



# Government of Wales Act 2006

## 2006 CHAPTER 32

An Act to make provision about the government of Wales.

[25th July 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1** Act power to apply or incorporate (with modifications) conferred (15.9.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 58\(1\)–\(3\), \(7\)](#)
- C2** Act power to apply or incorporate (with modifications) conferred (25.4.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 54\(2\)–\(5\), 157\(1\); S.I. 2012/1129, art. 2\(b\)](#)

## [<sup>F1</sup>PART A1

### PERMANENCE OF THE ASSEMBLY AND WELSH GOVERNMENT

### Textual Amendments

- F1** [Pt. A1](#) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\), ss. 1, 71\(2\)\(a\)](#) (with [Sch. 7 paras. 1, 6](#))

## **A1 Permanence of the Assembly and Welsh Government**

- (1) The Assembly established by Part 1 and the Welsh Government established by Part 2 are a permanent part of the United Kingdom's constitutional arrangements.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to signify the commitment of the Parliament and Government of the United Kingdom to the Assembly and the Welsh Government.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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) In view of that commitment it is declared that the Assembly and the Welsh Government are not to be abolished except on the basis of a decision of the people of Wales voting in a referendum.

## A2 Recognition of Welsh law

- (1) The law that applies in Wales includes a body of Welsh law made by the Assembly and the Welsh Ministers.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to recognise the ability of the Assembly and the Welsh Ministers to make law forming part of the law of England and Wales.]

## PART 1

### NATIONAL ASSEMBLY FOR WALES

#### Modifications etc. (not altering text)

- C3 Pt. 1 modified (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. 13(5), 19(1)

### *The Assembly*

## 1 The Assembly

- (1) There is to be an Assembly for Wales to be known as the National Assembly for Wales or Cynulliad Cenedlaethol Cymru (referred to in this Act as “the Assembly”).
- (2) The Assembly is to consist of—
- one member for each Assembly constituency (referred to in this Act as “Assembly constituency members”), and
  - members for each Assembly electoral region (referred to in this Act as “Assembly regional members”).
- (3) Members of the Assembly (referred to in this Act as “Assembly members”) are to be returned in accordance with the provision made by and under this Act for—
- the holding of general elections of Assembly members (for the return of the entire Assembly), and
  - the filling of vacancies in Assembly seats.
- (4) The validity of any Assembly proceedings is not affected by any vacancy in its membership.
- (5) In this Act “Assembly proceedings” means any proceedings of—
- the Assembly,
  - committees of the Assembly, or
  - sub-committees of such committees.

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#### Commencement Information

**I1** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 2 Assembly constituencies and electoral regions

[<sup>F2</sup>(1) The Assembly constituencies are the constituencies specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 ( S.I. 2006/1041) as amended by—

- (a) the Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2008 ( S.I. 2008/1791), and
- (b) any Order in Council under the Parliamentary Constituencies Act 1986 giving effect (with or without modifications) to a report falling within section 13(3) or (4) of the Parliamentary Voting System and Constituencies Act 2011.]

(2) There are five Assembly electoral regions.

(3) The Assembly electoral regions are as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006.

(4) There are four seats for each Assembly electoral region.

[<sup>F3</sup>(5) . . . . .]

[<sup>F3</sup>(6) . . . . .]

#### Textual Amendments

**F2** S. 2(1) substituted (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. **13(1)**, **19(1)**

**F3** S. 2(5)(6) repealed (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. **13(2)(a)**, **19(1)**, **Schs. 12**

#### Commencement Information

**I2** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *General elections*

## 3 Ordinary general elections

(1) The poll at an ordinary general election is to be held on the first Thursday in May in the [<sup>F4</sup>fifth] calendar year following that in which the previous ordinary general election was held, [<sup>F5</sup>unless—

- (a) subsection (1A) prevents the poll being held on that day, or
- (b) the day of the poll is determined by a proclamation under section 4.]

[<sup>F6</sup>(1A) The poll is not to be held on the same date as the date of the poll at—

- (a) a parliamentary general election (other than an early parliamentary general election), or
- (b) a European Parliamentary general election.

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- (1B) Where subsection (1A) prevents the poll being held on the day specified in subsection (1), the poll is to be held on such day, subject to subsection (1A), as the Welsh Ministers may by order specify unless the day of the poll is determined by a proclamation under section 4(2) as modified by section 4(2A).]
- (2) If the poll is to be held on the first Thursday in May [<sup>F7</sup> or on the day specified by an order under subsection (1B) ], the Assembly—
- (a) is dissolved by virtue of this section at the beginning of the minimum period which ends with that day, and
  - (b) must meet within the period of seven days beginning immediately after the day of the poll.
- (3) In subsection (2) “the minimum period” means the period determined in accordance with an order under section 13.
- (4) In calculating any period of days for the purposes of subsection (2)(b), the following days are to be disregarded—
- (a) Saturday and Sunday,
  - (b) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
  - (c) any day appointed for public thanksgiving or mourning.
- [<sup>F8</sup>(5) No order is to be made under subsection (1B) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.]

#### Textual Amendments

- F4** Word in s. 3(1) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 1(1)**, 29(2)(a)
- F5** Words in s. 3(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(2)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F6** S. 3(1A)(1B) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(3)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F7** Words in s. 3(2) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(4)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F8** S. 3(5) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(5)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

#### Modifications etc. (not altering text)

- C4** S. 3(1) modified (15.9.2011) by [Fixed-term Parliaments Act 2011 \(c. 14\)](#), **ss. 5(2)**, 7(2) (with s. 6)

#### Commencement Information

- I3** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 4 Power to vary date of ordinary general election

[<sup>F9</sup>(1) Subject to section 3(1A), the Presiding Officer may propose, for the holding of the poll at an ordinary general election, a day which is not more than one month earlier, nor more than one month later, than the first Thursday in May.]

