub-paragraph (1) does not apply—

(a) to a magistrates' court, the Court of Appeal or the House of Lords, or

(b) to the High Court if the devolution issue arises in proceedings on a reference under paragraph 6.

8 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.

9 A court, other than the Court of Appeal or the House of Lords, may refer any devolution issue which arises in criminal proceedings before it to—

(a) the High Court if the proceedings are summary proceedings, or

(b) the Court of Appeal if the proceedings are proceedings on indictment.

References from Court of Appeal to Judicial Committee

10 The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7, 8 or 9) to the Judicial Committee.

Appeals from superior courts to Judicial Committee

11 An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 6, 7, 8 or 9 shall lie to the Judicial Committee, but only—

(a) with leave of the court concerned, or

(b) failing such leave, with special leave of the Judicial Committee.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART III

PROCEEDINGS IN SCOTLAND

Application of Part III

12 This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

Institution of proceedings

13 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Scotland.

(2) Sub-paragraph (1) does not limit any power to institute proceedings exercisable apart from that sub-paragraph by any person.

Intimation of devolution issue

14 (1) A court or tribunal shall order intimation of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Scotland and the Assembly (unless a party to the proceedings).

(2) A person to whom intimation is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to higher court

15 A court, other than any court consisting of three or more judges of the Court of Session or the House of Lords, may refer any devolution issue which arises in civil proceedings before it to the Inner House of the Court of Session.

16 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.

17 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

References from superior courts to Judicial Committee

18 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 15 or 16) to the Judicial Committee.

19 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 17) to the Judicial Committee.

Appeals from superior courts to Judicial Committee

20 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 15 or 16 shall lie to the Judicial Committee.

21 An appeal against a determination of a devolution issue by—

(a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 17), or

(b) a court of three or more judges of the Court of Session from which there is no appeal to the House of Lords,

shall lie to the Judicial Committee, but only with leave of the court concerned or, failing such leave, with special leave of the Judicial Committee.

PART IV

PROCEEDINGS IN NORTHERN IRELAND

Application of Part IV

22 This Part of this Schedule applies in relation to devolution issues in proceedings in Northern Ireland.

Institution of proceedings

23 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General for Northern Ireland.

(2) Sub-paragraph (1) does not limit any power to institute proceedings exercisable apart from that sub-paragraph by any person.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Notice of devolution issue

24 (1) A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General for Northern Ireland and the Assembly (unless a party to the proceedings).

(2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to Court of Appeal

25 A court, other than the Court of Appeal in Northern Ireland or the House of Lords, may refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.

26 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference.

References from Court of Appeal to Judicial Committee

27 The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the Judicial Committee.

Appeals from Court of Appeal to Judicial Committee

28 An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 25 or 26 shall lie to the Judicial Committee, but only—

(a) with leave of the Court of Appeal in Northern Ireland, or

(b) failing such leave, with special leave of the Judicial Committee.

PART V

GENERAL

Proceedings in the House of Lords

29 Any devolution issue which arises in judicial proceedings in the House of Lords shall be referred to the Judicial Committee unless the House considers it more appropriate, having regard to all the circumstances, that they should determine the issue.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Direct references to Judicial Committee

30 (1) The relevant law officer or the Assembly may require any court or tribunal to refer to the Judicial Committee any devolution issue which has arisen in any proceedings before it to which he or it is a party.

(2) In sub-paragraph (1) "the relevant law officer" means—

(a) in relation to proceedings in England and Wales, the Attorney General,

(b) in relation to proceedings in Scotland, the Advocate General for Scotland, and

(c) in relation to proceedings in Northern Ireland, the Attorney General for Northern Ireland.

31 (1) The Attorney General or the Assembly may refer to the Judicial Committee any devolution issue which is not the subject of proceedings.

(2) Where a reference is made under sub-paragraph (1) by the Attorney General in relation to a devolution issue which relates to the proposed exercise of a function by the Assembly—

(a) the Attorney General shall notify the Assembly of that fact, and

(b) the Assembly shall not exercise the function in the manner proposed during the period beginning with the receipt of the notification and ending with the reference being decided or otherwise disposed of.

The Judicial Committee

32 Any decision of the Judicial Committee in proceedings under this Schedule—

(a) shall be stated in open court, and

(b) shall be binding in all legal proceedings (other than proceedings before the Judicial Committee).

33 No member of the Judicial Committee shall sit and act as a member of the Judicial Committee in proceedings under this Schedule unless he holds or has held—

(a) the office of a Lord of Appeal in Ordinary, or

(b) high judicial office as defined in section 25 of the [M20]Appellate Jurisdiction Act 1876 (ignoring for this purpose section 5 of the [M21]Appellate Jurisdiction Act 1887).

Marginal Citations

M20 1876 c. 59.

M21 1887 c. 70.

34 (1) Her Majesty may by Order in Council—

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) confer on the Judicial Committee in relation to proceedings under this Schedule such powers as appear to be appropriate,

(b) apply the [M22]Judicial Committee Act 1833 in relation to proceedings under this Schedule with exceptions and modifications, and

(c) make rules for regulating the procedure with respect to proceedings under this Schedule before the Judicial Committee.

(2) An Order in Council under this paragraph may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).

(3) No recommendation shall be made to Her Majesty in Council to make an Order in Council under this paragraph which contains provisions in the form of amendments or repeals of enactments contained in an Act unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament.

(4) A statutory instrument containing an Order in Council which makes provision falling within sub-paragraph (1)(a) or (b) shall (unless a draft of it has been approved by a resolution of each House of Parliament) be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M22 1833 c. 41.

Costs

35 (1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.

(2) In deciding any such question, the court or tribunal may award the whole or part of the additional expense as costs or expenses to the party who incurred it (whatever the decision on the devolution issue).

(3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 5, 14 or 24.

Procedure of courts and tribunals

36 Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this Schedule including, in particular, provision—

(a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred,

(b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule, and

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(c) for determining the manner in which and the time within which any notice or intimation is to be given.

References to be for decision

37 Any function conferred by this Schedule to refer a devolution issue to a court shall be construed as a function of referring the issue to the court for decision.

SCHEDULE 9

Section 111.

WELSH ADMINISTRATION OMBUDSMAN

Commencement Information

I9 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.

Status: *Point in time view as at 14/07/2005.*
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(2) The Welsh Administration Ombudsman shall be regarded as holding office under Her Majesty and as exercising his functions on behalf of the Crown.

(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 [M23]Official Secrets Act 1989.

Marginal Citations

M23 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,

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as may be provided for by or under the terms of his appointment.

(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 [M24]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 sub-paragraph (4) in the sums payable out of money provided by Parliament under the [M25]Superannuation Act 1972.

Marginal Citations
M24 1972 c. 11.
M25 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 sub-paragraph (3) in the sums payable out of money provided by Parliament under the [M26]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

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Ombudsman include any person exercising any function of his by virtue of paragraph (b) or (c).

(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
M26 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.

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(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.

(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 **[**[F18]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

F18 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)**

Status: *Point in time view as at 14/07/2005.*
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Modifications etc. (not altering text)

C5 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)**

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.

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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.

(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) [F19] . . . . . .

Textual Amendments

F19 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 [M27]National Audit Act 1983 (economy etc. examinations).

Marginal Citations

M27 1983 c. 44.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

INVESTIGATION OF COMPLAINTS

Modifications etc. (not altering text)

C6 Sch. 9 Pt. II extended (1.7.1999 subject to art. 4(2)-(6) of the amending Act) by S.I. 1999/1791, **art. 4(1)**

Bodies subject to investigation

14 (1) The bodies subject to investigation by the Welsh Administration Ombudsman are—

(a) the Assembly, and

(b) subject to any notes in paragraph 15(1), the bodies listed in sub-paragraph (2).

(2) The bodies referred to in sub-paragraph (1) are—

(a) the Arts Council of Wales,

[F20(ab) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000; and]

(b) the Countryside Council for Wales,

(c) the Environment Agency,

(d) the Forestry Commissioners,

[F21(da) the Higher Education Funding Council for Wales,

(db) the National Council for Education and Training for Wales,]

(e) the Office of [F22Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru],

(f) the Sports Council for Wales,

(g) urban development corporations established for urban development areas wholly in Wales,

[F23(ga) the Wales Centre for Health,]

(h) the Wales Tourist Board,

(i) the Welsh Development Agency, and

(j) the Welsh Language Board.

(3) Subject to paragraph 16, the Assembly may by order amend sub-paragraph (2) by—

(a) adding any body,

(b) omitting any body, or

(c) altering the description of any body.

(4) For the purposes of this paragraph and paragraphs 15 and 16 references to a body include an unincorporated body (as well as a body corporate); and references in this Schedule to a body subject to investigation by the Welsh Administration Ombudsman shall be construed accordingly.

(5) References in the following provisions of this Schedule to action taken in the exercise of functions of a body subject to investigation by the Welsh Administration Ombudsman include action taken in the exercise of any functions of—

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(a) any of its members, or
(b) any of its officers or members of its staff.

Textual Amendments

F20 Sch. 9 para. 14(2)(ab) inserted (1.4.2001) by 2000 c. 14, ss. 6, 54, 66, **Sch. 1 para. 27(c)**; S.I. 2000/2992, **art. 2(1)**

F21 Sch. 9 para. 14(2)(da)(db) inserted (31.12.2002) by Welsh Administration Ombudsman (Jurisdiction) Order 2002 (S.I. 2002/3146), **art. 2(a)**

F22 Words in Sch. 9 para. 14(2)(e) substituted (1.1.2001) by 2000 c. 21 s. 73(3)(a); S.I. 2000/3230, art. 2, **Sch.**

F23 Sch. 9 para. 14(2)(ga) inserted (1.4.2005) by Health (Wales) Act 2003 (c. 4), ss. 7, 10(2), **Sch. 3 para. 13**; S.I. 2003/2660, **art. 3(2)**

15 (1) The notes referred to in paragraph 14(1)(b) are—

1.In the case of a body which has functions exercisable otherwise than in relation to Wales (as well as in relation to Wales or a part of Wales) no investigation may be conducted by the Welsh Administration Ombudsman in respect of action in connection with the exercise of the body's functions otherwise than in relation to Wales.

2. In the case of the Environment Agency no investigation may be conducted by the Welsh Administration Ombudsman in respect of action in connection with the exercise of its flood defence functions (within the meaning of the [M28]Water Resources Act 1991).

[[F24]2A. In the case of the National Council for Education and Training for Wales no investigation may be conducted by the Welsh Administration Ombudsman in respect of action taken by virtue of paragraph 11 or 12 of Schedule 10 to the Learning and Skills Act 2000.**]**

3.In the case of an urban development corporation no investigation may be conducted by the Welsh Administration Ombudsman in respect of action in connection with the exercise of its functions in relation to town and country planning.

(2) Subject to paragraph 16, the Assembly may by order amend sub-paragraph (1) by—
(a) adding any note,
(b) omitting any note, or
(c) amending any note.

(3) If and to the extent that a function is exercisable in relation to the Welsh language or any other aspect of Welsh culture it shall be regarded for the purposes of this paragraph and paragraph 16 as exercisable in relation to Wales.

Textual Amendments

F24 Sch. 9 para. 15(1): Note 2A inserted (31.12.2002) by Welsh Administration Ombudsman (Jurisdiction) Order 2002 (S.I. 2002/3146), **art. 2(b)**

Marginal Citations

M28 1991 c. 57.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

16 (1) An order under paragraph 14(3) may only add a body to paragraph 14(2) if—

(a) the body has functions exercisable in relation to Wales or a part of Wales (whether or not they are also exercisable otherwise than in relation to Wales),

(b) some or all of those functions are in a field in which the Assembly has functions, and

(c) the body falls within sub-paragraph (2).

(2) A body falls within this sub-paragraph if—

(a) it is established under an enactment or by virtue of Her Majesty's prerogative or is established in any other way by a Minister of the Crown or government department or by the Assembly,

(b) at least half of its expenditure on the exercise of functions in relation to Wales (or, where its functions relate only to a part of Wales, in relation to the part of Wales to which they relate) is met directly from payments made by the Assembly, and

(c) it is wholly or partly constituted by appointment made by Her Majesty, a Minister of the Crown or government department or the Assembly.

(3) An order under paragraph 14(3) shall not add to paragraph 14(2) a body whose sole activity is, or whose main activities are, included among any one or more of the following—

(a) the provision of education,

(b) the development of curricula, the conduct of examinations or the validation of educational courses,

(c) the provision of training otherwise than under the [M29]Industrial Training Act 1982,

(d) the control of entry to any profession or the regulation of the conduct of members of any profession, and

(e) the investigation of complaints by members of the public regarding the actions of any person or body or the supervision or review of, or of steps taken following, such an investigation,

or a body operating in an exclusively or predominantly commercial manner or carrying on under national ownership an industry or undertaking or part of an industry or undertaking.

(4) The Assembly may not make an order under paragraph 15(2) if the result would be that the Welsh Administration Ombudsman could investigate action in connection with the exercise of a body's functions otherwise than in relation to Wales.

(5) In the case of a body which has functions exercisable in a field in which the Assembly does not have functions (as well as in a field in which it does)—

(a) where the Assembly by order under paragraph 14(3) adds the body to paragraph 14(2) it shall (by order under paragraph 15(2)) add to paragraph 15(1) a note relating to the body, and

(b) the Assembly may not make an order under paragraph 15(2) if the result would be that the Welsh Administration Ombudsman could investigate action in connection with the exercise of the body's functions in a field in which the Assembly does not have functions.

(6) In the case of a body which is an authority to which the [M30]Parliamentary Commissioner Act 1967 applies—

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(a) where the Assembly by order under paragraph 14(3) adds the body to paragraph 14(2) it shall (by order under paragraph 15(2)) add to paragraph 15(1) a note relating to the body, and

(b) the Assembly may not make an order under paragraph 15(2) if the result would be that the Welsh Administration Ombudsman could investigate action which can be investigated under the [M31]Parliamentary Commissioner Act 1967.

Marginal Citations

M29 1982 c. 10.

M30 1967 c. 13.

M31 1967 c. 13.

Matters which may be investigated

17 (1) The Welsh Administration Ombudsman may investigate any action taken by or on behalf of a body subject to investigation by him if—

(a) the action was taken in the exercise of administrative functions of that body, and

(b) a written complaint is duly made to him (in accordance with paragraph 18) by or on behalf of a person who claims to have sustained injustice in consequence of maladministration in connection with the action ("the person aggrieved").

(2) For the purposes of this Schedule administrative functions exercisable by any person appointed as a member of the administrative staff of a relevant tribunal—

(a) by a body subject to investigation by the Welsh Administration Ombudsman, or

(b) with the consent (whether as to remuneration and other terms and conditions of service or otherwise) of such a body,

shall be taken to be administrative functions of the body.

(3) The Welsh Administration Ombudsman shall not conduct an investigation in respect of any action in respect of which the person aggrieved has or had—

(a) a right of appeal, reference or review to or before a tribunal constituted under any enactment or by virtue of Her Majesty's prerogative, or

(b) a remedy by way of proceedings in any court of law,

unless the Welsh Administration Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person aggrieved to resort or have resorted to it.

(4) The Welsh Administration Ombudsman shall not conduct an investigation in respect of any action if the person aggrieved has or had the opportunity to make a complaint under a procedure operated by the body in the exercise of whose functions the action was taken unless he is satisfied—

(a) that the procedure has been invoked and exhausted, or

(b) that, in the particular circumstances, it is not reasonable to expect the procedure to be or have been invoked or exhausted.

Status: *Point in time view as at 14/07/2005.*
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(5) The Welsh Administration Ombudsman shall not conduct an investigation in respect of—

(a) action taken by or with the authority of a body for the purposes of investigating crime,

(b) the commencement or conduct of any civil or criminal proceedings before any court of law in the United Kingdom,

(c) action which could be investigated under the [M32]Health Service Commissioners Act 1993,

(d) action taken by any member of the administrative staff of a relevant tribunal so far as taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as a member of the tribunal,

(e) action taken in matters relating to contractual or other commercial transactions, other than compulsory land transactions, or

(f) action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to relevant service.

(6) In sub-paragraph (5)—

"compulsory land transactions" means transactions for or relating to—

(a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily, or

(b) the disposal as surplus of land acquired compulsorily or in such circumstances, and

"relevant service" means service—

(a) in any office or employment under the Crown or under any body subject to investigation by the Welsh Administration Ombudsman, or

(b) in any office or employment, or under any contract for services, in respect of which power to take action, or to determine or approve the action to be taken, in personnel matters is vested in Her Majesty or any such body.

(7) The Assembly may by order amend sub-paragraph (5) or (6) so as to exclude any actions or matters from the provisions of sub-paragraph (5).

(8) In determining whether to initiate, continue or discontinue an investigation, the Welsh Administration Ombudsman shall (subject to the preceding provisions of this paragraph) act in accordance with his own discretion; but the Welsh Administration Ombudsman may not question the merits of a decision taken without maladministration in the exercise of a discretion.

(9) In this paragraph "relevant tribunal" means a tribunal specified by order made by the Secretary of State; and references to a tribunal include the person constituting a tribunal consisting of one person.

(10) References in this Schedule to "action" include failure to act (and related expressions shall be construed accordingly).

Modifications etc. (not altering text)

C7 Sch. 9 para. 17(9): functions transferred (W.) (1.7.1999 subject to art. 2(b)-(f) of the amending S.I.) by S.I. 1999/672, art. 2(a), **Sch. 1**

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Commencement Information

I10 Sch. 9 para. 17 wholly in force at 1.7.1999; Sch. 9 para. 17 not in force at Royal Assent; Sch. 9 para. 17(9) in force at 1.5.1999 and Sch. 9 para. 17(1)-(8) and (10) in force at 1.7.1999 by S.I. 1999/1290, **arts. 3**, 4

Marginal Citations

M32 1993 c. 46.

Complaints

18 (1) A complaint may be made to the Welsh Administration Ombudsman by any individual or body of persons (whether or not incorporated) except—

(a) the Assembly,

(b) a local authority or other authority or body constituted for purposes of the public service or of local government,

(c) a body constituted for the purposes of carrying on under national ownership an industry or undertaking or part of an industry or undertaking, and

(d) any other authority or body whose members are appointed by Her Majesty, any Minister of the Crown or government department or the Assembly or whose revenues consist wholly or mainly of money provided by Parliament or the Assembly.

(2) Subject to sub-paragraphs (3) and (4), a complaint shall not be entertained by the Welsh Administration Ombudsman unless made by the person aggrieved himself.

(3) Where an individual by whom a complaint might have been made to the Welsh Administration Ombudsman has died, or is for any reason unable to act for himself, the complaint may be made by—

(a) his personal representatives,

(b) a member of his family, or

(c) another individual, or any body, suitable to represent him.

(4) Where a body by whom a complaint might have been made to the Welsh Administration Ombudsman is for any reason unable to act for itself, the complaint may be made by an individual, or another body, suitable to represent it.

(5) A complaint to the Welsh Administration Ombudsman shall not be entertained unless it is made to him not later than twelve months after the day on which the person aggrieved first had notice of the matters alleged in the complaint; but the Welsh Administration Ombudsman may conduct an investigation pursuant to a complaint not made within that period if he considers that there are special circumstances which make it proper to do so.

(6) A body subject to investigation by the Welsh Administration Ombudsman may itself refer to him a complaint made to the body about action taken by or on behalf of the body in the exercise of administrative functions of the body if the complaint was made—

(a) in writing,

(b) by a person who could have made a complaint to the Welsh Administration Ombudsman about the action, and

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(c) not more than twelve months after the day on which the person aggrieved first had notice of the matters alleged in the complaint or such later day as the Welsh Administration Ombudsman considers appropriate in any particular case.

(7) But a body subject to investigation by the Welsh Administration Ombudsman may not refer a complaint under sub-paragraph (6) more than twelve months after the day on which the body received the complaint.

(8) Any question whether a complaint is duly made or referred to the Welsh Administration Ombudsman shall be determined by him; but a complaint duly referred to him shall be deemed to be duly made to him.

Investigation procedure

19 (1) Where the Welsh Administration Ombudsman proposes to conduct an investigation pursuant to a complaint made to him, he shall afford to—

(a) the body concerned, and

(b) any person who is alleged in the complaint to have taken or authorised the action complained of,

an opportunity to comment on any allegations contained in the complaint.

(2) The investigation shall be conducted in private but in other respects the procedure for conducting the investigation shall be such as the Welsh Administration Ombudsman considers appropriate in the circumstances of the case; and, in particular, the Welsh Administration Ombudsman—

(a) may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and

(b) may determine whether any person may be represented, by counsel or solicitor or otherwise, in the investigation.

(3) The Welsh Administration Ombudsman may, if he thinks fit, pay to the person by whom the complaint was made and to any other person who attends or supplies information for the purposes of an investigation—

(a) sums in respect of expenses properly incurred by them, and

(b) allowances by way of compensation for the loss of their time,

in accordance with such scales, and subject to such conditions, as may be determined by the Welsh Administration Ombudsman.

(4) The conduct of an investigation shall not affect—

(a) any action taken, or

(b) any power or duty to take further action with respect to any matters subject to the investigation.

Evidence

20 (1) For the purposes of an investigation by the Welsh Administration Ombudsman he may require—

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(a) any member of, or any officer or member of the staff of, the body concerned, or

(b) any other person who in his opinion is able to supply information or produce documents relevant to the investigation,

to supply such information or produce such documents.

(2) For the purposes of any such investigation the Welsh Administration Ombudsman shall have the same powers as the High Court in respect of—

(a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and

(b) the production of documents.

(3) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of an investigation by the Welsh Administration Ombudsman.

(4) The Crown shall not be entitled in relation to any investigation by the Welsh Administration Ombudsman to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(5) Subject to sub-paragraph (4), no person shall be compelled for the purposes of an investigation by the Welsh Administration Ombudsman to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.

Obstruction and contempt

21 (1) The Welsh Administration Ombudsman may certify an offence to the High Court where—

(a) a person, without lawful excuse, obstructs him or any member of his staff in the performance of his functions, or

(b) a person is guilty of any act or omission in relation to an investigation which, if that investigation were proceedings in the High Court, would constitute contempt of court.

(2) Where an offence is so certified the High Court may inquire into the matter; and after hearing—

(a) any witnesses who may be produced against or on behalf of the person charged with the offence, and

(b) any statement that may be offered in defence,

the High Court may deal with the person charged with the offence in any manner in which it could deal with him if he had committed the same offence in relation to the High Court.

(3) Nothing in this paragraph shall be construed as applying to the taking of any such action as is mentioned in paragraph 19(4).

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Reports

22 (1) Where the Welsh Administration Ombudsman has conducted an investigation pursuant to a complaint made to him, he shall prepare a report of the results of the investigation and shall send copies of it to—

(a) the person who made the complaint,

(b) any Assembly member who, to the Welsh Administration Ombudsman's knowledge, assisted that person in making the complaint (or, if he is no longer an Assembly member, such Assembly member as the Welsh Administration Ombudsman thinks appropriate),

(c) the body concerned,

(d) any person who is alleged in the complaint to have taken or authorised the action complained of, and

(e) the Assembly First Secretary.

(2) Where the Welsh Administration Ombudsman decides not to conduct an investigation pursuant to a complaint made to him, he shall prepare a statement of his reasons for not conducting an investigation and shall send copies of it to—

(a) the person who made the complaint, and

(b) any Assembly member who, to the Welsh Administration Ombudsman's knowledge, assisted that person in making the complaint (or, if he is no longer an Assembly member, such Assembly member as the Welsh Administration Ombudsman thinks appropriate).

Action in response to reports

23 (1) Where the Assembly First Secretary receives a copy of a report under paragraph 22(1) of the results of an investigation of any action taken in the exercise of a function, he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56) for the exercise of the Assembly's functions in any fields in which the function falls.

(2) Where in a report under paragraph 22(1) the Welsh Administration Ombudsman states that injustice to the person aggrieved has been caused in consequence of maladministration, the body concerned shall consider the report and within—

(a) the period of three months beginning with the date on which the body received the report, or

(b) such longer period as the Welsh Administration Ombudsman may agree in writing,

shall notify the Welsh Administration Ombudsman of the action taken or proposed to be taken.

(3) The Welsh Administration Ombudsman shall prepare a further report if he—

(a) does not receive the notification required by sub-paragraph (2) within the period allowed by or under that sub-paragraph,

(b) is not satisfied with the action taken or proposed to be taken, or

(c) does not within the period of three months beginning with the end of the period allowed by or under sub-paragraph (2), or such longer period as the Welsh Administration Ombudsman may agree in writing, receive

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confirmation from the body that action has been taken, as proposed, to his satisfaction.

(4) The further report shall set out those facts and make such recommendations as the Welsh Administration Ombudsman thinks fit to make with respect to action which, in his opinion, should be taken—
  (a) to remedy the injustice to the person aggrieved, and
  (b) to prevent similar injustice being caused in the future;

and a copy of the further report shall be sent to each of the persons to whom a copy of the report under paragraph 22(1) was sent.

(5) Where the Assembly First Secretary receives a copy of a further report arising from an investigation of any action taken in the exercise of a function, he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56) for the exercise of the Assembly's functions in any fields in which the function falls.

(6) Where the Assembly First Secretary receives a copy of a further report arising from an investigation of any action taken in the exercise of functions of the Assembly, he shall also—
  (a) lay a copy of it before the Assembly, and
  (b) (unless action to the satisfaction of the Welsh Administration Ombudsman has been taken or proposed) give to the Assembly notice of his intention to move that the Assembly resolve to approve the recommendations specified in it.

(7) The standing orders must make provision for any motion of which notice has been given pursuant to sub-paragraph (6)(b) to be moved as soon as is reasonably practicable (unless action to the satisfaction of the Welsh Administration Ombudsman has been taken or proposed).

Reports: supplementary

24 (1) Apart from identifying any body investigated, a report under paragraph 22(1), a further report under paragraph 23(3) or a report under paragraph 6 shall not—
  (a) mention the name of any person, or
  (b) include any particulars which, in the opinion of the Welsh Administration Ombudsman, are likely to identify any person and can be omitted without impairing the effectiveness of the report or further report,

unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Welsh Administration Ombudsman considers it necessary for the report or further report to mention his name or include such particulars.

(2) For the purposes of the law of defamation, the following are absolutely privileged—
  (a) the publication of any matter by the Welsh Administration Ombudsman in a report or statement under paragraph 22, a further report under paragraph 23(3) or a report under paragraph 6,
  (b) the publication of any matter in communications between—
    (i) an Assembly member or member of the Assembly's staff, a member of any other body subject to investigation by the Welsh

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Administration Ombudsman or an officer or member of the staff of any such body, and

(ii) the Welsh Administration Ombudsman or a member of his staff,

in connection with a complaint to the Welsh Administration Ombudsman,

(c) the publication of any matter in communications between any person and an Assembly member in connection with a complaint by the person to the Welsh Administration Ombudsman, and

(d) the publication of any matter in communications between any person and the Welsh Administration Ombudsman or a member of his staff in connection with a complaint by the person to the Welsh Administration Ombudsman.

Confidentiality of information

25 (1) Information obtained by the Welsh Administration Ombudsman or a member of his staff in the course of or for the purposes of an investigation shall not be disclosed except—

(a) for the purposes of the investigation and of any report of it,

(b) for the purposes of any proceedings for—

(i) an offence under the Official Secrets Acts 1911 to 1989 alleged to have been committed in respect of information obtained by him or a member of his staff, or

(ii) an offence of perjury alleged to have been committed in the course of an investigation by him,

(c) for the purposes of an inquiry with a view to the taking of proceedings within paragraph (b),

(d) for the purposes of any proceedings under paragraph 21, or

(e) in accordance with paragraph 26.

(2) Neither the Welsh Administration Ombudsman nor any members of his staff shall be called upon to give evidence in any proceedings (other than proceedings referred to in sub-paragraph (1)) of matters coming to his or their knowledge in the course of an investigation.

(3) A Minister of the Crown may give notice in writing to the Welsh Administration Ombudsman with respect to—

(a) any document or information specified in the notice, or

(b) any class of document or information so specified,

that in the opinion of the Minister the disclosure of that document or information, or of documents or information of that class, would be prejudicial to the safety of the State or otherwise contrary to the public interest.

(4) Where such a notice is given neither the Welsh Administration Ombudsman nor any member of his staff shall be required or authorised to disclose to any person or for any purpose any document or information specified in the notice or any document or information of a class so specified.

[F25(5) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of sub-paragraph (1) as obtained for the purposes of an investigation and, in relation to such

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information, the reference in paragraph (a) of that subsection to the investigation shall have effect as a reference to any investigation.**]**

Textual Amendments

F25 Sch. 9 para. 25(5) inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2)(b), **Sch. 7 para. 7** (with ss. 56, 78)

26 (1) Sub-paragraph (2) applies where—

(a) the Welsh Administration Ombudsman also holds office as the Parliamentary Commissioner for Administration or a Health Service Commissioner **[**[F26]or as a Local Commissioner for Wales**]**("a Commissioner"), and

(b) a person initiates a complaint to him in his capacity as a Commissioner which relates partly to a matter with respect to which that person has previously initiated, or subsequently initiates, a complaint to him as Welsh Administration Ombudsman.

(2) Information obtained by the Welsh Administration Ombudsman or a member of his staff in the course of or for the purposes of investigating the complaint made to him in his capacity as Welsh Administration Ombudsman may be disclosed for the purposes of his carrying out his functions in relation to the other complaint.

[[F27](3) In this paragraph "Local Commissioner for Wales" means a Local Commissioner (within the meaning of Part 3 of the Local Government Act 1974) who is a member of the Commission for Local Administration in Wales.**]**

Textual Amendments

F26 Words in Sch. 9 para. 26(1)(a) inserted (E.W.) (24.9.2004) by The Regulatory Reform (Local Commissioner for Wales) Order 2004 (S.I. 2004/2359), **art. 4(2)(a)**

F27 Sch. 9 para. 26(3) inserted (E.W.) (24.9.2004) by The Regulatory Reform (Local Commissioner for Wales) Order 2004 (S.I. 2004/2359), **art. 4(2)(b)**

Consultation and co-operation with other Ombudsmen

27 (1) Where the Welsh Administration Ombudsman, at any stage in the course of conducting an investigation, forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation—

(a) by the Parliamentary Commissioner for Administration under the [M33]Parliamentary Commissioner Act 1967,

(b) by a Health Service Commissioner under the [M34]Health Service Commissioners Act 1993, [F28]. . .

(c) by a Local Commissioner under Part III of the [M35]Local Government Act 1974,**[**[F29] or

(d) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996,**]**[F30] or

(d) by the Scottish Public Services Ombudsman under the Scottish Public Services Ombudsman Act 2002,**]**

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he shall consult about the complaint with the appropriate Commissioner **[**[F31]or Ombudsman**][**[F32]or Scottish Public Services Ombudsman as the case may require**]** and, if he considers it necessary, he shall inform the person who made the complaint of the steps necessary to make a complaint to that Commissioner **[**[F33]or Ombudsman**][**[F34]or the Scottish Public Services Ombudsman**]** .

(2) Where the Welsh Administration Ombudsman consults with a Commissioner **[**[F35]or Ombudsman**][**[F36]or the Scottish Public Services Ombudsman**]** in accordance with sub-paragraph (1), the consultations may extend to any matter relating to the complaint, including—

(a) the conduct of any investigation pursuant to the complaint, and

(b) the form, content and publication of any report of such an investigation.

(3) Where a body subject to investigation by the Welsh Administration Ombudsman is also—

(a) an authority to which the [M36]Parliamentary Commissioner Act 1967 applies,

(b) a body subject to investigation by a Health Service Commissioner under the [M37]Health Service Commissioners Act 1993, or

(c) an authority to which Part III of the [M38]Local Government Act 1974 applies,

the Welsh Administration Ombudsman and the Parliamentary Commissioner for Administration, the Health Service Commissioner concerned or the Local Commissioner concerned shall co-operate with each other to any such extent as appears appropriate when exercising any function in relation to the body.

(4) Nothing in paragraph 25(1) applies in relation to the disclosure of information in the course of consultations or other co-operation under this paragraph.

Textual Amendments

F28 Word in Sch. 9 para. 27(1)(b) repealed (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 20(a)(i)** (same word "or" is expressed to be omitted (prosp.) by Housing Act 2004 (c. 34), ss. 265(1), 266, 270, Sch. 15 para. 45(2)(a), **Sch. 16**

F29 Sch. 9 para. 27(1)(d) and preceding word inserted (14.7.2005 for W.) by virtue of Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 45(2)(d)**; S.I. 2005/1814, **art. 2(f)(v)**

F30 Sch. 9 para. 27(1)(d) and preceding word inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 20(a)(ii)**

F31 Words in Sch. 9 para. 27(1) inserted (14.7.2005 for W.) by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 45(2)(c)**; S.I. 2005/1814, **art. 2(f)(v)**

F32 Words in Sch. 9 para. 27(1) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 20(a)(iii)**

F33 Words in Sch. 9 para. 27(1) inserted (14.7.2005 for W.) by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 45(2)(d)**; S.I. 2005/1814, **art. 2(f)(v)**

F34 Words in Sch. 9 para. 27(1) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 20(a)(iv)**

F35 Words in Sch. 9 para. 27(2) inserted (14.7.2005 for W.) by Housing Act 2004 (c. 34), ss. 265(1), 270, **Sch. 15 para. 45(3)**; S.I. 2005/1814, **art. 2(f)(v)**

F36 Words in Sch. 9 para. 27(2) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 20(b)**

Status: *Point in time view as at 14/07/2005.*
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Marginal Citations

M33 1967 c. 13.
M34 1993 c. 46.
M35 1974 c. 7.
M36 1967 c. 13.
M37 1993 c. 46.
M38 1974 c. 7.

[F37 Disclosure of information to Information Commissioner]

Textual Amendments

F37 Sch. 9 para. 28 and crossheading preceding it inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2), **Sch. 7 para. 8** (with ss. 56, 78)

F38 28 (1) The Welsh Administration Ombudsman may disclose to the Information Commissioner any information obtained by, or furnished to, the Welsh Administration Ombudsman under or for the purposes of this Schedule if the information appears to the Welsh Administration Ombudsman to relate to—

(a) a matter in respect of which the Information Commissioner could exercise any power conferred by—

(i) Part V of the Data Protection Act 1998 (enforcement),

(ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or

(iii) Part IV of that Act (enforcement), or

(b) the commission of an offence under—

(i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or

(ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).

(2) Nothing in paragraph 25(1) applies in relation to the disclosure of information in accordance with this paragraph.

Textual Amendments

F38 Sch. 9 para. 28 and crossheading preceding it inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2), **Sch. 7 para. 8** (with ss. 56, 78)

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SCHEDULE 10

Section 112.

AMENDMENTS OF HEALTH SERVICE COMMISSIONERS ACT 1993

Commencement Information

I11 Sch. 10 partly in force; Sch. 10 not in force at Royal Assent; Sch. 10 paras. 2, 3(3)(4), 5, 8-12, 15(3), 16 and 17 in force at 1.7.1999 by S.I. 1999/1290, **art. 4**; Sch. 10 paras. 1, 3(1)(2), 4, 6, 7, 13, 14 and 15(1)(2)(4) in force at 1.4.1999 by S.I. 1999/782, **art. 2**

1 The [M39]Health Service Commissioners Act 1993 has effect subject to the following amendments.

Marginal Citations

M39 1993 c. 46.

2 In section 1(3) (which introduces Schedule 1), for "the Commissioners and other administrative matters" substitute " , and other administrative matters relating to, the Health Service Commissioner for England and the Health Service Commissioner for Scotland; and Schedule 1A has effect with respect to the appointment and remuneration of, and other administrative matters relating to, the Health Service Commissioner for Wales ".

3 (1) Section 2 (bodies subject to investigation by Health Service Commissioners) is amended as follows.