[<sup>F9</sup>(2) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh Seal—

- (a) dissolve the Assembly,

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- (b) require the poll at the election to be held on the day proposed, and
- (c) require the Assembly to meet within the period of seven days beginning immediately after the day of the poll.]

[<sup>F9</sup>(2A) Where a day is specified by an order under section 3(1B), subsection (1) applies as if the reference to the first Thursday in May were a reference to that day.]

(3) In calculating any period of days for the purposes of provision made by virtue of subsection [<sup>F10</sup>(2)(c)], the following days are to be disregarded—

- (a) Saturday and Sunday,
- (b) Good Friday,
- (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
- (d) any day appointed for public thanksgiving or mourning.

(4) [<sup>F11</sup>The Welsh Ministers may by order] make provision for—

- (a) any provision of, or made under, the Representation of the People Acts, or
- (b) any other enactment relating to the election of Assembly members,

to have effect with such modifications or exceptions as the [<sup>F12</sup>Welsh Ministers consider] appropriate in connection with the alteration of the day of the poll [<sup>F13</sup> under this section ].

<sup>F14</sup>(5) .....

(6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of [<sup>F15</sup>the Assembly].

#### Textual Amendments

- F9** S. 4(1)-(2A) substituted for s. 4(1)(2) (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(7), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F10** Word in s. 4(3) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(8), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F11** Words in s. 4(4) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(9)(a), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F12** Words in s. 4(4) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(9)(b), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F13** Words in s. 4(4) inserted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(9)(c), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F14** S. 4(5) omitted (1.4.2018) by virtue of Wales Act 2017 (c. 4), ss. 6(10), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F15** Words in s. 4(6) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(11), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)

#### Commencement Information

- I4** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 5 Extraordinary general elections

(1) The [<sup>F16</sup>Presiding Officer] must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.

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- (2) This subsection applies if—
- (a) the Assembly resolves that it should be dissolved, and
  - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.
- (3) This subsection applies if any period during which the Assembly is required under section 47 to nominate an Assembly member for appointment as the First Minister ends without such a nomination being made.
- (4) If the [<sup>F17</sup>Presiding Officer] proposes a day under subsection (1), Her Majesty may by [<sup>F18</sup>proclamation under the Welsh Seal]—
- (a) dissolve the Assembly and require an extraordinary general election to be held,
  - (b) require the poll at the election to be held on the day proposed, and
  - (c) require the Assembly to meet within the period of seven days beginning immediately after the day of the poll.
- (5) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 4), that ordinary general election is not to be held.
- (6) But subsection (5) does not affect the year in which the subsequent ordinary general election is to be held.
- (7) In calculating any period of days for the purposes of subsection (4)(c), the following days are to be disregarded—
- (a) Saturday and Sunday,
  - (b) Christmas Eve, Christmas Day and Good Friday,
  - (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
  - (d) any day appointed for public thanksgiving or mourning.

#### Textual Amendments

**F16** Words in s. 5(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(13)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

**F17** Words in s. 5(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(14)(a)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

**F18** Words in s. 5(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(14)(b)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

#### Commencement Information

**I5** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 6 Voting at general elections

- (1) Each person entitled to vote at a general election in an Assembly constituency has two votes.
- (2) One (referred to in this Act as a “constituency vote”) is a vote which may be given for a candidate to be the Assembly constituency member for the Assembly constituency.

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- (3) The other (referred to in this Act as an “electoral region vote”) is a vote which may be given for—
  - (a) a registered political party which has submitted a list of candidates to be Assembly regional members for the Assembly electoral region in which the Assembly constituency is included, or
  - (b) an individual who is a candidate to be an Assembly regional member for that Assembly electoral region.
- (4) The Assembly constituency member for the Assembly constituency is to be returned under the simple majority system.
- (5) The Assembly regional members for the Assembly electoral region are to be returned under the additional member system of proportional representation provided for in this Part.
- (6) In this Act “registered political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

#### **Commencement Information**

**16** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **7 Candidates at general elections**

- (1) At a general election a person may not be a candidate to be the Assembly constituency member for more than one Assembly constituency.
- (2) Any registered political party may submit a list of candidates for return as Assembly regional members for a particular Assembly electoral region at a general election.
- (3) The list must be submitted to the regional returning officer.
- (4) The list must not include more than twelve persons (but may include only one).
- (5) The list must not include a person—
  - (a) who is included on any other list submitted for the Assembly electoral region or any list submitted for another Assembly electoral region,
  - (b) who is an individual candidate to be an Assembly regional member for the Assembly electoral region or another Assembly electoral region,
  - <sup>F19</sup>(c) who is a candidate to be the Assembly constituency member for an Assembly constituency which is not included in the Assembly electoral region, or
  - (d) who is a candidate to be the Assembly constituency member for an Assembly constituency included in the Assembly electoral region but is not a candidate of the party.]
- (6) A person may not be an individual candidate to be an Assembly regional member for the Assembly electoral region if that person is—
  - (a) included on a list submitted by a registered political party for the Assembly electoral region or another Assembly electoral region,
  - (b) an individual candidate to be an Assembly regional member for another Assembly electoral region,

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- [<sup>F20</sup>(c) a candidate to be the Assembly constituency member for an Assembly constituency which is not included in the Assembly electoral region, or  
(d) a candidate of any registered political party to be the Assembly constituency member for an Assembly constituency included in the Assembly electoral region.]

- (7) In this Act “regional returning officer”, in relation to an Assembly electoral region, means the person designated as the regional returning officer for the Assembly electoral region in accordance with an order under section 13.

#### Textual Amendments

**F19** S. 7(5)(c)(d) substituted for s. 7(5)(c) and word (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(2)(a)**, 29(2)(a)

**F20** S. 7(6)(c)(d) substituted for s. 7(6)(c) and word (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(2)(b)**, 29(2)(a)

#### Commencement Information

**I7** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 8 Calculation of electoral region figures

- (1) This section and section 9 are about the return of Assembly regional members for an electoral region at a general election.
- (2) The person who is to be returned as the Assembly constituency member for each Assembly constituency in the Assembly electoral region is to be determined before it is determined who are to be returned as the Assembly regional members for the Assembly electoral region.
- (3) For each registered political party by which a list of candidates has been submitted for the Assembly electoral region—
  - (a) there is to be added together the number of electoral region votes given for the party in the Assembly constituencies included in the Assembly electoral region, and
  - (b) the number arrived at under paragraph (a) is then to be divided by the aggregate of one and the number of candidates of the party returned as Assembly constituency members for any of those Assembly constituencies.
- (4) For each individual candidate to be an Assembly regional member for the Assembly electoral region there is to be added together the number of electoral region votes given for the candidate in the Assembly constituencies included in the Assembly electoral region.
- (5) The number arrived at—
  - (a) in the case of a registered political party, under subsection (3)(b), or
  - (b) in the case of an individual candidate, under subsection (4),
 is referred to in this Act as the electoral region figure for that party or individual candidate.



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#### Commencement Information

**18** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 9 Allocation of seats to electoral region members

- (1) The first seat for the Assembly electoral region is to be allocated to the party or individual candidate with the highest electoral region figure.
- (2) The second and subsequent seats for the Assembly electoral region are to be allocated to the party or individual candidate with the highest electoral region figure after any recalculation required by subsection (3) has been carried out.
- (3) This subsection requires a recalculation under paragraph (b) of section 8(3) in relation to a party—
  - (a) for the first application of subsection (2), if the application of subsection (1) resulted in the allocation of an Assembly seat to the party, or
  - (b) for any subsequent application of subsection (2), if the previous application of that subsection did so,and a recalculation is to be carried out after adding one to the aggregate mentioned in that paragraph.
- (4) An individual candidate already returned as an<sup>F21</sup> Assembly constituency member or Assembly regional member is to be disregarded.
- (5) Seats for the Assembly electoral region which are allocated to a party are to be filled by the persons on the party's list in the order in which they appear on the list<sup>F22</sup> (disregarding anyone already returned as an Assembly constituency member, including anyone whose return is void)].
- (6) Once a party's list has been exhausted [<sup>F23</sup>(by the return of persons included on it as Assembly constituency members or by the previous application of subsection (1) or (2)) ], the party is to be disregarded.
- (7) If (on the application of subsection (1) or any application of subsection (2)) the highest electoral region figure is the electoral region figure of two or more parties or individual candidates, the subsection applies to each of them.
- (8) However, if subsection (7) would mean that more than the full number of seats for the Assembly electoral region were allocated, subsection (1) or (2) does not apply until—
  - (a) a recalculation has been carried out under section 8(3)(b) after adding one to the number of votes given for each party with that electoral region figure, and
  - (b) one has been added to the number of votes given for each individual candidate with that electoral region figure.
- (9) If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the regional returning officer must decide between them by lots.

#### Textual Amendments

**F21** Words in s. 9(4) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(3)(a)**, 29(2)(a)

**F22** Words in s. 9(5) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(3)(b)**, 29(2)(a)

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**F23** Words in s. 9(6) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(3)(c), 29(2)(a)**

#### **Commencement Information**

**I9** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Vacancies*

#### **10 Constituency vacancies**

- (1) This section applies if the seat of an Assembly constituency member returned for an Assembly constituency is vacant.
- (2) Subject to subsection (7), an election must be held in the Assembly constituency to fill the vacancy.
- (3) At the election, each person entitled to vote only has a constituency vote; and the Assembly constituency member for the Assembly constituency is to be returned under the simple majority system.
- (4) The date of the poll at the election must be fixed by the Presiding Officer.
- (5) The date must fall within the period of three months beginning with the occurrence of the vacancy.
- (6) But if the vacancy does not come to the Presiding Officer's notice within the period of one month beginning with its occurrence, the date must fall within the period of three months beginning when it does come to the Presiding Officer's notice.
- (7) The election must not be held if it appears to the Presiding Officer that the latest date which may be fixed for the poll would fall within the period of three months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 4).
- (8) The standing orders must make provision for determining the date on which a vacancy occurs for the purposes of this section.
- (9) A person may not be a candidate in an election to fill a vacancy if the person is—
  - (a) an Assembly member, or
  - (b) a candidate in another such election.