(2) In subsection (2) (bodies subject to investigation by Health Service Commissioner for Wales), after paragraph (c) insert "and

(ca) the National Assembly for Wales ("the Assembly")."

(3) In subsection (5)(b) (Special Health Authorities which are subject to investigation by Health Service Commissioner), omit "by Order in Council".

(4) For subsection (6) (procedure for Order in Council) substitute—

"(6) A designation for the purposes of subsection (5)(b) shall be made—

(a) in the case of a Special Health Authority exercising functions only or mainly in Wales, by order made by the Assembly by statutory instrument, and

(b) in any other case, by Order in Council;

and a statutory instrument containing an Order in Council made by virtue of paragraph (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement Information

I12 Sch. 10 para. 3 partly in force; Sch. 10 para. 3 not in force at Royal Assent see s. 158; Sch. 10 para. 3(3)(4) in force at 1.7.1999 by S.I. 1999/1290, **art. 4**

Status: *Point in time view as at 14/07/2005.*
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4 In section 2B (independent providers subject to investigation), after subsection (2) insert—

"(2A) Arrangements with the Assembly are not arrangements with a health service body for the purposes of this Act unless they are made in the exercise of a function of the Assembly relating to the National Health Service."

5 In section 3 (remit of Commissioners), after subsection (1) insert—

"(1YA) In the case of the Assembly the Health Service Commissioner for Wales may only conduct an investigation in respect of—

(a) a failure in a service provided by the Assembly in the exercise of a function of the Assembly relating to the National Health Service (an "Assembly health service function"),

(b) a failure of the Assembly to provide a service the provision of which is an Assembly health service function, or

(c) maladministration connected with any other action taken by or on behalf of the Assembly in the exercise of an Assembly health service function."

6 In section 7(1) (exception of action taken in respect of personnel matters), at the end insert " or service as a member of the staff of the Assembly ".

7 In section 8(2) (authorities not entitled to make a complaint)—

(a) in paragraph (a), after "government" insert " (including the Assembly) ", and

(b) in paragraph (c), after "department" insert " or by the Assembly " and after "Parliament" insert " or the Assembly ".

8 In section 10 (referral of complaints by health service bodies), after subsection (2) insert—

"(2A) The Assembly may only refer a complaint under this section if it is in respect of a matter which the Health Service Commissioner for Wales can investigate by virtue of section 3(1YA)."

9 In section 11(4) (payment of expenses etc. by Commissioner)—

(a) after "Payments" insert " made by the Health Service Commissioner for England or the Health Service Commissioner for Scotland ", and

(b) at the end insert " ; and payments made by the Health Service Commissioner for Wales under this subsection shall be in accordance with such scales and subject to such conditions as may be determined by him. "

10 (1) Section 14 (reports by Commissioners) is amended as follows.

(2) For "a Commissioner" (in each place) substitute " the Health Service Commissioner for England or the Health Service Commissioner for Scotland ".

(3) In subsection (4) (annual reports)—

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) for "Each of the Commissioners" substitute " The Health Service Commissioner for England and the Health Service Commissioner for Scotland ", and
(b) after "shall" and "may" insert " each ".

(4) In the sidenote, after "by" insert " English and Scottish ".

11 After that section insert—

"**14A Reports by Welsh Commissioner.**

(1) In any case where the Health Service Commissioner for Wales has conducted an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a report of the results of the investigation and send copies of it—
(a) to the person who made the complaint,
(b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate), and
(c) to the Assembly First Secretary.

(2) He shall also send a copy of the report—
(a) in the case of a complaint under section 3(1)—
(i) to the health service body who at the time of the report provides the service, or has the function, in relation to which the complaint was made, and
(ii) to any person who is alleged in the complaint to have taken or authorised the action complained of,
(b) in the case of a complaint under section 3(1A)—
(i) to any person by reference to whose action the complaint is made,
(ii) to the family health service provider (if he does not fall within sub-paragraph (i)), and
(iii) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
(c) in the case of a complaint under section 3(1C)—
(i) to any person who is alleged in the complaint to have taken or authorised the action complained of,
(ii) to the independent provider, and
(iii) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned.

(3) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a statement of his reasons for not conducting an investigation and shall send copies of it—
(a) to the person who made the complaint, and

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(b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate).

14B Action in response to reports by Welsh Commissioner.

(1) Where the Assembly First Secretary receives a copy of a report under section 14A(1), he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.

(2) Where in a report under section 14A(1) the Health Service Commissioner for Wales states that the person aggrieved has sustained such injustice or hardship as is mentioned in section 3(1), (1A) or (1C), any body or provider subject to the investigation shall consider the report and within—

(a) the period of three months beginning with the date on which the body or provider received the report, or

(b) such longer period as the Commissioner may agree in writing,

shall notify the Commissioner of the action taken or proposed to be taken.

(3) The Health Service Commissioner for Wales shall prepare a further report if he—

(a) does not receive the notification required by subsection (2) within the period allowed by or under that subsection,

(b) is not satisfied with the action taken or proposed to be taken, or

(c) does not within the period of three months beginning with the end of the period allowed by or under subsection (2), or such longer period as the Commissioner may agree in writing, receive confirmation from the body or provider that action has been taken, as proposed, to his satisfaction.

(4) The further report shall set out those facts and make such recommendations as the Health Service Commissioner for Wales thinks fit to make with respect to action which, in his opinion, should be taken—

(a) to remedy the injustice or hardship to the person aggrieved, and

(b) to prevent similar injustice or hardship being caused in the future;

and a copy of the further report shall be sent to each of the persons to whom a copy of the report under section 14A(1) was sent.

(5) Where the Assembly First Secretary receives a copy of a further report, he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.

(6) Where the Assembly First Secretary receives a copy of a further report arising from an investigation relating to the Assembly, he shall also—

(a) lay a copy of it before the Assembly, and

(b) (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed) give to the

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Assembly notice of his intention to move that the Assembly resolve to approve the recommendations specified in it.

(7) The standing orders of the Assembly must make provision for any motion of which notice has been given pursuant to subsection (6)(b) to be moved as soon as is reasonably practicable (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed).

14C Reports: supplementary.

(1) Apart from identifying any body or provider investigated, a report under section 14A(1), a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A shall not—

(a) mention the name of any person, or

(b) include any particulars which, in the opinion of the Health Service Commissioner for Wales, are likely to identify any person and can be omitted without impairing the effectiveness of the report or further report,

unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Commissioner considers it necessary for the report or further report to mention his name or include such particulars.

(2) For the purposes of the law of defamation, the following are absolutely privileged—

(a) the publication of any matter by the Health Service Commissioner for Wales in a report or statement under section 14A, a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A,

(b) the publication of any matter in communications between—

(i) an Assembly member or a member of the Assembly's staff or a member or an officer or member of the staff of any other body or provider subject to investigation by the Commissioner, and

(ii) the Commissioner or a member of his staff,

in connection with a complaint to the Commissioner,

(c) the publication of any matter in communications between any person and an Assembly member in connection with a complaint by the person to the Commissioner, and

(d) the publication of any matter in communications between any person and the Commissioner or a member of his staff in connection with a complaint by the person to the Commissioner."

12 In section 15(3) (interpretation of reference to a Commissioner's advisers), insert at the end " or paragraph 6(6) of Schedule 1A ".

13 In section 17(1) (use of information by Commissioner in other capacity), after "Health Service Commissioner" insert " , the office of Welsh Administration Ombudsman ".

14 (1) Section 18 (consultation with other Commissioners) is amended as follows.

(2) In subsection (1) (duty to consult), after paragraph (b) insert—

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"(ba) by the Welsh Administration Ombudsman under the Government of Wales Act 1998,", and after "Commissioner", in both places where it appears in the words following paragraph (d), insert " or the Ombudsman ".

(3) In subsection (2) (matters which may be covered by consultation), after "another Commissioner" insert " or the Welsh Administration Ombudsman ".

(4) In subsection (3) (confidentiality), omit "by a Commissioner or his officers".

15 (1) Section 19 (interpretation) is amended as follows.

(2) After the definition of "allotted sum" insert—

""the Assembly" means the National Assembly for Wales;".

(3) After the definition of "family health service provider" insert—

""financial year" and "first financial year of the Assembly" have the same meanings as in the Government of Wales Act 1998;".

(4) In the definition of "officer", insert at the end " and, in the case of the Health Service Commissioner for Wales, any member of his staff; ".

Commencement Information

I13 Sch. 10 para. 15 partly in force; Sch. 10 para. 15 not in force at Royal Assent see s. 158; Sch. 10 para. 15(3) in force at 1.7.1999 by S.I. 1999/1290, **art. 4**

16 (1) Schedule 1 (the Commissioners) is amended as follows.

(2) In the heading, before "COMMISSIONERS" insert " ENGLISH AND SCOTTISH ".

(3) Before paragraph 1 insert—

Introductory

"A1 In this Schedule references to a Commissioner (or Health Service Commissioner) are to the Health Service Commissioner for England or the Health Service Commissioner for Scotland or to either of those Commissioners (as the context requires)."

(4) In paragraph 2(1) (acting Commissioners), for "Where any" substitute " Where either ".

(5) In paragraphs 3(2)(a) and 3A(2)(a) (ineligibility of certain persons for appointment), omit "or for Wales".

(6) In paragraph 6 (salary of person holding more than one office)—

(a) in sub-paragraph (1)(b), for "one or more" substitute " either or both ", and

(b) in sub-paragraph (2), for "two or more" substitute " both ".

(7) Omit paragraph 11(2) (staff of Welsh Commissioner).

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(8) In paragraph 12 (performance of functions of Commissioner by officers of another Commissioner), for "another Commissioner or the Parliamentary Commissioner" substitute " the other Commissioner, the Health Service Commissioner for Wales, the Parliamentary Commissioner or the Welsh Administration Ombudsman ".

17 After that Schedule insert—

"SCHEDULE 1A

Section 1(3).

THE WELSH COMMISSIONER

Appointment

1 (1) The Health Service Commissioner for Wales shall be appointed by Her Majesty.

(2) Subject to sub-paragraphs (3) and (4), the Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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 Health Service Commissioner for Wales shall be regarded as holding office under Her Majesty and as exercising his functions on behalf of the Crown.

(2) Service as the Health Service Commissioner for Wales 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 [M40]Official Secrets Act 1989.

Appointment of acting Commissioner

3 (1) Where the office of Health Service Commissioner for Wales 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 that Commissioner.

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(2) Subject to sub-paragraphs (3) to (5), an acting Health Service Commissioner for Wales shall hold office in accordance with the terms of his appointment.

(3) An acting Health Service Commissioner for Wales shall not hold office after—

(a) the appointment of a new Health Service Commissioner for Wales, 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 Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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 Health Service Commissioner for Wales.

Ineligibility of certain persons for appointment

4 (1) A person who is a member of a body mentioned in section 2(1) or (2) shall not be appointed as Health Service Commissioner for Wales or acting Health Service Commissioner for Wales; and a person so appointed shall not, during his appointment, become a member of such a body.

(2) A person mentioned in section 2A(1) or (2) shall not be appointed as Health Service Commissioner for Wales or acting Health Service Commissioner for Wales; and a person so appointed shall not, during his appointment, become a person so mentioned.

Remuneration

5 (1) The Assembly shall—

(a) pay the Health Service Commissioner for Wales 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.

(2) But where the Health Service Commissioner for Wales is also—

(a) Parliamentary Commissioner, or

(b) Welsh Administration Ombudsman,

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he shall not be entitled to any salary as Health Service Commissioner for Wales.

(3) Where the Health Service Commissioner for Wales also holds either or both of the other offices of Health Service Commissioner, he shall be entitled only to the salary pertaining to such one of the offices of Health Service Commissioner as he selects.

(4) The Assembly shall pay to or in respect of a person who has ceased to hold office as Health Service Commissioner for Wales 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.

(5) In Schedule 1 to the [M41]Superannuation Act 1972 (offices etc. to which section 1 of that Act applies), in the list of "Offices" insert—

"Health Service Commissioner for Wales."

(6) 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 sub-paragraph (5) in the sums payable out of money provided by Parliament under the [M42]Superannuation Act 1972.

Staff and advisers

6 (1) The Health Service Commissioner for Wales may appoint such staff as he considers necessary for assisting him in the exercise of his functions.

(2) The Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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 sub-paragraph (3) in the sums payable out of money provided by Parliament under the [M43]Superannuation Act 1972.

(5) Any function of the Health Service Commissioner for Wales may be exercised by—

(a) a member of his staff,

(b) a member of the staff of the Welsh Administration Ombudsman, or

(c) an officer of the Parliamentary Commissioner or of another Health Service Commissioner,

if authorised by the Health Service Commissioner for Wales for that purpose; and references in any enactment to a member of the staff of the Health Service Commissioner for Wales 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 Health Service Commissioner for Wales may obtain advice from any person who, in his opinion, is qualified to give it.

(7) The Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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 Health Service Commissioner for Wales or the Assembly for the other.

Reports

7 (1) The Health Service Commissioner for Wales—

(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 Health Service Commissioner for Wales may, publish reports laid before the Assembly under this paragraph.

Expenses

8 (1) The expenses of the Health Service Commissioner for Wales 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 Health Service Commissioner for Wales 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

9 (1) For each financial year after the first financial year of the Assembly the Health Service Commissioner for Wales 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.

(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.

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(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.

(5) In this paragraph "the executive committee" means the committee of the Assembly referred to as the executive committee in the Government of Wales Act 1998.

Accounts

10 (1) The Health Service Commissioner for Wales shall keep proper accounting records.

(2) The Health Service Commissioner for Wales 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

11 (1) The accounts prepared by the Health Service Commissioner for Wales for any financial year shall be submitted by him to the Auditor General for Wales no later than five months after the end of that 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.

Accounting officer

12 (1) The accounting officer for the Office of the Health Service Commissioner for Wales shall be the Health Service Commissioner for Wales.

(2) But where—

(a) the Health Service Commissioner for Wales is incapable of discharging his responsibilities as accounting officer, or

(b) the office of Health Service Commissioner for Wales is vacant (and there is no acting Health Service Commissioner for Wales),

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the Treasury may designate a member of the staff of the Health Service Commissioner for Wales to be the accounting officer for so long as paragraph (a) or (b) applies.

(3) The accounting officer for the Office of the Health Service Commissioner for Wales shall have, in relation to the accounts of the Health Service Commissioner for Wales and the finances of the Office of the Health Service Commissioner for Wales, 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 Health Service Commissioner for Wales, and
- (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Health Service Commissioner for Wales 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 of the Assembly, 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 of the Assembly may—
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Office of the Health Service Commissioner for Wales, and
- (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

(7) In this paragraph and paragraphs 13 and 14 "the Office of the Health Service Commissioner for Wales" means the Health Service Commissioner for Wales and the members of his staff; and in this paragraph "the executive committee" has the same meaning as in paragraph 9.

Examinations into use of resources

13 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Health Service Commissioner for Wales has used the resources of the Office of the Health Service Commissioner for Wales in discharging his functions.

(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 Health Service Commissioner for Wales.

(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 of the Assembly as to the examinations which he should carry out under this paragraph.

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(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) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Health Service Commissioner for Wales under this paragraph or section 7 of the [M44]National Audit Act 1983 (economy etc. examinations).

Examinations by the Comptroller and Auditor General

14 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Health Service Commissioner for Wales, 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 Health Service Commissioner for Wales, 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 Health Service Commissioner for Wales under section 7 of the [M45]National Audit Act 1983 (economy etc. examinations).”

Marginal Citations

M40 1989 c. 6.
M41 1972 c. 11.
M42 1972 c. 11.
M43 1972 c. 11.
M44 1983 c. 44.
M45 1983 c. 44.

Status: *Point in time view as at 14/07/2005.*
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SCHEDULE 11

Section 113.

RELATIONS WITH LOCAL GOVERNMENT: SUPPLEMENTARY

PART I

THE PARTNERSHIP COUNCIL

Membership of Partnership Council

1 (1) The members of the Partnership Council shall be appointed by the Assembly.

(2) Appointments to membership of the Partnership Council shall be made as soon as is reasonably practicable after each ordinary election but in any event so that a meeting of the Partnership Council can be held as required by paragraph 5(2).

(3) The Assembly may at any time make an appointment to fill a casual vacancy in the membership of the Partnership Council.

(4) The Assembly may not delegate the function of appointing members of the Partnership Council.

2 (1) The Assembly shall appoint as members of the Partnership Council—

(a) such number of Assembly members, and

(b) such number of members of local authorities in Wales,

as the Assembly considers appropriate.

(2) The number of members of the Partnership Council who have been appointed under paragraph (a) of sub-paragraph (1) shall at no time exceed the number who have been appointed under paragraph (b) of that sub-paragraph (unless the excess is due to casual vacancies which are temporarily unfilled).

(3) A member of an authority within paragraph (b), (c), (d) or (e) of subsection (7) of section 113 may only be appointed under sub-paragraph (1)(b) if he is also a member of an authority within paragraph (a) of that subsection.

(4) A person may not be appointed under sub-paragraph (1)(b) if he is also an Assembly member.

Consultation about membership of Partnership Council

3 (1) After each ordinary election the Assembly shall consult—

(a) local authorities in Wales, and

(b) associations of local authorities in Wales,

about the membership of the Partnership Council.

(2) The consultation required by sub-paragraph (1) shall include consultation about—

(a) the number of persons to be appointed under paragraph (a) of sub-paragraph (1) of paragraph 2,

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(b) the number of persons to be appointed under paragraph (b) of that sub-paragraph, and

(c) in relation to each of the descriptions of authorities within paragraphs (b), (c), (d) and (e) of section 113(7), the number of members of an authority of that description to be appointed.

(3) When consulting authorities and associations under sub-paragraph (1), the Assembly shall invite them to make, within a period specified by the Assembly, nominations of persons for appointment to membership of the Partnership Council under paragraph 2(1)(b).

(4) The appointments shall be made from among those nominated in accordance with the invitation except to the extent that the number of persons so nominated is insufficient to produce the number of members required.