#### **Commencement Information**

**I10** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### **11 Electoral region vacancies**

- (1) This section applies if the seat of an Assembly regional member returned for an Assembly electoral region is vacant.
- (2) If the Assembly regional member was returned (under section 9 or this section) from the list of a registered political party, the regional returning officer must notify to the Presiding Officer the name of the person who is to fill the vacancy.
- (3) A person's name may only be so notified if the person—

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- (a) is included on the list submitted by the registered political party for the last general election,
  - (b) is willing to serve as an Assembly regional member for the Assembly electoral region, and
  - (c) is not a person to whom subsection (4) applies.
- (4) This subsection applies to a person if—
- (a) the person is not a member of the registered political party, and
  - (b) the registered political party gives notice to the regional returning officer that the person's name is not to be notified to the Presiding Officer as the name of the person who is to fill the vacancy.
- (5) But if there is more than one person who satisfies the conditions in subsection (3), the regional returning officer may only notify the name of whichever of them was the higher, or the highest, on that list.
- (6) A person whose name is notified under subsection (2) is to be treated as having been declared to be returned as an Assembly regional member for the Assembly electoral region on the day on which notification of the person's name is received by the Presiding Officer.
- (7) The seat remains vacant until the next general election—
- (a) if the Assembly regional member was returned as an individual candidate, or
  - (b) if that Assembly regional member was returned from the list of a registered political party but there is no-one who satisfies the conditions in subsection (3).
- (8) For the purposes of this section, a person included on the list submitted by a registered political party for the last general election who—
- [<sup>F24</sup>(a) was returned as an Assembly member at that election (even if the return was void), or
  - (b) has subsequently been returned under section 10 or this section (even if the return was void),]
- is treated on and after the return of the person<sup>F25</sup> ..., as not having been included on the list.

#### Textual Amendments

**F24** S. 11(8)(a)(b) substituted for s. 11(8)(a)-(c) (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 2(4)(a)**, 29(2)(a)

**F25** Words in s. 11(8) omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **ss. 2(4)(b)**, 29(2)(a)

#### Commencement Information

**I11** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Franchise and conduct of elections*

## 12 Entitlement to vote

- (1) The persons entitled to vote at an election of Assembly members (or of an Assembly member) in an Assembly constituency are those who on the day of the poll—

*Status: Point in time view as at 23/01/2020.*

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- (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the Assembly constituency [<sup>F26</sup>or fall within the extended franchise for Senedd elections as described in this section], and
- (b) are registered in the register of local government electors at an address within the Assembly constituency.

[<sup>F27</sup>(1A) A person falls within the extended franchise for Senedd elections if the person—

- (a) has attained the age of 16, but not the age of 18, and
- (b) would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.]

[<sup>F28</sup>(1B) A person falls within the extended franchise for Senedd elections if the person—

- (a) is a qualifying foreign citizen (within the meaning given by section 203(1) of the Representation of the People Act 1983 (c. 2)), and
- (b) would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.]

(2) But a person is not entitled as an elector—

- (a) to cast more than one constituency vote, or more than one electoral region vote, in the same Assembly constituency at any general election,
- (b) to vote in more than one Assembly constituency at any general election, or
- (c) to cast more than one vote in any election held under section 10.

#### Textual Amendments

- F26** Words in s. 12(1)(a) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 10(2)(4), 42(1)(b)(i)**
- F27** S. 12(1A) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 10(3)(4), 42(1)(b)(i)**
- F28** S. 12(1B) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which a poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 11(1)(2), 42(1)(b)(ii)**

#### Commencement Information

- I12** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### [<sup>F29</sup>13 Power of the Welsh Ministers to make provision about elections etc

- (1) The Welsh Ministers may by order make provision that would be within the legislative competence of the Assembly, if included in an Act of the Assembly, as to—
- (a) the conduct of elections of Assembly members,
  - (b) the questioning of an election of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.

*Status: Point in time view as at 23/01/2020.*

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- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision—
- (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of the election expenses of candidates (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls,
  - (e) for modifying the application of sections 6 and 8(2) where the poll at an election for the return of an Assembly constituency member is abandoned (or notice of it is countermanded), and
  - (f) for modifying section 9(7) to ensure the allocation of the correct number of seats for the region.
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying section 11(3) to (5).
- (4) An order under this section may—
- (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments, and
  - (b) so far as may be necessary in consequence of any provision made by an order under this section, make modifications of any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (5) In subsection (4)(a) “the election enactments” means—
- (a) the Representation of the People Acts,
  - (b) the Political Parties, Elections and Referendums Act 2000,
  - (c) the European Parliamentary Elections Act 2002, and
  - (d) any other enactments relating to parliamentary elections, European Parliamentary elections or local government elections.
- (6) No return of an Assembly member at an election may be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied or incorporated in an order under this section.
- (7) No order is to be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.]

#### Textual Amendments

**F29** Ss. 13, 13A substituted for s. 13 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 5(1), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

### [<sup>F29</sup>13A Power of the Secretary of State to make provision about the combination of polls

- (1) The Secretary of State may by regulations make provision for—
- (a) the combination of polls at ordinary general elections of Assembly members with polls at the elections listed in subsection (2), and

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- (b) the combination of polls at extraordinary general elections of Assembly members, and by-elections for the return of Assembly members, with polls at the elections listed in subsections (2) and (3).
- (2) The elections are—
  - (a) early parliamentary general elections,
  - (b) parliamentary by-elections, and
  - (c) European Parliamentary by-elections.
- (3) The elections are—
  - (a) parliamentary general elections, and
  - (b) European Parliamentary general elections.
- (4) The Secretary of State may not make regulations under this section without the agreement of the Welsh Ministers.
- (5) Regulations under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision made by or under the election enactments, and
  - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections of Assembly members.
- (6) In subsection (5)(a) “the election enactments” has the meaning given by section 13(5).
- (7) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

**F29** Ss. 13, 13A substituted for s. 13 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 5\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

#### *Duration of membership*

### 14 Term of office of Assembly members

The term of office of an Assembly member—

- (a) begins when the Assembly member is declared to be returned, and
- (b) ends with the dissolution of the Assembly.

#### Commencement Information

**I13** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## 15 Resignation of members

An Assembly member may at any time resign by giving notice in writing to the Presiding Officer.

### Commencement Information

**I14** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## Disqualification

## 16 Disqualification from being Assembly member

[<sup>F30</sup>(A1) A person is disqualified from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd, if that person—

- (a) falls within any of the categories of person specified in Part 1 of Schedule 1A, or
- (b) holds any of the offices specified in the Table in Part 2 of Schedule 1A.]

(1) [<sup>F31</sup>A person is disqualified from being a Member of the Senedd (but not from being a candidate to be a Member of the Senedd) if that person—]

[<sup>F32</sup>(za) is a member of the House of Commons (but see sections 17A and 17B),]

[<sup>F33</sup>(zb) is a member of the House of Lords (but see section 17C),

(zc) is a member of the council of a county or county borough in Wales (but see sections 17D, 17E and 17F),

(zd) is a member of the Scottish Parliament,

(ze) is a member of the Northern Ireland Assembly,

(zf) is a member of the European Parliament, or]

<sup>F34</sup>(a) .....

(b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,

<sup>F35</sup>(c) .....

<sup>F35</sup>(d) .....

<sup>F35</sup>(e) .....

[<sup>F36</sup>(1A) A person returned at an election as a Member of the Senedd is not disqualified under subsection (1)(zd), (ze), (zf) or (b) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).]

<sup>F37</sup>(2) .....

<sup>F37</sup>(3) .....

<sup>F37</sup>(4) .....

(5) An Order in Council under paragraph (b) of subsection (1)—

(a) may designate particular offices or offices of any description, and

(b) may designate an office by reference to any characteristic of a person holding it,

and [<sup>F38</sup>for the purposes of this section] “office” includes any post or employment.

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- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under subsection (1)(b) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly.

#### Textual Amendments

- F30** S. 16(A1) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by Senedd and Elections (Wales) Act 2020 (anaw 1), ss. 29(2), 42(1)(c)
- F31** Words in s. 16(1) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(a), 42(1)(c)
- F32** S. 16(1)(za) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 3(1)**, 29(2)(a)
- F33** S. 16(1)(zb)-(zf) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(b), 42(1)(c)
- F34** S. 16(1)(a) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(c), 42(1)(c)
- F35** S. 16(1)(c)-(e) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of Senedd and Elections (Wales) Act 2020 (anaw 1), ss. 29(3)(d), 42(1)(c)
- F36** S. 16(1A) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(4), 42(1)(c)
- F37** S. 16(2)-(4) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(5), 42(1)(c)
- F38** Words in s. 16(5) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(6), 42(1)(c)

#### Commencement Information

- I15** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 17 [F39 Relief] from disqualification

F40(1) .....

F40(2) .....

- (3) The Assembly may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being an Assembly member on a ground within section 16(1) <sup>F41</sup>... is to be disregarded if it appears to the Assembly—
- that the ground has been removed, and
  - that it is proper so to resolve.
- (4) A resolution under subsection (3) does not—
- affect any proceedings under Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under section 13, or
  - enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.



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#### Textual Amendments

- F39** Words in s. 17 heading substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(4\)](#), [42\(1\)\(c\)](#)
- F40** S. 17(1)(2) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(2\)](#), [42\(1\)\(c\)](#)
- F41** Words in s. 17(3) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(3\)](#), [42\(1\)\(c\)](#)

#### Commencement Information

- I16** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### [<sup>F42</sup>17A Exception from disqualification by virtue of being an MP: recently elected members

- (1) A person returned at an election as an Assembly member is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period of 8 days beginning with the day the person is so returned.
- (2) Subsection (3) applies where a person—
  - (a) is returned at an election as an Assembly member,
  - (b) on being so returned is a candidate for election to the House of Commons, and
  - (c) is subsequently returned at that election as a member of that House.
- (3) The person is not disqualified under section 16(1)(za) at any time in the period of 8 days beginning with the day the person is returned as a member of the House of Commons.
- (4) A person is a “candidate for election to the House of Commons” if the person's nomination paper for election as a member of the House of Commons has been delivered to the returning officer under rule 6 of Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules).

#### Textual Amendments

- F42** Ss. 17A, 17B inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 3\(2\)](#), [29\(2\)\(a\)](#)

### 17B Exception from disqualification by virtue of being an MP: general election of Assembly members within 372 days

- (1) This section applies if—
  - (a) an Assembly member is returned as a member of the House of Commons, and
  - (b) the expected day of the next general election of Assembly members is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period—

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- (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of Assembly members.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Assembly members is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- [ Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general <sup>F43</sup>(3A) election being held on the day specified in section 3(1)—
- (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.
- (3B) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
- (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).]

(4) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—

    - (a) if [<sup>F44</sup>a proclamation under section 5(4) has been issued], the expected day is the day on which the poll is required to be held in accordance with that [<sup>F45</sup>proclamation];
    - (b) if no [<sup>F46</sup>proclamation under section 5(4) has been issued] but a day has been proposed under section 5(1), that is the expected day;
    - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).

(5) For the purpose of determining the expected day, no account is to be taken of the possibility of—

    - (a) [<sup>F47</sup>a day being proposed under section 4(1) (power to vary date of ordinary general election)] after the relevant time, or
    - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.

(6) References in this section to the “day” of the election are to the day on which the poll at the election is held.]