(5) Where a casual vacancy arises among the members of the Partnership Council appointed under paragraph 2(1)(b), the Assembly shall invite—

(a) such local authorities in Wales, and

(b) such associations of local authorities in Wales,

as the Assembly considers appropriate to make, within a period specified by the Assembly, nominations of persons for appointment under paragraph 2(1)(b) to fill the vacancy.

(6) The appointment to fill the vacancy shall be made from among those nominated in accordance with the invitation unless no-one is so nominated.

(7) Where, pursuant to sub-paragraph (4) or (6), the Assembly appoints as a member of the Partnership Council under paragraph 2(1)(b) a person nominated by an authority or association, the Assembly shall notify the authority or association of the appointment.

Cessation of membership of Partnership Council

4 (1) Subject to the following provisions of this paragraph, a person appointed as a member of the Partnership Council shall remain a member until the end of the day before the ordinary election following his appointment.

(2) A person appointed as a member of the Partnership Council may resign at any time.

(3) A person appointed as a member of the Partnership Council under paragraph (a) of sub-paragraph (1) of paragraph 2 shall cease to be a member if—

(a) he ceases to be an Assembly member, or

(b) he is removed from membership of the Partnership Council by the Assembly.

(4) A person appointed as a member of the Partnership Council under paragraph (b) of that sub-paragraph shall cease to be a member if he ceases to be eligible for appointment under that paragraph.

(5) Where the appointment of a person as a member of the Partnership Council under that paragraph was notified under paragraph 3(7) to an authority or association—

(a) the authority or association may require the Assembly to remove him from membership, and

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(b) he shall cease to be a member on being removed from membership by the Assembly in compliance with that requirement.

(6) A person—

(a) whose appointment as a member of the Partnership Council was notified under paragraph 3(7) to an authority within paragraph (b), (c), (d) or (e) of subsection (7) of section 113, and

(b) who was, on appointment, a member of the authority,

shall cease to be a member of the Partnership Council if he ceases to be a member of the authority (even though he remains a member of an authority within paragraph (a) of that subsection).

(7) The Assembly may not delegate the function of removing a person from membership of the Partnership Council under sub-paragraph (3)(b) or (5)(b).

Procedure of Partnership Council

5 (1) The Partnership Council must meet at least once a year.

(2) The first meeting of the Partnership Council after each ordinary election must be held within the period of six months beginning with the day on which the poll at the ordinary election is held.

(3) Subject to sub-paragraphs (1) and (2), the procedure of the Partnership Council shall be regulated by standing orders made by the Assembly.

(4) The Assembly shall consult—

(a) local authorities in Wales, and

(b) associations of local authorities in Wales,

before making, or remaking or revising, the standing orders of the Partnership Council.

(5) The standing orders of the Partnership Council may provide for the Partnership Council to establish committees.

(6) The members of any committee established by the Partnership Council shall be elected by the Partnership Council from among its members so as to secure that the number of its members who were appointed to the Partnership Council under paragraph (a) of sub-paragraph (1) of paragraph 2 does not exceed the number who were so appointed under paragraph (b) of that sub-paragraph.

PART II

THE LOCAL GOVERNMENT SCHEME

6 The Assembly shall keep the local government scheme under review and in the year following each ordinary election (after the first) shall consider whether it should be remade or revised.

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7 The Assembly may not delegate the function of making, or remaking or revising, the local government scheme.

8 The Assembly shall publish the local government scheme when first made and whenever subsequently remade and, if the scheme is revised without being remade, shall publish either the revisions or the scheme as revised (as it considers appropriate).

9 After each financial year the Assembly shall publish a report of how its proposals as set out in the local government scheme were implemented in that financial year.

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) ",

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(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— " 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 ".

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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—

"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)—

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(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;".

Commencement Information

I14 Sch. 12 para. 15 wholly in force at 1.7.1999; Sch. 12 para. 15 not in force at Royal Assent see s. 158; Sch. 12 para. 15(1)(2) in force at 1.4.1999 by S.I. 1999/782, **art. 2**; Sch. 12 para. 15(3) in force at 1.7.1999 by S.I. 1999/1290, **art. 4**

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

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(b) omit "by any of the Commissioners mentioned in this section, or by any of their officers,".

The Juries Act 1974 (c.23)

18 F39 . . . . . .

Textual Amendments

F39 Sch. 12 para. 18 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(l)(iv)**

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—

"**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"."

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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—

"(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;".

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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 ".

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"—

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(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 ".

SCHEDULE 13

Section 127.

WELSH DEVELOPMENT AGENCY: LAND PROVISIONS

Commencement Information

I15 Sch. 13 in force at 1.10.1998 by S.I. 1998/2244, **art. 4**

1 The [M46]Welsh Development Agency Act 1975 has effect subject to the following amendments.

Marginal Citations

M46 1975 c. 70.

2 After section 21 insert—

"**21A Powers of land acquisition.**

(1) The powers to acquire land mentioned in sections 1(7)(h) and 16(3)(b) above are powers—

(a) to acquire land by agreement; and

(b) to acquire land compulsorily if authorised to do so by the Secretary of State.

(2) Where the Agency acquire or have acquired land under subsection (1) above, they have power to acquire by agreement or, if authorised to do so by the Secretary of State, to acquire compulsorily—

(a) any land which adjoins the land and is required for the purpose of executing works for facilitating its development or use; and

(b) where the land forms part of a common, an open space or a fuel or field garden allotment, any land required for the purpose of being given in exchange for it.

(3) The Agency may under subsection (1) above acquire rights over land by the creation of new rights (as well as by acquiring rights already in existence).

(4) Before the Agency acquire land under subsection (1) above for the purpose of their function under section 1(3)(da) above, they shall—

(a) consider whether the land would or would not in their opinion be made available for development if they did not act;

(b) consider the fact that planning permission has or has not been granted in respect of the land or is likely or unlikely to be granted;

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(c) (in a case where no planning permission has been granted in respect of the land) consult every relevant local authority; and

(d) consider the needs of those engaged in building, agriculture and forestry and of the community in general.

(5) For the purposes of subsection (4)(c) above, each of the following is a relevant local authority—

(a) the council of any county, county borough or district in whose area the land, or any part of the land, is situated;

(b) any joint planning board in whose district the land, or any part of the land, is situated; and

(c) any National Park authority which is the local planning authority for a National Park in which the land, or any part of the land, is situated.

(6) Where the Agency have acquired land under subsection (1) above for the purpose of any of their functions, they may appropriate it to the purpose of any of their other functions.

(7) Where the Agency have—

(a) acquired land under subsection (1) above for the purpose of their function under section 1(3)(da) above; or

(b) under subsection (6) above have appropriated land to that purpose,

they shall, until they either dispose of the land or appropriate it under subsection (6) above to the purpose of any of their other functions, manage it and turn it to account.

(8) Schedule 4 to this Act shall have effect.

21B Disposal of land.

In exercising any power under this Act to dispose of land, the Agency shall not dispose of land for a consideration less than the best that can reasonably be obtained except—

(a) as provided by section 16(7) above; or

(b) with the consent of the Secretary of State.

21C Powers to advise on land matters.

(1) The Agency may, if requested to do so by a public authority—

(a) advise the authority about disposing of any of the authority's land in Wales to other persons; and

(b) assist the authority in disposing of the land.

(2) In subsection (1) above "public authority" means—

(a) a government department;

(b) the National Assembly for Wales;

(c) a county council, county borough council or community council;

(d) a National Park authority;

(e) a development corporation for a new town;

(f) a Health Authority, Special Health Authority or National Health Service trust;

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(g) a body corporate established by or under an enactment for the purpose of carrying on under national ownership any industry or part of an industry;

(h) any statutory undertakers; or

(i) any other public authority, body or undertakers specified in an order made by the Secretary of State.

(3) The Agency may assist—

(a) the council of a county or county borough in Wales in making an assessment of land in its area which is, in its opinion, available and suitable for development;

(b) a joint planning board in Wales in making an assessment of land in its district which is, in its opinion, available and suitable for development; or

(c) a National Park authority for a National Park in Wales in making an assessment of land in the National Park which is, in its opinion, available and suitable for development."

3 After Schedule 3 insert—

"SCHEDULE 4 Section 21A.

ACQUISITION OF LAND

PART I

COMPULSORY ACQUISITION

1 (1) The [M47]Acquisition of Land Act 1981 applies in relation to the compulsory acquisition of land under section 21A above.

(2) The [M48]Acquisition of Land Act 1981 has effect in its application by virtue of sub-paragraph (1) above with the modifications made by the following provisions of this Part.

2 (1) This paragraph applies where a compulsory purchase order of the Agency authorising the acquisition of any land is submitted to the Secretary of State in accordance with section 2(2) of the [M49]Acquisition of Land Act 1981.

(2) If the Secretary of State—

(a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised in it; but

(b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,

he may confirm the order so far as it relates to the land mentioned in paragraph (a) above and give directions postponing the consideration of the order so far as it relates to any other land specified in the directions until such time as may be so specified.

(3) Where the Secretary of State gives directions under sub-paragraph (2) above, the notices required by section 15 of the [M50]Acquisition of Land Act 1981

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to be published and served shall include a statement of the effect of the directions.

3 (1) Where a compulsory purchase order is made by the Agency—

(a) a notice under section 12 of the [M51]Acquisition of Land Act 1981 (notice specifying the time for making objections) shall be served on every relevant local authority;

(b) each relevant local authority shall have a right to object in accordance with the notice; and

(c) the references in section 13 of that Act to objections made by an owner, lessee or occupier shall include references to an objection made by any relevant local authority.

(2) For the purposes of sub-paragraph (1) above, each of the following is a relevant local authority—

(a) the council of any county, county borough or district in whose area the land, or any part of the land, is situated;

(b) any joint planning board in whose district the land, or any part of the land, is situated; and

(c) any National Park authority which is the local planning authority for a National Park in which the land, or any part of the land, is situated.

PART II

ACQUISITION BY AGREEMENT

4 The provisions of Part I of the [M52]Compulsory Purchase Act 1965 (so far as applicable), other than section 31, apply in relation to the acquisition of land by agreement under section 21A above; and in Part I of that Act as so applied "land" has the meaning given by Schedule 1 to the [M53]Interpretation Act 1978.

PART III

"CLEANSING" PROVISIONS

Extinguishment of rights over land compulsorily acquired

5 (1) On the completion by the Agency of a compulsory acquisition of land under section 21A above, all—

(a) private rights of way; and

(b) rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land,

shall be extinguished and any such apparatus shall vest in the Agency.

(2) Sub-paragraph (1) above does not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking.

(3) Sub-paragraph (1) above has effect in relation to any right or apparatus not falling within sub-paragraph (2) above subject—

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(a) to any direction given by the Agency before the completion of the acquisition that sub-paragraph (1) above shall not apply to any right or apparatus specified in the direction; and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the Agency and the person in or to whom the right or apparatus is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this paragraph shall be entitled to compensation from the Agency.

(5) Any compensation payable under this paragraph shall be determined in accordance with the [M54]Land Compensation Act 1961.

Power to override easements and other rights

6 (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired by the Agency under section 21A above, whether done by the Agency or by a person deriving title under the Agency, is authorised by virtue of this paragraph if it is done in accordance with planning permission even if it involves—

(a) interference with an interest or right to which this paragraph applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) Nothing in this paragraph authorises interference with—

(a) any right of way; or

(b) any right of laying down, erecting, continuing or maintaining apparatus on, under or over land,

which is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking.

(3) This paragraph applies to any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Compensation in respect of any interference or breach in pursuance of sub-paragraph (1) above—

(a) shall be payable under section 7 or 10 of the [M55]Compulsory Purchase Act 1965; and

(b) shall be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase to which that Act applies or the injury arises from the execution of works on land acquired by such a purchase.

(5) Where a person deriving title under the Agency—

(a) is liable to pay compensation by virtue of sub-paragraph (4) above; but

(b) fails to discharge that liability,

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the liability shall be enforceable against the Agency.

(6) Nothing in sub-paragraph (5) above affects any agreement between the Agency and any other person for indemnifying the Agency against any liability under that sub-paragraph.

(7) Nothing in this paragraph authorises any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than an interference or breach such as is mentioned in sub-paragraph (1) above.

(8) In this paragraph—
- (a) a reference to a person deriving title from another person includes a reference to any successor in title of that other person; and
- (b) a reference to deriving title is a reference to deriving title either directly or indirectly.

Use and development of consecrated land and burial grounds

7 (1) Any consecrated land (whether or not including a building) which has been acquired by the Agency under section 21A above may be used by any person in any manner in accordance with planning permission in spite of any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.

(2) Sub-paragraph (1) above does not apply to land which consists or forms part of a burial ground.

(3) Any use of consecrated land authorised by sub-paragraph (1) above, and the use of any land (not being consecrated land) which was—
- (a) acquired by the Agency under section 21A above; and
- (b) at the time of acquisition included a church or other building used or formerly used for religious worship or the site of such a building,

shall be subject to compliance with the requirements of regulations made by the Secretary of State for the purposes of this paragraph with respect to the removal and re-interment of any human remains and the disposal of monuments and fixtures and furnishings.

(4) Any use of consecrated land authorised by sub-paragraph (1) above shall be subject to such provisions as may be prescribed by such regulations for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part of such a building, remains on the land.

(5) Any regulations made for the purposes of this paragraph—
- (a) shall contain such provisions as appear to the Secretary of State to be required for securing that any use of land which is subject to compliance with the regulations is, as nearly as may be, subject to the same control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
- (b) shall contain such requirements relating to the disposal of any such land as is mentioned in sub-paragraphs (3) and (4) above as appear

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to the Secretary of State necessary for securing that the provisions of those sub-paragraphs are complied with in relation to the use of the land; and

(c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be appropriate for the purposes of the regulations.

(6) Any land consisting of a burial ground, or part of a burial ground, which has been acquired as mentioned in sub-paragraph (1) above may be used by any person in any manner in accordance with planning permission in spite of—

(a) anything in any enactment relating to burial grounds; or

(b) any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.

(7) Sub-paragraph (6) above shall not have effect in relation to any land which has been used for the burial of the dead until the requirements prescribed by regulations made under this paragraph with respect to the removal and re-interment of human remains, and the disposal of monuments, in or on the land have been complied with.

(8) Provision shall be made by any regulations made for the purposes of this paragraph—

(a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and re-interment of any human remains or the disposal of any monuments;

(b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and re-interment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, re-interment and disposal, not exceeding such amount as may be prescribed; and

(c) for requiring compliance with such reasonable conditions (if any) as may be imposed in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal, and the place and manner of re-interment, of any human remains and the disposal of any monuments and with any directions given in any case by the Secretary of State with respect to the removal and re-interment of any human remains.

(9) Subject to the provisions of regulations made under this paragraph, no faculty shall be required for the removal and re-interment in accordance with the regulations of any human remains or for the removal or disposal of any monuments; and the provisions of section 25 of the [M56]Burial Act 1857 (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.

(10) Nothing in this paragraph authorises any act or omission on the part of any person which is actionable at the suit of any person on any ground other than contravention of any such obligation, restriction or enactment as is mentioned in sub-paragraph (1) or (6) above.

(11) In this paragraph—

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"burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment; and

"monument" includes a tombstone or other memorial.

Use amd development of land for open spaces

8 (1) Any land which—

(a) is, or forms part of, a common, an open space or a fuel or field garden allotment; and

(b) has been acquired by the Agency under section 21A above,

may be used by any person in any manner in accordance with planning permission in spite of anything in any enactment relating to land of that kind or in any enactment by which the land is specially regulated.

(2) Sub-paragraph (1) does not authorise any act or omission on the part of any person which is actionable at the suit of any person on any ground other than contravention of any such enactment as is mentioned in that sub-paragraph.

Paragraphs 6 to 8: supplementary

9 In construing the [M57]Compulsory Purchase Act 1965 in relation to section 21A above—

(a) references to the execution of works shall be construed as including references to any erection, construction or carrying out of building or work authorised by paragraph 6 above; and

(b) in relation to any erection, construction or carrying out of building or work so authorised, references in section 10 of that Act to the acquiring authority shall be construed as references to the persons by whom the building or work in question is erected, constructed or carried out.

10 (1) Nothing in paragraph 7 or 8 above authorises any act or omission on the part of any authority or body corporate in contravention of any limitation imposed by law on their capacity by virtue of their constitution.

(2) Any power conferred by paragraph 7 or 8 above to use land in a manner mentioned in that paragraph shall be construed as a power to use the land, whether or not it involves the erection, construction or carrying out of any building or work or the maintenance of any building or work.

Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers

11 (1) This paragraph applies where any land has been acquired by the Agency under section 21A above and—

(a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over that land; or

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(b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) The Agency, if satisfied that the extinguishment of the right or the removal of the apparatus is necessary for the purpose of carrying out any development, may serve on the statutory undertakers a notice—

(a) stating that, at the end of the period of 28 days beginning with the day of service of the notice or such longer period as may be specified in it, the right will be extinguished; or

(b) requiring that the apparatus be removed before the end of that period.

(3) The statutory undertakers on whom a notice is served under sub-paragraph (2) above may, before the end of the period of 28 days beginning with the day on which the notice was served, serve a counter-notice on the Agency—

(a) stating that they object to all or any provisions of the notice; and

(b) specifying the grounds of their objection.

(4) Where no counter-notice is served under sub-paragraph (3) above—

(a) any right to which the notice relates shall be extinguished at the end of the period specified in the notice; and

(b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the Agency may remove the apparatus and dispose of it in any way they think appropriate.

(5) If a counter-notice is served under sub-paragraph (3) above, the Agency may either—

(a) withdraw the notice (but without prejudice to the service of a further notice); or

(b) apply to the Secretary of State and the appropriate Minister for an order under this sub-paragraph embodying the provisions of the notice with or without modification.

(6) Where by virtue of this paragraph—

(a) any right vested in or belonging to statutory undertakers is extinguished; or

(b) any requirement is imposed on statutory undertakers,

those undertakers shall be entitled to compensation from the Agency.

(7) Sections 280 and 282 of the [M58]Town and Country Planning Act 1990 (measure of compensation for statutory undertakers) apply to compensation under sub-paragraph (6) above as they apply to compensation under section 279(2) of that Act.