#### Textual Amendments

- F42** Ss. 17A, 17B inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), ss. **3(2)**, 29(2)(a)
- F43** S. 17B(3A)(3B) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(2), 42(1)(c)
- F44** Words in s. 17B(4)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(a)(i), 42(1)(c)

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- F45** Word in s. 17B(4)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(a)(ii), 42(1)(c)
- F46** Words in s. 17B(4)(b) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(b), 42(1)(c)
- F47** Words in s. 17B(5)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(4), 42(1)(c)

### [<sup>F48</sup>17C **Exception from disqualification by virtue of being a member of the House of Lords**

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zb) (disqualification by virtue of being a member of the House of Lords) at any time in the period of eight days beginning with the day the person is so returned.
- (2) A Member of the Senedd who becomes a member of the House of Lords is not disqualified under section 16(1)(zb) at any time before the end of the period of eight days beginning with the day the person makes and subscribes the oath required by the [Parliamentary Oaths Act 1866 \(c. 19\)](#) (or the corresponding affirmation).
- (3) A person is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time when the person—
  - (a) has leave of absence from the House of Lords, or
  - (b) has made an application for leave of absence which has not been withdrawn or refused.
- (4) A person who is on leave of absence from the House of Lords immediately before Parliament is dissolved is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time in the period—
  - (a) beginning with the dissolution of the old Parliament, and
  - (b) ending at the end of the period of eight days beginning with the day of the first meeting of the new Parliament.]

#### **Textual Amendments**

- F48** S. 17C inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 32**, 42(1)(c)

### [<sup>F49</sup>17D **Exception from disqualification by virtue of being a councillor: recently elected members**

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).
- (2) A Member of the Senedd who is returned at an election as a member of the council of a county or county borough in Wales is not disqualified under section 16(1)(zc) at any

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time before the person makes a declaration of acceptance of office under section 83 of the [Local Government Act 1972 \(c. 70\)](#).

#### Textual Amendments

**F49** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33**, 42(1)(c)

### 17E Exception from disqualification by virtue of being a councillor: ordinary election of councillors within 372 days

- (1) This section applies if—
- (a) a member of the council of a county or county borough in Wales is returned as a Member of the Senedd, and
  - (b) the expected day of the next ordinary election of members of the council is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
- (a) beginning with the return day, and
  - (b) ending with the fourth day after the day of the next ordinary election of members of the council.
- (3) For the purposes of subsection (1)(b) the expected day of the next ordinary election of members of the council is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) an order under section 37ZA(1) of the [Representation of the People Act 1983 \(c. 2\)](#) (power to vary ordinary day of local elections), or
  - (b) an order under section 87 of the [Local Government Act 2000 \(c. 22\)](#) (power to change year in which local election is held),
- being made after the relevant time.
- (5) References in this section and section 17F to the “day” of an election are to the day on which the poll at the election is held.

#### Textual Amendments

**F49** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33**, 42(1)(c)

### 17F Exception from disqualification by virtue of being a councillor: general election of Members of the Senedd within 372 days

- (1) This section applies if—
- (a) a Member of the Senedd is returned as a member of the council of a county or county borough in Wales, and

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- (b) the expected day of the next general election of Members of the Senedd is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
  - (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of Members of the Senedd.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Members of the Senedd is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general election being held on the day specified in section 3(1)—
  - (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.
- (5) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
  - (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).
- (6) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—
  - (a) if a proclamation under section 5(4) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 5(4) has been issued but a day has been proposed under section 5(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).
- (7) For the purpose of determining the expected day, no account is to be taken of the possibility of—
  - (a) a day being proposed under section 4(1) (power to vary date of ordinary general election) after the relevant time, or
  - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.]

#### **Textual Amendments**

**F49** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33, 42(1)(c)**

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

## 18 Effect of disqualification

- (1) If a person who is disqualified from being an Assembly member is returned as an Assembly member, the person's return is void and the person's seat is vacant.
- (2) If a person who is disqualified from being an Assembly member for a particular Assembly constituency or Assembly electoral region is returned as an Assembly member for that Assembly constituency or Assembly electoral region, the person's return is void and the person's seat is vacant.
- (3) If a person who is an Assembly member becomes disqualified—
  - (a) from being an Assembly member, or
  - (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person is sitting,
 the person ceases to be an Assembly member (so that the person's seat is vacant).
- (4) Subsections (1) to (3) have effect subject to any resolution of the Assembly under section 17(3).
- (5) In addition, subsection (3) has effect subject to—
  - <sup>F50</sup>(a) .....
  - (b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).
- (6) If, in consequence of [<sup>F51</sup>the provision] mentioned in subsection (5), the seat of a person who is disqualified from being an Assembly member is not vacant, the person does not cease to be an Assembly member until the person's seat becomes vacant.
- (7) But for any period for which the person is disqualified but the person's seat is not vacant—
  - (a) the person must not participate in any Assembly proceedings, and
  - (b) any of the person's other rights and privileges as an Assembly member may be withdrawn by the Assembly.
- (8) The validity of any Assembly proceedings is not affected by the disqualification of any person—
  - (a) from being an Assembly member, or
  - (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit.

### Textual Amendments

**F50** S. 18(5)(a) omitted (28.4.2013) by virtue of [Mental Health \(Discrimination\) Act 2013 \(c. 8\), s. 4\(1\), Sch. para. 5\(1\)\(a\)](#)

**F51** Words in s. 18(6) substituted (28.4.2013) by [Mental Health \(Discrimination\) Act 2013 \(c. 8\), s. 4\(1\), Sch. para. 5\(1\)\(b\)](#)

### Commencement Information

**I17** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

## 19 Judicial proceedings as to disqualification

- (1) Any person who claims that a person purporting to be an Assembly member is, or at any time since being returned as an Assembly member has been, disqualified from being—
  - (a) an Assembly member, <sup>F52</sup>...
  - <sup>F52</sup>(b) .....may apply to the High Court for a declaration to that effect.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was returned or to have arisen subsequently.
- (3) No declaration may be made under this section in respect of any person—
  - (a) on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the person's disqualification on those grounds is or was in issue, or
  - (b) on any ground, if a resolution of the Assembly under section 17(3) requires that any disqualification incurred by the person on that ground is to be disregarded.
- (4) On an application under this section—
  - (a) the person in respect of whom the application is made is to be the respondent, and
  - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (5) The amount of the security may not exceed £5,000 or such other sum as the Welsh Ministers may specify by order.
- (6) The decision of the court on an application under this section is final.
- (7) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the Assembly.

### Textual Amendments

**F52** S. 19(1)(b) and word omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 34(6), 42(1)(c)**

### Commencement Information

**I18** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Remuneration, oaths etc.*

## 20 Remuneration of Assembly members

- (1) [<sup>F53</sup>Provision must be made] for the payment of salaries to Assembly members.
- (2) [<sup>F54</sup>Provision may be made] for the payment of allowances to Assembly members.

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- (3) [<sup>F55</sup>Provision may be made] for the payment of pensions, gratuities or allowances to, or in respect of, any person who—
- (a) has ceased to be an Assembly member, or
  - (b) has ceased to hold office as the Presiding Officer or Deputy Presiding Officer, or such other office in connection with the Assembly as the Assembly may determine, but continues to be an Assembly member.
- (4) Such provision may, in particular, include provision for—
- (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
  - (b) the establishment and administration (whether by the Assembly Commission or otherwise) of one or more pension schemes.
- (5) Sums required for the making of payments by virtue of provision under subsection (1) or (3) to or in respect of a person who holds or has held the office of Presiding Officer or Deputy Presiding Officer are to be charged on the Welsh Consolidated Fund.
- [<sup>F56</sup>(6) Provision under this section is to be made by determination made by the Board.]
- [<sup>F57</sup>(7) The Assembly Commission must give effect to any determination made by the Board under this section.
- (8) In this section (and in sections 22, 24, 53 and 54) “ the Board ” means the National Assembly for Wales Remuneration Board established by section 1 of the National Assembly for Wales (Remuneration) Measure 2010 (nawm 4 —). ]

#### Textual Amendments

- F53** Words in s. 20(1) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 1 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F54** Words in s. 20(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 2 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F55** Words in s. 20(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 3 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F56** S. 20(6) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 4 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F57** S. 20(7)(8) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 5 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

- I19** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



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## 21 Limit on salaries of Assembly members

- (1) The Assembly must make provision to ensure that the amount of the salary payable to an Assembly member in accordance with section 20 is reduced if a salary is payable to the Assembly member—
  - [<sup>F58</sup>(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons),]
    - (a) pursuant to a resolution (or combination of resolutions) of [<sup>F59</sup>the House of Lords] relating to the remuneration of members of that House, or
    - (b) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (c. 50) (remuneration of United Kingdom MEPs).
- (2) The provision made must ensure that the amount of salary is reduced—
  - (a) to a particular proportion of what it otherwise would be or to a particular amount, or
  - (b) by the amount of any salary payable to the Assembly member as mentioned in subsection [<sup>F60</sup>(1)(za), (a)] or (b), by a particular proportion of that amount or by some other particular amount.
- (3) Provision may be made under this section by—
  - (a) the standing orders, or
  - (b) resolutions of the Assembly,and may include provision conferring functions on the Assembly Commission.

### Textual Amendments

- F58** S. 21(1)(za) inserted (24.5.2011) by [Constitutional Reform and Governance Act 2010 \(c. 25\), s. 52, Sch. 5 para. 12\(2\)\(a\)](#); S.I. 2011/1274, art. 2(b)
- F59** Words in s. 21(1)(a) substituted (24.5.2011) by [Constitutional Reform and Governance Act 2010 \(c. 25\), s. 52, Sch. 5 para. 12\(2\)\(b\)](#); S.I. 2011/1274, art. 2(b)
- F60** Words in s. 21(2)(b) substituted (24.5.2011) by [Constitutional Reform and Governance Act 2010 \(c. 25\), s. 52, Sch. 5 para. 12\(3\)](#); S.I. 2011/1274, art. 2(b)

### Commencement Information

- I20** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 22 Remuneration: supplementary

- (1) Different provision may be made under section 20 or 21 for different cases.
- (2) [<sup>F61</sup>The Assembly Commission] must ensure that information concerning—
  - (a) the amounts paid to each Assembly member as salary and allowances, and
  - (b) the total amount paid to Assembly members as salaries and allowances,is published for each financial year <sup>F62</sup> . . . .
- [<sup>F63</sup>(3) The Assembly Commission must lay before the Assembly every determination made by the Board under section 20(6) as soon as is reasonably practicable after it is made.]
- (4) For the purposes of sections 20 and 21 a person who—
  - (a) ceases to be an Assembly member when the Assembly is dissolved, but
  - (b) is nominated as a candidate at the subsequent general election,

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is to be treated as an Assembly member until the end of the day on which the poll at the election is held.

- (5) Where a person—
- (a) ceases to be an Assembly member when the Assembly is dissolved, but
  - (b) continues to hold office as Presiding Officer or as a member of the Assembly Commission by virtue of paragraph 1(1) or (2) of Schedule 2,
- the fact that the person is no longer an Assembly member does not affect any entitlement under sections 20 and 21 in respect of the holding of office as Presiding Officer or as a member of the Assembly Commission (or both) until the end of the day on which the person ceases to hold it.
- (6) Provision made under section 20(3) does not affect pensions or allowances in payment before the provision was made.