Orders under paragraph 11

12 (1) Before making an order under sub-paragraph (5) of paragraph 11 above, the Ministers proposing to make the order—

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(a) shall afford to the statutory undertakers on whom a notice was served under sub-paragraph (2) of that paragraph an opportunity of objecting to the application for the order; and

(b) if any objection is made, shall consider the objection and afford to those statutory undertakers and to the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State and the appropriate Minister for the purpose.

(2) The Ministers may then, if they think fit, make the order in accordance with the application either with or without modification.

(3) Where an order is made under paragraph 11(5) above—

(a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and

(b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the Agency may remove the apparatus and dispose of it in any way they think appropriate.

Notice for same purposes as paragraph 11
but given by statutory undertakers to Agency

13 (1) This paragraph applies where any land has been acquired by the Agency under section 21A above and—

(a) there is on, under or over the land apparatus vested in or belonging to statutory undertakers; and

(b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development.

(2) The undertakers may serve on the Agency a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(3) Where, after the land has been acquired as mentioned in sub-paragraph (1) above, development of the land begins to be carried out, no notice under sub-paragraph (2) above may be served after the end of the period of 21 days beginning with the day on which the development commenced.

(4) Where a notice is served under sub-paragraph (2) above, the Agency may, before the end of the period of 28 days beginning with the day on which the notice was served, serve a counter-notice on the statutory undertakers—

(a) stating that they object to all or any of the provisions of the notice; and

(b) specifying the grounds of their objection.

(5) Where no counter-notice is served under sub-paragraph (4) above, the statutory undertakers shall, after the end of that period of 28 days, have the rights claimed in their notice.

(6) If a counter-notice is served under sub-paragraph (4) above, the statutory undertakers who served the notice under this paragraph may either—

(a) withdraw it; or

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(b) apply to the Secretary of State and the appropriate Minister for an order under this sub-paragraph conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it appropriate to confer on them.

(7) Where, by virtue of this paragraph or an order of Ministers made under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the Agency for the works to be carried out by the Agency, under the superintendence of the undertakers, instead of by the undertakers themselves.

(8) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this paragraph or an order of Ministers made under it, the undertakers shall be entitled to compensation from the Agency.

(9) Sections 280 and 282 of the [M59]Town and Country Planning Act 1990 (measure of compensation for statutory undertakers) apply to compensation under sub-paragraph (8) above as they apply to compensation under section 279(4) of that Act.

PART IV

OTHER PROVISIONS

Rights of entry

14 (1) Any person duly authorised in writing by the Agency may, at any reasonable time, enter any land—

(a) for the purposes of surveying it, or estimating its value, in connection with any proposal to acquire that land, or any other land, under section 21A above; or

(b) in connection with any claim for compensation in respect of any such acquisition.

(2) Any person duly authorised in writing by the Agency may at any reasonable time enter any land for the purpose of surveying it in order to enable the Agency to determine whether to make an application for planning permission for the carrying out of development of that land.

(3) Any power conferred by this paragraph to survey land includes power to search and bore for the purpose of ascertaining—

(a) the nature of the subsoil; or

(b) the presence of minerals or contaminants in it.

15 (1) A person authorised under paragraph 14 above to enter any land—

(a) shall, if so required by the occupier or anyone acting on his behalf, produce evidence of his authority; and

(b) shall not, if the land is occupied, demand admission as of right to it unless 24 hours' notice of the intended entry has been given to the occupier.

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(2) Any person who intentionally obstructs a person acting in the exercise of a power conferred by paragraph 14 above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where any land is damaged in the exercise of a power of entry conferred by paragraph 14 above, compensation in respect of the damage may be recovered by any person interested in the land from the Agency or the Secretary of State.

(4) Except in so far as may be otherwise provided by regulations made by the Secretary of State under this sub-paragraph, any question of disputed compensation under sub-paragraph (3) above shall be referred to and determined by the Lands Tribunal; and the provisions of sections 2 and 4 of the [M60]Land Compensation Act 1961 apply to the determination of any question under this sub-paragraph, subject to any necessary modifications and to the provisions of any regulations under this sub-paragraph.

(5) Where under paragraph 14 above a person proposes to carry out any works authorised by sub-paragraph (3) of that paragraph—
   (a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by sub-paragraph (1)(b) above; and
   (b) if the land in question is held by statutory undertakers and those undertakers object to the proposed works on the grounds that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out without the authority of the appropriate Minister.

(6) A person who enters land in the exercise of a power of entry conferred by paragraph 14 above—
   (a) shall take reasonable care to avoid damage or injury to plant, machinery, equipment, livestock, crops or enclosures; and
   (b) on leaving the land, shall secure it as effectively against unauthorised entry as he found it.

(7) If any person who is admitted into a factory, workshop or workplace in the exercise of a power of entry conferred by paragraph 14 above discloses to any person any information obtained by him there as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence.

(8) A person guilty of an offence under sub-paragraph (7) above is liable—
   (a) on summary conviction to a fine not exceeding the statutory maximum; or
   (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine, or to both.

Displacement of legislation preventing possession

16 If the Secretary of State certifies that possession of a house which—
   (a) has been acquired by the Agency under section 21A above; and

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(b) is for the time being held by the Agency for the purposes for which it was acquired,

is immediately required for those purposes, nothing in the [M61]Rent (Agriculture) Act 1976, the [M62]Rent Act 1977 or the [M63]Housing Act 1988 shall prevent the Agency from obtaining possession of the house.

Register of land holdings

17 (1) The Secretary of State may by regulations provide for the keeping by the Agency of a register recording their acquisitions, holdings and disposals of land.

(2) Regulations under this paragraph may prescribe—

(a) the kinds of land and the kinds of transactions to be registered;

(b) the form of the registers, and the particulars to be contained in them; and

(c) the circumstances in which, and conditions subject to which, the registers are to be open to public inspection.

Information

18 (1) Where, with a view to performing any function of the Agency relating to land, the Agency considers that they ought to have information connected with that or any other land, the Agency may serve on one or more of—

(a) the occupier of the land;

(b) any person who has an interest in the land either as freeholder, mortgagee or lessee, or who directly or indirectly receives rent for the land; and

(c) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it,

a notice specifying the land and the function and the provision which confers the function.

(2) The notice shall require the recipient to furnish to the Agency, within a period specified in it (which shall not be less than 14 days beginning with the day on which the notice is served)—

(a) the nature of his interest in the land; and

(b) the name and address of each person whom the recipient of the notice believes to be the occupier of the land and of each person whom he believes to be, as respects the land, a person mentioned in sub-paragraph (1)(b) or (c) above.

(3) A person who—

(a) refuses, or fails without reasonable excuse, to comply with the requirements of a notice served on him under sub-paragraph (1) above; or

(b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

19 (1) The council of every county and county borough in Wales, every joint planning board for a district in Wales and every National Park authority for a National Park in Wales shall supply the Agency—

(a) with such information as the Secretary of State may by regulations prescribe for the purposes of this paragraph (being information which the Agency may need for the purpose of performing their functions); and

(b) with such certificates supporting the information as the Secretary of State may in the regulations specify.

(2) If a local planning authority in Wales receives an application for planning permission, the authority shall as soon as practicable after receipt send a copy of the application to the Agency.

(3) On any grant of planning permission relating to land in Wales, the local planning authority, or the Secretary of State (if it was granted by him), shall, as soon as is practicable, send a copy of the notification of the planning permission to the Agency.

(4) Sub-paragraphs (2) and (3) above shall not apply if and so far as the Agency directs.

Regulations as to form of documents

20 The Secretary of State may make regulations for prescribing the form of any document required or authorised by or under this Schedule.

Local inquiries

21 Section 250 of the [M64]Local Government Act 1972 (costs of inquiries and expenses of witnesses) shall extend to any public local inquiry held under the [M65]Acquisition of Land Act 1981, by virtue of paragraph 1 above, as if the Agency were a local authority.

Crown land

22 (1) A private interest in land may be acquired compulsorily under section 21A above even though the land is Crown land if consent is given in writing by the appropriate authority.

(2) In this paragraph—

(a) "private interest" means an interest which is not a Crown interest or a Duchy interest;

(b) "Crown land" means land in which there is a Crown interest or a Duchy interest;

(c) "Crown interest" means an interest belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

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(d) "Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall; and

(e) "appropriate authority" in relation to Crown land shall be determined in accordance with section 293(2) of the [M66]Town and Country Planning Act 1990.

Offences by corporations

23 (1) Where an offence under this Schedule which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against accordingly.

(2) Where the affairs of a body corporate are managed by its members, this paragraph shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of a body corporate."

Marginal Citations

M47 1981 c. 67.
M48 1981 c. 67.
M49 1981 c. 67.
M50 1981 c. 67.
M51 1981 c. 67.
M52 1965 c. 56.
M53 1978 c. 30.
M54 1961 c. 33.
M55 1965 c. 56.
M56 1857 c. 81.
M57 1965 c. 56.
M58 1990 c. 8.
M59 1990 c. 8.
M60 1961 c. 33.
M61 1976 c. 80.
M62 1977 c. 42.
M63 1988 c. 50.
M64 1972 c. 70.
M65 1981 c. 67.
M66 1990 c. 8.

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SCHEDULE 14

Section 128.

WELSH DEVELOPMENT AGENCY: OTHER AMENDMENTS

Commencement Information
I16 Sch. 14 in force at 1.10.1998 by S.I. 1998/2244, **art. 4**

PART I

AMENDMENTS OF WELSH DEVELOPMENT AGENCY ACT 1975

Introductory

1 The [M67]Welsh Development Agency Act 1975 has effect subject to the following amendments.

Marginal Citations
M67 1975 c. 70.

Schemes for performance of Agency's functions

2 (1) Section 1 (functions of Agency and purposes for which they may be exercised) is amended as follows.

(2) In subsection (14) (duty of Agency to submit to Secretary of State for his approval schemes for the performance of such functions as he may direct), for "schemes" substitute " programmes ".

(3) In subsection (15) (approval of scheme), for "scheme" (in both places) substitute " programme ".

Membership of Agency

3 In section 2(1) (Agency to consist of chairman, deputy chairman and not fewer than seven nor more than nine other members), at the end insert " ; but the Secretary of State may by order provide that the maximum number of other members shall be such number greater than nine as is specified in the order. "

Use of agents

4 In section 5(1) (carrying out of certain functions by Agency through a local authority etc.)—

(a) after "section 1(3)(a)" insert " , (da) ", and
(b) at the end insert " or section 21C below. "

Functions relating to industry

5 (1) Section 9 (provision of sites and premises for industry) is amended as follows.

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(2) In subsection (1) (exercise of powers for purpose of providing or managing industrial sites and premises and providing related facilities to be in accordance with arrangements approved by Secretary of State)—

(a) for "industrial sites and premises" substitute " sites and premises for businesses ", and

(b) after "related facilities" insert " , or making land available for development, ".

(3) In subsection (3) (power of Secretary of State to authorise Agency to provide premises for industrial undertaking free of rent), for "an industrial undertaking" substitute " a business ".

6 In section 10 (power of Secretary of State to authorise Agency to provide services etc. for development of industry), for "industry" substitute " businesses ".

Schemes for performance of environmental functions

7 (1) Section 15 (the environment) is amended as follows.

(2) In subsection (1) (schemes relating to the environment), for "schemes" (in both places) substitute " programmes ".

(3) In subsection (2) (payments for work contributing to purposes of such a scheme), for "scheme" substitute " programme ".

Financial duties of Agency

8 In section 17(1) (duty of Secretary of State to determine financial duties of Agency), for "shall" substitute " may ".

Service of documents

9 For section 25 (service of documents) substitute—

"**25 Service of documents.**

Sections 231 and 233 of the [M68]Local Government Act 1972 (service of documents on and by local authorities) shall apply as if the Agency were a local authority."

Marginal Citations
M68 1972 c. 70.

Interpretation of the 1975 Act

10 (1) Section 27(1) (interpretation) is amended as follows.

(2) After the definition of "the appropriate Minister" insert—

""business" includes any industrial, commercial or professional activities (whether or not with a view to profit) and the activities of any government department or any local or other public authority;

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"common" includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882 and any town or village green;

"dispose" includes dispose by sale or exchange or dispose by lease (whether by grant or assignment) and related expressions shall be construed accordingly;

"fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;".

(3) For the definition of "land" substitute—

""land" has the meaning given by Schedule 1 to the [M69]Interpretation Act 1978;

"open space" means any land laid out as a public garden or used for the purposes of public recreation or any land which is a disused burial ground;".

Marginal Citations
M69 1978 c. 30.

Orders under the 1975 Act

11 (1) Section 28 (orders) is amended as follows.

(2) In subsection (1)—
(a) after "order" insert " or regulations ", and
(b) for "other than section 22," substitute " , other than a compulsory purchase order or an order under paragraph 11(5) or 13(6) of Schedule 4, ".

(3) After subsection (1) insert—

"(1A) A statutory instrument containing—
(a) an order under section 2(1) or 21C(2)(i); or
(b) regulations under paragraph 7 of Schedule 4,
shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(4) After subsection (2) insert—

"(3) Any regulations or order under this Act—
(a) may make different provision for different areas or other different cases; and
(b) may include transitional and other supplementary and incidental provisions."

(5) In the sidenote, after "Orders" insert " and regulations ".

Agency staff and transactions

12 (1) Schedule 1 (constitution, staff and proceedings of the Agency) is amended as follows.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In paragraph 8 (Agency staff to be appointed by Agency, but subject to Ministerial consent as to numbers), omit "with the consent" onwards.

(3) In paragraph 9 (payment of remuneration and expenses by Agency to members and staff), omit "with the approval of the Minister for the Civil Service".

(4) In paragraph 10 (payment of pensions by the Agency in respect of members and past members), omit "with the approval of the said Minister".

(5) In paragraph 11 (payment of compensation by the Agency to past members) omit—
(a) ", with the approval of the said Minister,", and
(b) "with the approval of the said Minister".

(6) In paragraph 12(1) (payment of pensions, allowances and gratuities to or in respect of employees), omit—
(a) "with the consent of the Minister for the Civil Service", and
(b) "with the approval of the said Minister".

(7) After paragraph 19 (status of documents executed by the Agency) insert—

"19A(1) A certificate signed by the chief executive of the Agency that any document purporting to be made or issued by or on behalf of the Agency was so made or issued shall be conclusive evidence of that fact.

(2) A document purporting to be such a certificate shall be received in evidence and be deemed to be such a certificate unless the contrary is proved.

19B A person dealing with the Agency, or with a person claiming under the Agency, shall not be concerned to inquire—
(a) whether any directions have been given to the Agency under this Act or whether any directions so given have been complied with; or
(b) whether any approval, authority or consent of the Secretary of State or the Treasury required for any of the purposes of this Act has been given, or whether any condition or limitation subject to which any such approval, authority or consent was given has been complied with,

and, in favour of any such person, the validity of anything done by the Agency shall not be affected by anything contained in any such direction, approval, authority or consent or by reason that any such direction, approval, authority or consent has not been given."

PART II

AMENDMENTS OF OTHER ENACTMENTS

The Public Bodies (Admission to Meetings) Act 1960 (c.67)

13 In paragraph 1 of the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), after paragraph (b) insert—
"(ba) the Welsh Development Agency;".

Status: *Point in time view as at 14/07/2005.*
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The Land Compensation Act 1961 (c.33)

14 In section 23(3) of the Land Compensation Act 1961 (cases in which there is no compensation where a planning decision is made after compulsory acquisition etc.), before paragraph (a) insert—

"(za) under section 21A of the [M70]Welsh Development Agency Act 1975 (acquisitions by Welsh Development Agency);".

Marginal Citations

M70 1975 c. 70.

The Development of Rural Wales Act 1976 (c.75)

15 In section 26(2) of the [M71]Development of Rural Wales Act 1976 (which provides that the power of the Secretary of State to give financial assistance to persons contributing to social development of Wales does not include power to give assistance to persons carrying on an industrial undertaking), for "an industrial undertaking" substitute " a business; and in this subsection "business" has the same meaning as in the [M72]Welsh Development Agency Act 1975 ".

Marginal Citations

M71 1975 c. 70.

M72 1975 c. 70.

The Acquisition of Land Act 1981 (c.67)

16 The Acquisition of Land Act 1981 has effect subject to the following amendments.

17 In section 17(3) (opposed order for compulsory purchase of land of local authority or statutory undertaker not subject to special parliamentary procedure where acquisition is by certain bodies), after "urban development corporation" insert " , the Welsh Development Agency, ".

18 In section 28 (provisions about the acquisition of rights by the creation of new rights to which Schedule 3 of the Act applies), before paragraph (b) insert—

"(aa) section 21A of the [M73]Welsh Development Agency Act 1975,".

Marginal Citations

M73 1975 c. 70.

19 In section 31(1) (acquisition under certain provisions of statutory undertakers' land without a certificate), after paragraph (c) insert "or

(d) section 21A of, and Schedule 4 to, the [M74]Welsh Development Agency Act 1975,".

Status: *Point in time view as at 14/07/2005.*
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Marginal Citations
M74 1975 c. 70.

20 In paragraph 4(3) of Schedule 3 (opposed order for compulsory purchase of rights over land of local authority or statutory undertaker not subject to special parliamentary procedure where acquisition is by certain bodies), after "urban development corporation" insert " , the Welsh Development Agency, ".

SCHEDULE 15

Section 129.

DEVELOPMENT BOARD FOR RURAL WALES

Commencement Information
I17 Sch. 15 in force at 1.10.1998 by S.I. 1998/2244, **art. 4**

The Landlord and Tenant Act 1954 (c.56)

1 In section 59(1) of the Landlord and Tenant Act 1954 (compensation for exercise of powers under sections 57 and 58), for "or, subject to subsections (1A) or (1B) below, sections 60A or 60B below" substitute " or, subject to subsection (1A) below, section 60A below ".

The Parliamentary Commissioner Act 1967 (c.13)

2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments subject to investigation), in note 7, for ", a development corporation for a new town or the Development Board for Rural Wales" substitute " or a development corporation for a new town ".

The Local Government Act 1974 (c.7)

3 In paragraph 6 of Schedule 5 to the Local Government Act 1974 (matters not subject to investigation by Commissions for Local Administration), for ", (bb) or (bc)" substitute " or (bb) ".

The Welsh Development Agency Act 1975 (c.70)

4 In section 11(2)(b) of the [M75]Welsh Development Agency Act 1975 (amendment of section 59 of the Landlord and Tenant Act 1954), for "that subsection" substitute " subsection (1) ".

Marginal Citations
M75 1954 c. 56.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Local Government (Miscellaneous Provisions) Act 1982 (c.30)

5 In paragraph 2(5)(c) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (relevant corporations for purposes of resolutions relating to street trading), at the end insert " and ".

The Housing Act 1985 (c.68)

6 The Housing Act 1985 has effect subject to the following amendments.

7 In section 4(a) (meaning of "housing authority"), for ", a new town corporation or the Development Board for Rural Wales" substitute " or a new town corporation ".

8 In section 50(2) (offences), after "authority" insert " or ".

9 In section 51(6) (meaning of "qualified accountant"), for ", a new town corporation or the Development Board for Rural Wales" substitute " or a new town corporation ".

10 In section 114(1) and (2) (meaning of "landlord authority"), after "trust" insert " , or ".

The Landlord and Tenant Act 1985 (c.70)

11 The Landlord and Tenant Act 1985 has effect subject to the following amendments.

12 In section 26(1) (sections 18 to 25 not to apply to tenants of certain local authorities), after "Park authority" insert " , or ".

13 In section 28(6) (meaning of "qualified accountant"), for ", a new town corporation or the Development Board for Rural Wales" substitute " or a new town corporation ".

14 In paragraph 9(1) of the Schedule (paragraphs 2 to 8 not to apply to tenants of certain public authorities), after "Park authority" insert " , or ".

The Housing Act 1988 (c.50)

15 In section 35(4)(a) of the Housing Act 1988 (cases where a tenancy or licence can be a secure tenancy), for ", a housing action trust established under Part III of this Act or the Development Board for Rural Wales" substitute " or a housing action trust established under Part III of this Act ".

The Local Government and Housing Act 1989 (c.42)

16 [F40] . . . . . .

Textual Amendments

F40 Sch. 15 para. 16 repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(2)(d)(ii), 15, **Sch. 6**

Status: *Point in time view as at 14/07/2005.*
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The Water Industry Act 1991 (c.56)

17 In section 97(5) of the Water Industry Act 1991 (performance of sewerage undertaker's functions by local authorities etc.)—

(a) in the definition of "relevant area", at the end of paragraph (c) insert " and ", and

(b) in the definition of "relevant authority", in paragraph (b), for ", a development corporation for a new town or the Development Board for Rural Wales" substitute " or a development corporation for a new town ".

The Social Security Administration Act 1992 (c.5)

18 In section 191 of the Social Security Administration Act 1992 (interpretation), in the definition of "housing authority", for ", Scottish Homes or the Development Board for Rural Wales" substitute " or Scottish Homes ".

SCHEDULE 16

Section 140.

HOUSING FOR WALES

Commencement Information

I18 Sch. 16 in force at 1.11.1998 by S.I. 1998/2244, **art. 5**

The Friendly and Industrial and Provident Societies Act 1968 (c.55)

1 In section 4A(3)(b) of the Friendly and Industrial and Provident Societies Act 1968 (societies to which power to disapply section 4 does not apply), for "Housing for Wales" substitute " the Secretary of State ".

The Protection from Eviction Act 1977 (c.43)

2 In section 3A(8) of the Protection from Eviction Act 1977 (excluded licences)—

(a) in paragraph (g), omit "or Housing for Wales", and

(b) after that paragraph insert—

"(ga) the Secretary of State under section 89 of the [M76]Housing Associations Act 1985;".

Marginal Citations

M76 1985 c. 69.

The Criminal Law Act 1977 (c.45)

3 (1) Section 12A of the Criminal Law Act 1977 (protected intending occupiers) is amended as follows.

(2) In subsection (7), omit "(c) Housing for Wales;".

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) After that subsection insert—

"(7A) Subsection (6) also applies to the Secretary of State if the tenancy or licence is granted by him under Part III of the [M77]Housing Associations Act 1985."

Marginal Citations
M77 1985 c. 69.

The Housing Act 1985 (c.68)

4 The Housing Act 1985 has effect subject to the following amendments.

5 Subject to the following provisions, in each place (except in the phrases "Housing Corporation", "the Income and Corporation Taxes Act 1988" and "British Coal Corporation"), for "Corporation" substitute " Relevant Authority ".

6 In section 5(4)(b) (meaning of "registered social landlord"), for "Housing for Wales" substitute " the Secretary of State ".

7 In section 6A(1) and (2) (interpretation), for "Housing for Wales" substitute " the Secretary of State ".

8 (1) Section 45 (definition of "public sector authority") is amended as follows.

(2) In subsection (2), for "Corporation" substitute " Housing Corporation or Scottish Homes ".

(3) After that subsection insert—

"(2A) In subsection (1)(a) "public sector authority" also includes the Secretary of State if the freehold has been conveyed by him (or Housing for Wales) under section 90 of the [M78]Housing Associations Act 1985."

Marginal Citations
M78 1985 c. 69.

9 In section 57 (index of defined expressions), omit the entry relating to "the Corporation".

10 In section 92(2A)(a) (assignments by way of exchange), omit "Housing for Wales,".

11 In section 117 (index of defined expressions)—
(a) omit the entry relating to "the Corporation", and
(b) after the entry relating to "registered social landlord" insert—

"the Relevant Authority	section 6A".

12 In section 157(4) (restriction on disposal of dwelling-houses in National Parks etc.), after "association" insert " within section 6A(3) or (4) ".

13 In section 171(2) (power to extend right to buy etc.), for "Corporation" substitute " Housing Corporation or Scottish Homes ".

Status: *Point in time view as at 14/07/2005.*
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14 In section 188 (index of defined expressions)—

(a) omit the entry relating to "the Corporation", and

(b) after the entry relating to "regular armed forces of the Crown" insert—

"the Relevant Authority	section 6A".

15 (1) Section 429A (housing management: financial assistance) is amended as follows.

(2) In subsection (2A), omit paragraph (b).

(3) After that subsection insert—

"(2B) The reference in subsection (2)(a) to a body within subsection (2A) includes the Secretary of State if he has the interest as the result of the exercise by him (or Housing for Wales) of functions under Part III of the [M79]Housing Associations Act 1985."

Marginal Citations

M79 1985 c. 69.

16 In section 450A (loans for service charges in right to buy cases), after subsection (1) insert—

"(1A) But, except for cases where he is the landlord as the result of the exercise by him (or Housing for Wales) of functions under Part III of the [M80]Housing Associations Act 1985, the regulations may not contain provision for cases where the Secretary of State is the landlord."

Marginal Citations

M80 1985 c. 69.

17 (1) Section 450B (loans for service charges) shall be amended as follows.

(2) After subsection (1) insert—

"(1A) But, except for cases where he is the landlord as the result of the exercise by him (or Housing for Wales) of functions under Part III of the [M81]Housing Associations Act 1985, the regulations may not contain provision for cases where the Secretary of State is the landlord."

(3) After subsection (3) insert—

"(3A) For the purposes of this section a long lease granted or assigned by the Secretary of State shall only be taken to have been granted or assigned by a housing authority if the Secretary of State granted or assigned it in exercise of his powers under section 90 of the [M82]Housing Associations Act 1985."

Marginal Citations

M81 1985 c. 69.

M82 1985 c. 69.

Status: *Point in time view as at 14/07/2005.*
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18 (1) Section 458 (definitions) is amended as follows.

(2) That section is renumbered as subsection (1) of that section and in that subsection, in the definition of "housing authority", after "includes" insert " (subject to subsection (2)) ".

(3) After that subsection insert—

"(2) In section 444 "housing authority" does not include the Secretary of State unless the interest in the house is or was acquired on a disposal by him under section 90 of the [M83]Housing Associations Act 1985; and in section 452 "housing authority" does not include the Secretary of State unless the disposal was under that section 90."

Marginal Citations
M83 1985 c. 69.

19 In section 459 (index of defined expressions)—
(a) omit the entry relating to "the Corporation", and
(b) after the entry relating to "registered social landlord" insert—

"the Relevant Authority	section 6A".

20 In section 577 (index of defined expressions)—
(a) omit the entry relating to "the Corporation", and
(b) after the entry relating to "reinstatement grant" insert—

"the Relevant Authority	section 6A".

21 (1) Schedule 2 (grounds for possession of dwelling-houses let under secure tenancies) is amended as follows.

(2) In Ground 10A in Part II, for "Corporation" substitute " Housing Corporation or Scottish Homes ".

(3) In paragraph 6 of Part V, for "registered social landlord, the Corporation, and not the Secretary of State," substitute " social landlord registered in the register maintained by the Housing Corporation under section 1 of the [M84]Housing Act 1996 or a housing association registered in the register maintained by Scottish Homes under section 3 of the [M85]Housing Associations Act 1985, the Housing Corporation, or Scottish Homes, (and not the Secretary of State) ".

Marginal Citations
M84 1996 c. 52.
M85 1985 c. 69.

22 In paragraph 7(1) of Schedule 4 (landlords for the purposes of right to buy etc.), for "Corporation" substitute " Housing Corporation or Housing for Wales ".

Status: *Point in time view as at 14/07/2005.*
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The Housing Associations Act 1985 (c.69)

23 The Housing Associations Act 1985 has effect subject to the following amendments.

24 (1) Section 9 (control of dispositions of grant-aided land by unregistered housing associations) is amended as follows.

(2) In subsection (1A)(c), for "Housing for Wales" substitute " the Secretary of State ".

(3) In subsection (6)—

(a) omit "or Housing for Wales", and

(b) before "Scottish Homes" insert " the Secretary of State or ".

25 In section 10(1)(c) (requirement that Charity Commissioners consult before making certain orders), for "Housing for Wales" substitute " the Secretary of State ".

26 In section 33A (provision of services between the Housing Corporation, Housing for Wales and Scottish Homes), for "bodies, that is to say, the Housing Corporation, Housing for Wales" substitute " , that is to say, the Housing Corporation, the Secretary of State ".

27 (1) Section 69 (power to vary or terminate certain agreements with housing associations) is amended as follows.

(2) In subsection (1)(a), after "Housing for Wales" insert " and then to the Secretary of State ".

(3) In subsection (2)—

(a) for "On the application of a party to an agreement to which this section applies, the Secretary of State" substitute " If any person (other than the Secretary of State) who is a party to an agreement to which this section applies makes an application to the Secretary of State, he ", and

(b) at the end (but not as part of paragraph (b)) insert— " and where the Secretary of State is a party to such an agreement, he may agree that it shall have effect with any variations or that it shall be terminated. "

(4) In subsection (2A)—

(a) after "Housing for Wales", in the first place, insert " and then to the Secretary of State ", and

(b) for "Housing for Wales", in the second place, substitute " the Secretary of State ".

28 Subject to the following provisions, in each place in Part III (including headings and sidenotes) except in Schedule 6 and the phrase "Housing Corporation"—

(a) for "Corporation" substitute " Relevant Authority ", and

(b) for "Corporation's" substitute " Relevant Authority's ".

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29 (1) Section 74 (interpretation) is amended as follows.

(2) In subsection (1), for “, and Housing for Wales, each of which” substitute “and the Secretary of State.

(1A) Each of them”.

(3) In subsection (4)(a), for “Housing for Wales” substitute “ the Secretary of State ”.

F41 30 . . . . . .

Textual Amendments

F41 Sch. 16 para. 30 repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)** (subject to art. 2(2))

31 In section 76(1), (2) and (4) (directions by the Secretary of State), for “Corporation” substitute “ Housing Corporation ”.

32 (1) Section 76A (realisation of value of Corporation’s loans portfolio) is amended as follows.

(2) In subsections (1), (2) and (4), for “Corporation” (in each place) substitute “ Housing Corporation ”.

(3) In subsection (3) (and in the sidenote), for “Corporation’s” (in each place) substitute “ Housing Corporation’s ”.

33 In section 77(3) (joint provision of advisory service by Housing Corporation and Housing for Wales), for “Housing for Wales” substitute “ the Secretary of State ”.

34 In section 78(1) (annual report), for “Corporation” substitute “ Housing Corporation ”.

35 (1) Section 79 (lending powers) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) The Relevant Authority may lend to a registered social landlord or an unregistered self-build society, and the Housing Corporation may lend to any of its subsidiaries or to any other body in which it holds an interest, for the purpose of enabling the body to meet the whole or part of expenditure incurred or to be incurred by it in carrying out its objects.

(2) The Relevant Authority may lend to an individual for the purpose of enabling him to acquire from—

(a) the Relevant Authority, or

(b) any body to which the Relevant Authority may lend under subsection (1),

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a legal estate or interest in a dwelling which he intends to occupy."

(3) In subsection (4), after "and" insert " (in the case of a loan by the Housing Corporation) ".

36 (1) Section 80 (security for loans to unregistered self-build societies) is amended as follows.

(2) In subsection (1), omit ", with the written consent of the Secretary of State,".

(3) In subsection (3), omit "given with the like consent".

(4) After that subsection insert—

"(3A) The written consent of the Secretary of State is required for the giving, varying or revoking of directions by the Housing Corporation."

(5) In subsection (4), for the words from "consent" to "or to" substitute " give directions under this section requiring a society to transfer its interest in land to him or any other person, and shall not consent to the Housing Corporation's giving such directions requiring a society to transfer its interest in land to the Housing Corporation or ".

37 (1) Section 83 (power to guarantee loans) is amended as follows.

(2) For subsection (1) substitute—

"(1) The Relevant Authority may guarantee the repayment of the principal of, and the payment of interest on, sums borrowed by registered social landlords or unregistered self-build societies; and the Housing Corporation may guarantee the repayment of the principal of, and the payment of interest on, sums borrowed by other bodies in which it holds an interest."

(3) After that subsection insert—

"(1A) The consent of the Secretary of State given with the approval of the Treasury is required for the giving of a guarantee by the Housing Corporation and the approval of the Treasury is required for the giving of a guarantee by the Secretary of State."

(4) In subsection (3A), for "Housing for Wales" (in each place) substitute " the Secretary of State (or Housing for Wales) ".

38 (1) Section 84 (agreements to indemnify certain lenders) is amended as follows.

(2) In subsection (1), omit ", with the approval of the Secretary of State,".

(3) In subsection (4), for "Secretary of State" substitute " Housing Corporation may not enter into an agreement without the approval of the Secretary of State who ".

(4) In subsection (5), after "approval" insert " and before himself entering into an agreement in a form about which he has not previously consulted under this subsection ".

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39 In section 85(4) (meaning of "relevant advance")—

(a) for "Corporation" substitute " Housing Corporation ", and

(b) at the end (but not as part of the list) insert— " or an advance made to such a person by the Secretary of State if the conveyance, assignment or grant was made under section 90. "

40 In section 87(2) (ways in which financial assistance under the section may be given), after "giving any form of financial assistance" insert " under this section ".

41 In section 88(1) (acquisition of land), for "may be authorised by the Secretary of State to" substitute " the Housing Corporation may be authorised by the Secretary of State to, and the Secretary of State may, ".

42 (1) Section 90 (disposal of land) is amended as follows.

(2) In subsection (1), for the words "(ancillary development)" onwards substitute " (ancillary development) to a registered social landlord or an unregistered self-build society; and the Housing Corporation may dispose of such land to any of its subsidiaries or to any other body in which it holds an interest. "

(3) In subsection (2), for the words following "new town corporation" substitute ", or

Scottish Homes;

and the Housing Corporation may dispose of any such land to any of its subsidiaries. "

(4) In subsection (3), after "acquired" insert " by the Housing Corporation ".

(5) In subsection (4), after "disposed of" insert " by the Housing Corporation ".

(6) In subsection (5)—

(a) in paragraph (a) (in both places) and in the words following paragraph (b), for "Corporation" substitute " Housing Corporation ", and

(b) in paragraph (b), after "disposed of" insert " by the Housing Corporation ".

(7) In subsection (6), for "Corporation" substitute " Housing Corporation ".

43 In section 91 (protection of persons deriving title under transactions requiring consent), for "Corporation" (in each place) substitute " Housing Corporation ".

44 In section 92 (borrowing powers), for "Corporation" (in each place) substitute " Housing Corporation ".

45 (1) Section 93 (limit on borrowing) is amended as follows.

(2) In subsections (1), (4) and (5), for "Corporation" (in each place) substitute " Housing Corporation ".

(3) In subsection (2)—

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(a) for "Corporation", in each place other than the last, substitute " Housing Corporation ", and
(b) for "appropriate to the Corporation" substitute " specified ".

(4) In subsection (2A), omit—
(a) "in the case of the Housing Corporation,", and
(b) paragraph (b) and the word "and" preceding it.

46 In section 94(1) and (4) (Treasury guarantees of borrowing), for "Corporation" substitute " Housing Corporation ".

47 In section 95 (grants by Secretary of State), in subsection (1) (and in the side-note) for "Corporation" (in each place) substitute " Housing Corporation ".

48 (1) Section 96 (general financial provisions) is amended as follows.

(2) In subsections (1), (2), (3) and (4), for "Corporation" (in each place) substitute " Housing Corporation ".

(3) In subsections (3) and (4), for "Corporation's" substitute " Housing Corporation's ".

49 In section 97(1), (2), (3) and (4) (accounts), for "Corporation" (in each place) substitute " Housing Corporation ".

50 In section 98(1) (acquisition of securities and promotion of body corporate), for "Corporation" substitute " Housing Corporation ".

51 In section 99(1) and (2) (control of subsidiaries), for "Corporation" (in each place) substitute " Housing Corporation ".

52 In paragraph 6(2)(b) of Part I of Schedule 5 (payments by Secretary of State where dwellings become vested in certain bodies), omit "or Housing for Wales".

53 (1) Schedule 7 (powers exercisable where loan outstanding under section 2 of the [M86]Housing Act 1964) is amended as follows.

(2) In paragraph 2—
(a) in sub-paragraph (1), omit ", with the consent in writing of the Secretary of State,",
(b) in sub-paragraph (2), omit "given with the like consent", and
(c) after that sub-paragraph insert—

"(3) The written consent of the Secretary of State is required for the giving, varying or revoking of directions by the Housing Corporation."

(3) In paragraph 3—

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(a) for "Corporation" (in both places) substitute " Housing Corporation ", and

(b) at the end insert " ; and the Secretary of State shall not give a housing association directions under paragraph 2 unless he at the same time makes, or has previously made, such a scheme. "

(4) Paragraph 4 shall be renumbered as sub-paragraph (1) of that paragraph and—

(a) in that sub-paragraph, for "Corporation" (in both places) substitute " Housing Corporation ", and

(b) after that sub-paragraph insert—

"(2) The Secretary of State shall not give to such an association directions under paragraph 2 requiring the association to transfer any land to the Secretary of State, or to any other person, unless he is so satisfied."

(5) In paragraph 5—

(a) in sub-paragraph (1), for "Corporation" (in both places) substitute " Housing Corporation ",

(b) after that sub-paragraph insert—

"(1A) If it so appears to the Secretary of State, he may make a scheme.",

(c) in sub-paragraphs (3), (4) and (5), for "Corporation" substitute " Housing Corporation ", and

(d) after sub-paragraph (5) insert—

"(6) Where the Secretary of State makes the scheme, he shall have power to acquire for the purposes of the scheme the association's interest in the land and to carry through the provisions of the scheme."

Marginal Citations

M86 1964 c. 56.

The Income and Corporation Taxes Act 1988 (c.1)

54 The Income and Corporation Taxes Act 1988 has effect subject to the following amendments.

55 In section 376(4) (qualifying lenders), for paragraph (ka) substitute—

"(ka) the Secretary of State if the loan is made by him under section 79 of the [M87]Housing Associations Act 1985;".

Marginal Citations

M87 1985 c. 69.

56 In section 488(7A) (co-operative housing associations), omit paragraph (b) and the word "and" preceding it.

57 In section 489(5A) (self-build societies), omit paragraph (b) and the word "and" preceding it.

58 [F42] . . . . . .

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F42 Sch. 16 para. 58 repealed (22.7.2004) by Finance Act 2004 (c. 12), ss. 326, **Sch. 42 Pt. 2(7)**

The Housing Act 1988 (c.50)

59 The Housing Act 1988 has effect subject to the following amendments.

60 In section 35(5) (protected and statutory tenancies not prevented from being housing association tenancies or secure tenancies where landlord interest becomes held by certain bodies), for “, the Housing Corporation or Housing for Wales” substitute “ or the Housing Corporation ”.

61 (1) Subject to the following provisions, in each place in Part II (including headings) except in the phrases “Housing Corporation” and “the Income and Corporation Taxes Act 1988”, for “Corporation” substitute “ Relevant Authority ”.

(2) Sub-paragraph (1) and paragraphs 64 to 66 extend only to England and Wales.

62 Omit section 46 (Housing for Wales).

63 Omit section 47 (transfer to Housing for Wales of regulation etc. of housing associations based in Wales).

64 (1) Section 50 (housing association grants applied for before the commencement of section 28(1) of the [M88]Housing Act 1996) is amended as follows.

(2) For subsection (5) (approval required for appointment of local housing authority as agent) substitute—

“(5) In subsection (4) above “the appropriate approval” means—

(a) if the appointment is made by the Housing Corporation, the approval of the Secretary of State given with the consent of the Treasury, and

(b) if the appointment is made by the Secretary of State, the consent of the Treasury.”

(3) In subsection (8) (agreements between the Housing Corporation and Housing for Wales)—

(a) for “Housing for Wales” substitute “ the Secretary of State ”, and

(b) for “two Corporations” substitute “ Housing Corporation and the Secretary of State ”.

Marginal Citations

M88 1996 c. 52.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

65 In section 53(2) (general determinations by the Corporation only to be made with approval of Secretary of State), for "Corporation" substitute " Housing Corporation ".

66 In section 57 (delegation of functions by Secretary of State)—

(a) for "Corporation" substitute " Housing Corporation ",

(b) after "functions" insert " , so far as they relate to English registered social landlords, ", and

(c) at the end insert—

"In this section "English registered social landlords" means social landlords registered in the register maintained by the Housing Corporation under section 1 of the [M89]Housing Act 1996."

Marginal Citations

M89 1996 c. 52.

67 In section 59(2) (introduction of Schedule 6)—

(a) in paragraph (b), omit "the establishment by this Part of this Act of Housing for Wales and", and

(b) in paragraph (c), for "other" substitute " the ".

68 In section 81 (consent of Secretary of State to certain subsequent disposals of houses disposed of by housing action trusts)—

(a) in subsection (6), for "Corporation" (in both places) substitute " Housing Corporation ", and

(b) in subsection (7), for "in accordance with subsection (6) above" substitute " under this section ".

69 (1) Section 82 (legal assistance to tenants) is amended as follows.

(2) In subsections (2), (3) and (4) (and in the side-note), for "Corporation" (in each place) substitute " Relevant Authority ".

(3) In subsection (5)—

(a) for "Corporation", in the first and second places, substitute " Relevant Authority ", and

(b) for "which Corporation that is" substitute " whether that is the Housing Corporation or the Secretary of State ".

70 Omit section 92(2) (meaning of "the Corporation" in Part III).

71 In section 133 (consent of Secretary of State to certain subsequent disposals of houses disposed of by local authorities)—

(a) in subsection (6), omit "or Housing for Wales", and

(b) in subsection (7), for "in accordance with subsection (6) above" substitute " under this section ".

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

72 In section 140(1) (amendments), omit the words "and in that Schedule" onwards.

73 Omit Schedule 5 (constitution etc. of Housing for Wales).

The Local Government and Housing Act 1989 (c.42)

74 The Local Government and Housing Act 1989 has effect subject to the following amendments.

75 In section 172(2)(b) (transfer of new town housing stock), omit "or Housing for Wales".

76 (1) Section 173 (consent required for subsequent disposals) is amended as follows.

(2) In subsection (6), omit "or Housing for Wales".

(3) In subsection (7), for "in accordance with subsection (6) above" substitute " under this section ".

The Taxation of Chargeable Gains Act 1992 (c.12)

77 The Taxation of Chargeable Gains Act 1992 has effect subject to the following amendments.

78 In section 218(3) (disposals between Housing for Wales and certain housing associations), for " "Housing for Wales"" substitute " "the Secretary of State" ".

79 In section 219(2) (disposals by Housing for Wales etc. and certain housing associations), for " "Housing for Wales"" substitute " "the Secretary of State" ".

80 In the heading preceding section 218 and in the sidenotes of that section and section 219, for "Housing for Wales" substitute " the Secretary of State ".

The Housing Act 1996 (c.52)

81 Part I of the Housing Act 1996 has effect subject to the following amendments.

82 (1) Subject to the following provisions, in each place (including headings and sidenotes) except in the phrase "Housing Corporation"—

(a) for "Corporation" substitute " Relevant Authority ", and

(b) for "Corporation's" substitute " Relevant Authority's ".

(2) Sub-paragraph (1) does not apply to Schedule 3.

83 (1) Section 1 (register of social landlords) is amended as follows.

(2) In subsection (1), omit "at the head office of the Corporation".

(3) After that subsection insert—

"(1A) In this Part "the Relevant Authority" means the Housing Corporation or the Secretary of State, as provided by section 56.

(1B) The register maintained by the Housing Corporation shall be maintained at its head office."

(4) Omit subsection (2).

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

84 (1) Section 9 (Corporation's consent required for disposal of land by registered social landlord) is amended as follows.

(2) In subsection (1), omit ", given by order under the seal of the Corporation,".

(3) After that subsection insert—

"(1A) The consent—

(a) if given by the Housing Corporation, shall be given by order under its seal, and

(b) if given by the Secretary of State, shall be given by order in writing."

85 (1) Section 18 (social housing grants) is amended as follows.

(2) For subsection (5) substitute—

"(5) The appointment—

(a) if made by the Housing Corporation, shall be on such terms as the Housing Corporation may, with the approval of the Secretary of State given with the consent of the Treasury, specify, and

(b) if made by the Secretary of State, shall be on such terms as the Secretary of State may, with the consent of the Treasury, specify;

and, in either case, the authority shall act in accordance with those terms."

(3) In subsection (8)—

(a) for "Housing for Wales" substitute " the Secretary of State ", and

(b) for "two Corporations" substitute " Housing Corporation and the Secretary of State ".

86 For section 30(5) (notices requiring giving of information or production of documents) substitute—

"(5) A notice under this section—

(a) if given by the Housing Corporation, shall be given under its seal, and

(b) if given by the Secretary of State, shall be given in writing."

87 For section 36(3) and (4) (issue of guidance about management of housing accommodation) substitute—

"(3) Before issuing any guidance under this section the Relevant Authority shall consult such bodies appearing to the Relevant Authority to be representative of registered social landlords as the Relevant Authority considers appropriate; and where the Relevant Authority issues guidance under this section it shall be issued in such manner as the Relevant Authority considers appropriate for bringing it to the notice of the landlords concerned.

(4) The Housing Corporation shall not issue guidance under this section unless—

(a) it has been submitted in draft to the Secretary of State for his approval, and

(b) the Secretary of State has given his approval to the draft."

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

88 (1) Section 46 (appointment of manager to implement agreed proposals) is amended as follows.

(2) In subsections (1) and (6), omit "under its seal".

(3) After subsection (6) insert—

"(7) An order under this section—

(a) if made by the Housing Corporation, shall be made under its seal, and

(b) if made by the Secretary of State, shall be made in writing."

89 In section 49(3) (forms of assistance which require consent of Secretary of State), for "following forms of assistance require" substitute " giving by the Housing Corporation of the following forms of assistance requires ".

90 In section 51(2) (the bodies that are social landlords for the purposes of having complaints against them investigated by a housing ombudsman)—

(a) in paragraph (a), after "registered social landlord" insert " or a body which was at any time a registered social landlord ", and

(b) in paragraph (d), for "Corporation" substitute " Housing Corporation, or with Housing for Wales, ".

91 In section 52(1) (provisions about powers of Secretary of State to make orders), for "this Part" substitute " section 2, 17, 39, 51 or 55 or Schedule 2 ".

92 In section 53(1), (4) and (5) (provisions about determinations), for "Corporation" substitute " Housing Corporation ".

93 In section 54 (determinations requiring the Secretary of State's approval), for "Corporation" substitute " Housing Corporation ".

94 In section 56(1), (2) and (4) (definitions), for "Housing for Wales" substitute " the Secretary of State ".

95 In section 64 (index of defined expressions)—

(a) omit the entry relating to "the Corporation", and

(b) after the entry relating to "registrar of companies" insert—

"the Relevant Authority	section 56".

96 (1) Schedule 1 (regulation of registered social landlords) is amended as follows.

(2) In paragraphs 9 and 11—

(a) in sub-paragraph (3), omit "given by order under the seal of the Corporation", and

(b) after that sub-paragraph insert—

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(3A) Consent under sub-paragraph (3)—

(a) if given by the Housing Corporation, shall be given by order under its seal, and

(b) if given by the Secretary of State, shall be given by order in writing."

(3) In paragraphs 12(6) and 13(7), for "are to consent given by order under the seal of the Corporation" substitute "are—

(a) if it is given by the Housing Corporation, to consent given by order under its seal, and

(b) if it is given by the Secretary of State, to consent given by order in writing."

(4) For paragraph 15(5) substitute—

"(5) In any other case—

(a) the Relevant Authority may dispose of property transferred to it by virtue of this paragraph to a registered social landlord, and

(b) the Housing Corporation may dispose of property transferred to it by virtue of this paragraph to any of its subsidiaries."

(5) In paragraph 20(3)—

(a) after "appointed", in the first place, insert " by the Housing Corporation to conduct an inquiry ",

(b) for "Corporation" substitute " Housing Corporation ", and

(c) before "appointed", in the second place, insert " so ".

(6) In paragraph 27(1)—

(a) omit ", with the consent of the Secretary of State,", and

(b) at the end insert—

"The consent of the Secretary of State is required for the giving of directions by the Housing Corporation."

(7) In paragraph 27(4), for "The consent" substitute " If the transfer is directed by the Housing Corporation, the consent ".

(8) In paragraph 28(2), in the entry relating to section 79 of the [M90]Housing Associations Act 1985, for "Housing Corporation" substitute " Relevant Authority ".

Marginal Citations

M90 1985 c. 69.

97 (1) Schedule 2 (social rented sector: housing complaints) is amended as follows.

(2) In paragraph 6(2), for "Corporation" (in both places) substitute " Housing Corporation ".

(3) In paragraph 11(4), for "Corporation" (in both places) substitute " Housing Corporation ".

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Audit Commission Act 1998 (c.18)

98 The Audit Commission Act 1998 has effect subject to the following amendments.

99 (1) Section 40 (power of Secretary of State to direct carrying out of programme agreed between the Corporation and the Audit Commission) is amended as follows.

(2) In subsection (1), for "Corporation" substitute " Relevant Authority ".

(3) In subsection (2), for "Corporation" substitute " Housing Corporation ".

(4) [F43]. . . . . .

(5) In subsections (4) and (6), for "Corporation" (in each place) substitute " Relevant Authority ".

Textual Amendments

F43 Sch. 16 para. 99(4) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 72, 73, **Sch. 4**; S.I. 2005/558, art. 2 {Sch. 1} (subject to Sch. 2)

100 In section 41(1) and (4) (provisions supplementary to section 40), for "Corporation" substitute " Relevant Authority ".

101 In section 42 (functions of Audit Commission in relation to accounts of registered social landlords), for "Corporation" (in each place) substitute " Relevant Authority ".

102 In section 43 (interpretation), for "Corporation" substitute " Relevant Authority ".

SCHEDULE 17

Section 144.

AUDIT ETC. OF WELSH PUBLIC BODIES

Commencement Information

I19 Sch. 17 in force at 1.12.1998 by S.I. 1998/2789, **art. 2**

PART I

BODIES SUBJECT GENERALLY TO AUDIT ETC. PROVISIONS

1 A body specified in Part I or III of Schedule 4[F44]. . . .

Textual Amendments

F44 Words in Sch. 17 para. 1 repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 65(4), 72, 73, **Sch. 4**; S.I. 2005/558, **art. 2** {Sch. 1} (subject to Sch. 2)

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2 An Agricultural Land Tribunal established for an area wholly in, or consisting of, Wales.

3 A housing action trust established for an area wholly in Wales.

4 The Local Government Boundary Commission for Wales.

5 The Mental Health Review Tribunal for Wales.

6 The National Library of Wales.

7 The National Museum of Wales.

8 A panel, established under Schedule 10 to the [M91]Rent Act 1977, of persons to act as chairmen and other members of rent assessment committees for an area or areas every part of which is in Wales.

Marginal Citations

M91 1977 c. 42.

9 The Royal Commission on Ancient and Historical Monuments of Wales.

10 An urban development corporation established for an urban development area wholly in Wales.

11 A valuation tribunal exercising functions in relation only to Wales or an area of Wales.

PART II

BODIES PARTIALLY SUBJECT TO AUDIT ETC. PROVISIONS

12 [F45] . . . . . .

Textual Amendments

F45 Sch. 17 para. 12 repealed (1.10.2002 for E.W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 6(2), 37(2), **Sch. 2 Pt. 2 para. 66(3)**, **Sch. 9 Pt. 1**; S.I. 2002/2478, arts. 2(1), **3(1)(d)** (subject to art. 3(3) and with transitional provisions in art. 4) (S.I. 2002/2532, arts. 1(3), 2, Sch. purports to bring Sch. 2 Pt. 2 para. 66(3) of the repealing Act into force on 10.10.2002 in relation to Wales only)

[[F46]12A A Local Health Board.**]**

Textual Amendments

F46 Sch. 17 para. 12A inserted (10.10.2002 for W. and in accoradance with art. 1(1) of the commencing S.I. for E.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 6(2), **Sch. 5 para. 42(3)**; S.I. 2002/2532 {art. 2}, Sch; S.I. 2006/1407, arts. 1, 2, **Sch. 1 Pt. 2 para. 12** (with art. 4)

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

13 A National Health Service trust all or most of whose hospitals, establishments and facilities are situated in Wales or any trustees appointed in pursuance of section 11 of the [M92]National Health Service and Community Care Act 1990 for such a trust.

Marginal Citations

M92 1990 c. 19.

14 A Special Health Authority performing functions only or mainly in respect of Wales.

14A A body of trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973 and section 95(1) of the National Health Service Act 1977 for a trust all or most of whose hospitals, establishments and facilities are situated in Wales.

PART III

BODIES SUBJECT ONLY TO PROVISIONS ABOUT ACCOUNTING OFFICERS AND EXAMINATIONS OF USE OF RESOURCES

15 The Arts Council of Wales.

16 The Sports Council for Wales.

SCHEDULE 18

Section 152.

REPEALS

PART I

WELSH ADMINISTRATION OMBUDSMAN AND HEALTH SERVICE COMMISSIONER FOR WALES

Commencement Information

I20 Sch. 18 Pt. I wholly in force at 1.7.1999; Sch. 18 Pt. I in force for certain purposes at 1.2.1999 by S.I. 1999/118, **art. 2** and in force for certain purposes at 1.4.1999 by S.I. 1999/782, **art. 2** and for certain purposes at 1.7.1999 by S.I. 1999/1290, **art. 4**

Chapter	Short title	Extent of repeal
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entries relating to the Arts Council of Wales (Cyngor Celfyddydau Cymru), Bwrdd yr Iaith Gymraeg (Welsh Language Board), the Countryside

Status: *Point in time view as at 14/07/2005.*
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		Council for Wales, the Office of Her Majesty's Chief Inspector of Schools in Wales, the Sports Council for Wales and the Wales Tourist Board.
1974 c. 7.	The Local Government Act 1974.	In section 33(5), the words "by any of the Commissioners mentioned in this section, or by any of their officers,".
1989 c. 26.	The Finance Act 1989.	In section 182(4)(a)(i), the word "or".
1990 c. 43.	The Environmental Protection Act 1990.	In Schedule 6, paragraph 23(a).
1993 c. 38.	The Welsh Language Act 1993.	In Schedule 1, paragraph 5.
1993 c. 46.	The Health Service Commissioners Act 1993.	In section 2, in subsection (2)(b), the word "and" and, in subsection (5), the words "by Order in Council".
		In section 18(3), the words "by a Commissioner or his officers".
		In Schedule 1, in paragraphs 3(2)(a) and 3A(2)(a), the words "or for Wales" and paragraph 11(2).
1995 c. 17.	The Health Authorities Act 1995.	In Schedule 1, in paragraph 126(2)(b), the words "in paragraph (b), after "Wales," insert " and "".
S.I. 1995/1615.	The Parliamentary Commissioner Order 1995.	In article 2, the words " "Arts Council of Wales (Cyngor Celfyddydau Cymru)",".
1996 c. 57.	The School Inspections Act 1996.	In Schedule 6, in paragraph 1, the entry relating to the Office of Her Majesty's Chief Inspector of Schools in Wales.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

WELSH PUBLIC RECORDS

Commencement Information

I21 Sch. 18 Pt. II partly in force; Sch. 18 Pt. II in force for certain purposes at 1.4.1999 by S.I. 1999/782, **art. 2**

Chapter	Short title	Extent of repeal
6 & 7 Eliz.2 c. 51.	The Public Records Act 1958.	In the First Schedule, in the Table at the end of paragraph 3— in Part I, the entry relating to the Welsh Board of Health, and in Part II, the entries relating to the Countryside Council for Wales, the Curriculum and Assessment Authority for Wales, the Further Education Funding Council for Wales, the General Teaching Council for Wales, the Higher Education Funding Council for Wales and the Qualifications, Curriculum and Assessment Authority for Wales and, in the entry relating to any body established for the purpose of determining the boundaries of local authorities in England or Wales, the words “or Wales”.

PART III

WELSH DEVELOPMENT AGENCY

Chapter	Short title	Extent of repeal
1975 c. 70.	The Welsh Development Agency Act 1975.	In section 16(3)(b), the words “compulsorily or by agreement”. Sections 22 and 23. Section 24(1) to (5). Section 26.

Status: *Point in time view as at 14/07/2005.*
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		In section 27(1), the definitions of "industry" and "industrial".
		In Schedule 1—
		in paragraph 8, the words "with the consent" onwards, in paragraph 9, the words "with the approval of the Minister for the Civil Service",
		in paragraph 10, the words "with the approval of the said Minister",
		in paragraph 11, the words ", with the approval of the said Minister," and the words "with the approval of the said Minister", and
		in paragraph 12(1), the words "with the consent of the Minister for the Civil Service" and the words "with the approval of the said Minister".
1981 c. 67.	The Acquisition of Land Act 1981.	In Schedule 4, in paragraph 1, in the Table, the entry relating to the Welsh Development Agency Act 1975.
1982 c. 42.	The Derelict Land Act 1982.	Section 1(12).
		Section 2(3) and (4).
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 34(2).

PART IV

DEVELOPMENT BOARD FOR RURAL WALES

Chapter	Short title	Extent of repeal
2 & 3 Eliz.2 c. 56.	The Landlord and Tenant Act 1954.	Section 59(1B).
		Section 60B.
1964 c. 26.	The Licensing Act 1964.	Section 115(3).
		In Schedule 10, paragraph 1(1A).

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Government of Wales Act 1998 is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to the Development Board for Rural Wales.
1967 c. 88.	The Leasehold Reform Act 1967.	Section 28(5)(bb).
		In section 29, subsection (6A) and, in subsection (7), the words “the Development Board for Rural Wales”.
		In section 30(7), the words “to the Development Board for Rural Wales”.
		In Schedule 4, in Part II, paragraph 6.
		In Schedule 4A, paragraph 2(2)(e).
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	In section 13(2), the words “or section 4(1) of the Development of Rural Wales Act 1976”.
1969 c. 32.	The Finance Act 1969.	In section 58(4), in the Table, the entry relating to the Development Board for Rural Wales.
1973 c. 26.	The Land Compensation Act 1973.	Section 39(4)(f) and (8)(d).
1973 c. 50.	The Employment and Training Act 1973.	In section 4, in subsection (3)(e)(ii), the words “the Development Board for Rural Wales” and subsection (5)(f).
1974 c. 7.	The Local Government Act 1974.	Section 25(1)(bc).
		In section 26, subsection (7)(b) and, in subsection (13), “, (bc)”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Development Board for Rural Wales.
1975 c. 70.	The Welsh Development Agency Act 1975.	In section 2, subsection (1A) and, in subsection (2), the words “(other than the chairman of the Development Board for Rural Wales)”.
		Section 5(1A).

Status: *Point in time view as at 14/07/2005.*
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		Section 11(2)(a).
1976 c. 75.	The Development of Rural Wales Act 1976.	Sections 1 to 22.
		Section 23(3) and (4).
		Sections 24 and 25.
		In section 26(1), the words "(other than the Board)".
		Sections 27 to 34.
		In section 35, subsection (2) and, in subsection (3), the words "With the exception of paragraph 8 of Schedule 1,". Schedules 1 to 7.
1977 c. 42.	The Rent Act 1977.	Section 14(f).
1977 c. 43.	The Protection from Eviction Act 1977.	Section 3A(8)(f).
1977 c. 49.	The National Health Service Act 1977.	Section 28A(2)(e)(vi) and the word "and" preceding it.
		Section 28B(1)(b)(vi) and the word "and" preceding it.
1980 c. 48.	The Finance Act 1980.	Section 97(3)(e).
1980 c. 63.	The Overseas Development and Co-operation Act 1980.	In Schedule 1, in Part III, the entry relating to the Development Board for Rural Wales.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 131(5).
		In Schedule 19, paragraph 1(f).
1980 c. 66.	The Highways Act 1980.	In Schedule 24, paragraph 28.
1981 c. 6.	The Industry Act 1981.	In section 2(4), the words "Section 12(3) of the Development of Rural Wales Act 1976 and".
		In section 7(5), the words "or the Development Board for Rural Wales".
1981 c. 35.	The Finance Act 1981.	Section 107(3)(i).
1981 c. 64.	The New Towns Act 1981.	Section 1(2).
		Section 2(5).
		In section 3(1), the words ", subject to section 3(2) of the

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		Development of Rural Wales Act 1976”.
		In Schedule 12, paragraphs 20 to 22.
1981 c. 67.	The Acquisition of Land Act 1981.	Section 28(c).
		In Schedule 4, in paragraph 1, in the Table, the entry relating to the Development of Rural Wales Act 1976, in paragraph 16(3), the words “, and for the paragraph 6(2) inserted by the Development of Rural Wales Act 1976,” and paragraph 27.
1982 c. 30.	The Local Government (Miscellaneous Provisions) Act 1982.	In Schedule 4, paragraph 2(5)(e) and the word “and” preceding it.
1983 c. 28.	The Finance Act 1983.	In section 45(3), paragraph (b) and the word “or” preceding it.
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Development of Rural Wales Act 1976.
1984 c. 12.	The Telecommunications Act 1984.	In Schedule 4, paragraphs 3(1)(e) and 67.
1985 c. 5.	The New Towns and Urban Development Corporations Act 1985.	Section 11.
		In Schedule 2, paragraph 1.
1985 c. 68.	The Housing Act 1985.	In section 27B(3), the words “or the Development Board for Rural Wales”.
		In section 45(2), the words “the Development Board for Rural Wales,”.
		In section 50(2), the words “or the Development Board for Rural Wales”.
		In section 80(1), the words “the Development Board for Rural Wales,”.
		In section 114(1) and (2), the words “or the Development Board for Rural Wales,”.

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		In section 157(1), the words “, the Development Board for Rural Wales”.
		In section 171(2), the words “the Development Board for Rural Wales,”.
		In section 421(1), the words “and the Development Board for Rural Wales”.
		Section 426.
		In section 427(1), the words “or the Development Board for Rural Wales”.
		In section 427A, the words “or the Development Board for Rural Wales”.
		In section 447(1), the words “the Development Board for Rural Wales,”.
		In section 548(1), in the Table, paragraph 3.
		In section 573(1), the words “the Development Board for Rural Wales,”.
		In Schedule 1, in paragraph 2(1), the words “the Development Board for Rural Wales,”.
		In Schedule 2, in Part I, in Ground 7, and in Part III, in Ground 12, the words “the Development Board for Rural Wales,”.
		In Schedule 3, in Ground 5, the words “the Development Board for Rural Wales,”.
		In Schedule 5, in paragraph 5(1)(b), the words “the Development Board for Rural Wales,”.
1985 c. 69.	The Housing Associations Act 1985.	In section 85(4), the words “the Development Board for Rural Wales,”.

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1985 c. 70.	The Landlord and Tenant Act 1985.	In section 26(1), the words "or the Development Board for Rural Wales,".
		In the Schedule, in paragraph 9(1), the words "or the Development Board for Rural Wales,".
1986 c. 31.	The Airports Act 1986.	In Schedule 2, in paragraph 1(1), the entry relating to the Development of Rural Wales Act 1976.
1987 c. 26.	The Housing (Scotland) Act 1987.	Section 61(11)(h).
1987 c. 31.	The Landlord and Tenant Act 1987.	Section 58(1)(d).
1987 c. xxviii.	The British Waterways Act 1987.	In section 44(6)(b), the words ", section 34 of the Development of Rural Wales Act 1976".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 376(4)(n).
1988 c. 50.	The Housing Act 1988.	Section 38(5)(c).
		In Schedule 1,
		in Part I, paragraph 12(1)(c).
		In Schedule 17,
		in Part II, paragraph 97.
1989 c. 15.	The Water Act 1989.	In Schedule 25, paragraphs 1(2)(xxii) and (10)(vi) and 54.
1989 c. 29.	The Electricity Act 1989.	In Schedule 16, paragraphs 1(1)(i) and 3(1)(f).
1989 c. 38.	The Employment Act 1989.	In Schedule 6, paragraph 17.
1989 c. 42.	The Local Government and Housing Act 1989.	Section 90(2)(e) and the word "or" preceding it.
		In section 172(8),
		in the definition of "new town corporation", the words ", the Development Board for Rural Wales".
		In Schedule 11, paragraph 82.
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 37.

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1991 c. 1.	The Development Board for Rural Wales Act 1991.	The whole Act.
1991 c. 22.	The New Roads and Street Works Act 1991.	In Schedule 8,
		in Part IV, paragraph 107.
1991 c. 56.	The Water Industry Act 1991.	In section 41(2)(d)(ii), the words “the Development Board for Rural Wales or” and the words from “, according to” to “being responsible”.
		In section 97(5),
		in the definition of “relevant area”, paragraph (d).
		In section 98(2)(d)(ii), the words “the Development Board for Rural Wales or” and the words from “, according to” to “being responsible”.
1992 c. 5.	The Social Security Administration Act 1992.	In section 140D(1)(c), the words “or the Development Board for Rural Wales”.
1994 c. 19.	The Local Government (Wales) Act 1994.	In Schedule 16, paragraph 53.
1994 c. 21.	The Coal Industry Act 1994.	In Schedule 9, paragraph 19.
1995 c. 25.	The Environment Act 1995.	In Schedule 10, paragraph 16.
1995 c. 45.	The Gas Act 1995.	In Schedule 4, paragraph 2(1)(xxv) and (10)(f).
1996 c. 18.	The Employment Rights Act 1996.	In Schedule 1, paragraph 11.
1996 c. 53.	The Housing Grants, Construction and Regeneration Act 1996.	Section 3(2)(e).
		Section 64(7)(c).
S.I. 1996/2325.	The Housing Act 1996 (Consequential Provisions) Order 1996.	In Schedule 2, paragraph 4.

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PART V

LAND AUTHORITY FOR WALES

Chapter	Short title	Extent of repeal
8 & 9 Eliz.2 c. 67.	The Public Bodies (Admission to Meetings) Act 1960.	In the Schedule, paragraph 1(bb).
9 & 10 Eliz.2 c. 33.	The Land Compensation Act 1961.	Section 23(3)(aa).
1974 c. 7.	The Local Government Act 1974.	Section 25(1)(aa).
		Section 30(2A).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1,
		in Part II, the entry relating to the Land Authority for Wales.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Sections 102 to 104.
		Sections 106 to 111.
		In Schedule 17,
		in Part III, paragraph 4 and,
		in Part IV, paragraph 9. Schedules 18 to 22.
1981 c. 67.	The Acquisition of Land Act 1981.	In section 17(3), the words “the Land Authority for Wales,”.
		Section 31(1)(b).
		In Schedule 3,
		in paragraph 4(3), the words “the Land Authority for Wales,”.
		In Schedule 4, paragraph 30(2), (3), (10) and (11).
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to Schedule 21 to the Local Government, Planning and Land Act 1980.
1989 c. 15.	The Water Act 1989.	In Schedule 25, paragraph 61(3) and (7).
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 44(3), (4), (9) and (10).

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1993 c. 28.	The Leasehold Reform, Housing and Urban Development Act 1993.	Section 181(2) and (4).
1994 c. 19.	The Local Government (Wales) Act 1994.	In Schedule 16, paragraphs 58 and 59(6) to (8).
1994 c. 21.	The Coal Industry Act 1994.	In Schedule 9, in paragraph 25(1), "108(1),".
1995 c. 25.	The Environment Act 1995.	In Schedule 10, paragraph 20.

PART VI

HOUSING FOR WALES

Chapter	Short title	Extent of repeal
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to Housing for Wales.
1973 c. 26.	The Land Compensation Act 1973.	In section 32(7B)(b), the words "or Housing for Wales".
1974 c. 39.	The Consumer Credit Act 1974.	In section 16(6B)(a), the words ", Housing for Wales".
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to Housing for Wales.
1975 c. 55.	The Statutory Corporations (Financial Provisions) Act 1975.	In Schedule 2, the entry relating to Housing for Wales.
1976 c. 80.	The Rent (Agriculture) Act 1976.	Section 5(3)(da).
1977 c. 42.	The Rent Act 1977.	In section 15(2), the words "(aa) Housing for Wales". In section 86(2), the words "or Housing for Wales". In section 93(1), the words "or Housing for Wales".
1977 c. 43.	The Protection from Eviction Act 1977.	In section 3A(8)(g), the words "or Housing for Wales".
1977 c. 45.	The Criminal Law Act 1977.	In section 12A(7), the words "(c) Housing for Wales;".

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1977 c. 49.	The National Health Service Act 1977.	Section 28A(2)(e)(vii) and the word "and" preceding it. In section 28B(1)(b), the words "(v) Housing for Wales;".
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In Schedule 16, paragraph 9A.
1981 c. 35.	The Finance Act 1981.	Section 107(3)(ca).
1985 c. 68.	The Housing Act 1985.	In section 57, the entry relating to "the Corporation". In section 92(2A)(a), the words "Housing for Wales,". In section 117, the entry relating to "the Corporation". In section 188, the entry relating to "the Corporation". Section 429A(2A)(b). In section 459, the entry relating to "the Corporation". In section 577, the entry relating to "the Corporation".
1985 c. 69.	The Housing Associations Act 1985.	In section 9(6), the words "or Housing for Wales". In section 35(2)(b), the words "of Corporation". In section 80, in subsection (1), the words ", with the written consent of the Secretary of State," and, in subsection (3), the words "given with the like consent". In section 84(1), the words ", with the approval of the Secretary of State,". In section 93(2A), the words "in the case of the Housing Corporation," and paragraph (b) and the word "and" preceding it. In Schedule 1, in paragraph 1, the words "by Corporation".

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		In Schedule 5,
		in Part I,
		in paragraph 6(2)(b), the words “or Housing for Wales”.
		In Schedule 7,
		in paragraph 2,
		in sub-paragraph (1), the words “, with the consent in writing of the Secretary of State,” and,
		in sub-paragraph (2), the words “given with the like consent”.
1987 c. 31.	The Landlord and Tenant Act 1987.	Section 58(1)(ea).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 488(7A), paragraph (b) and the word “and” preceding it.
		In section 489(5A), paragraph (b) and the word “and” preceding it.
		In section 560(2)(e), the words “Housing for Wales”.
1988 c. 50.	The Housing Act 1988.	Section 46.
		Section 47.
		In section 59(2)(b), the words “the establishment by this Part of this Act of Housing for Wales and”.
		Section 92(2).
		In section 133(6), the words “or Housing for Wales”.
		In section 140(1), the words “and in that Schedule” onwards. Schedule 5.
		In Schedule 6,
		in Part I, paragraph 2 and,
		in Part II, paragraph 30(1)(b) and the word “and” preceding it and paragraph 31(1).
		In Schedule 17,

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		in Part II, paragraphs 92, 94 to 106 and 108 to 116.
1989 c. 42.	The Local Government and Housing Act 1989.	In section 172(2)(b), the words "or Housing for Wales".
		In section 173(6), the words "or Housing for Wales".
		In Schedule 11, paragraph 110.
1996 c. 18.	The Employment Rights Act 1996.	In Schedule 1, paragraph 41.
1996 c. 52.	The Housing Act 1996.	In section 1,
		in subsection (1), the words "at the head office of the Corporation" and subsection (2).
		In section 9(1), the words ", given by order under the seal of the Corporation,".
		In section 46(1) and (6), the words "under its seal".
		In section 64, the entry relating to "the Corporation".
		In Schedule 1,
		in paragraphs 9(3) and 11(3), the words "given by order under the seal of the Corporation" and,
		in paragraph 27(1), the words ", with the consent of the Secretary of State,".

PART VII

RESIDUARY BODY FOR WALES

Chapter	Short title	Extent of repeal
1994 c. 19.	The Local Government (Wales) Act 1994.	In Schedule 13,
		in paragraph 18,
		in sub-paragraph (3), the words "Subject to sub-

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		paragraph (4),” and sub-paragraph (4).

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