#### Textual Amendments

- F61** Words in s. 22(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 6 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F62** Words in s. 22(2) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 6 (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F63** S. 22(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 7 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

- I21** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 23 Oath or affirmation of allegiance

- (1) An Assembly member must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation) as soon as is reasonably practicable after being returned as an Assembly member (whether for the first time or subsequently).
- (2) The standing orders must specify the person before whom the oath is to be taken (or the affirmation made).
- (3) Subsection (1) does not require an Assembly member to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) by the Assembly member in compliance with section 55(2) since being returned (or last returned).
- (4) Until an Assembly member has taken the oath (or made the affirmation) the Assembly member must not do anything as an Assembly member, other than—
  - (a) take part in proceedings of the Assembly at which Assembly members take the oath or make the affirmation, or

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- (b) take part in any earlier proceedings for the election of the Presiding Officer or Deputy Presiding Officer.
- (5) If an Assembly member has not taken the oath (or made the affirmation) within—
  - (a) the period of two months beginning with the day on which the Assembly member was declared to be returned, or
  - (b) such longer period as the Assembly may have allowed before the end of that period of two months,at the end of that period of two months or longer period the Assembly member ceases to be an Assembly member (so that the Assembly member's seat is vacant).
- (6) Until an Assembly member has taken the oath (or made the affirmation), no salary, allowance, gratuity or payment towards the provision of a pension, allowance or gratuity is to be paid under this Act to or in respect of the Assembly member.
- (7) But subsection (6) does not affect any entitlement to payments in respect of the period before the Assembly member took the oath (or made the affirmation) once the Assembly member has done so.

**Commencement Information**

**I22** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**24 Assistance to groups of Assembly members**

- (1) The Assembly Commission must make to (or in respect of) political groups to which Assembly members belong such payments [<sup>F64</sup>as the Board from time to time determines] for the purpose of assisting Assembly members who belong to those political groups to perform their functions as Assembly members.
- (2) A determination under subsection (1) may make provision—
  - (a) for calculating the amount of any payment to (or in respect of) a political group,
  - (b) for the conditions subject to which payments to (or in respect of) a political group are to be made, and
  - (c) for claims for such payments to be made to the Assembly Commission.
- (3) A determination under subsection (1) may make different provision for different political groups.
- (4) <sup>F65</sup> .....
- (5) The standing orders must include provision for determining for the purposes of this Act whether any Assembly member belongs to a political group and, if so, to which; and (in particular)—
  - (a) may include provision for treating an Assembly member as not belonging to a political group unless a specified number of Assembly members belong to it, and
  - (b) must include provision requiring the Presiding Officer to decide any questions arising under the provision included by virtue of this subsection.
- [<sup>F66</sup>(6) The Assembly Commission must lay before the Assembly every determination made by the Board under section 24(1) as soon as is reasonably practicable after it is made.]

*Status: Point in time view as at 23/01/2020.*

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[<sup>F67</sup>(7) The Assembly Commission must ensure that information concerning the sums paid under this section is published for each financial year.]

#### Textual Amendments

- F64** Words in s. 24(1) substituted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 8 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F65** S. 24(4) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 9 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F66** S. 24(6) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 10 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F67** S. 24(7) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 11 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

- I23** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Presiding Officer and administration*

## 25 Presiding Officer etc.

- (1) The Assembly must, at its first meeting following a general election, elect from among the Assembly members—
  - (a) a presiding officer (referred to in this Act as “the Presiding Officer”), and
  - (b) a deputy presiding officer (referred to in this Act as “the Deputy Presiding Officer”).
- (2) The person elected under paragraph (a) of subsection (1) is to be known as the Presiding Officer or by such other title as the standing orders may provide; and the person elected under paragraph (b) of that subsection is to be known as the Deputy Presiding Officer or by such other title as the standing orders may provide.
- (3) The Presiding Officer holds office until the conclusion of the next election of a Presiding Officer under subsection (1).
- (4) The Deputy Presiding Officer holds office until the Assembly is dissolved.
- (5) But the Presiding Officer or Deputy Presiding Officer—
  - (a) may at any time resign,
  - (b) ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution, and
  - (c) may be removed from office by the Assembly.

*Status: Point in time view as at 23/01/2020.*

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- (6) If the Presiding Officer or the Deputy Presiding Officer ceases to hold office under subsection (5) (or dies), the Assembly must elect a replacement from among the Assembly members.
- (7) Subject to subsection (9), the Presiding Officer and the Deputy Presiding Officer must not belong to—
  - (a) the same political group, or
  - (b) different political groups both of which are political groups with an executive role.
- (8) For the purposes of this Act a political group is a political group with an executive role if the First Minister or one or more of the Welsh Ministers appointed under section 48 belong to it.
- (9) The Assembly may resolve that subsection (7) is not to apply for so long as the resolution so provides; but if the motion for the resolution is passed on a vote it is of no effect unless at least two-thirds of the Assembly members voting support it.
- (10) The Presiding Officer's functions may be exercised by the Deputy Presiding Officer if—
  - (a) the office of Presiding Officer is vacant, or
  - (b) the Presiding Officer is for any reason unable to act.
- (11) The Presiding Officer may (subject to the standing orders) authorise the Deputy Presiding Officer to exercise functions of the Presiding Officer.
- (12) The standing orders may include provision for the Presiding Officer's functions to be exercisable by any person specified in, or determined in accordance with, the standing orders if—
  - (a) the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act, and
  - (b) the office of Deputy Presiding Officer is vacant or the Deputy Presiding Officer is for any reason unable to act.
- (13) The standing orders may include provision as to the participation (including voting) in Assembly proceedings of the Presiding Officer and Deputy Presiding Officer and any person acting by virtue of subsection (12).
- (14) The validity of any act of a person as Presiding Officer or Deputy Presiding Officer, or of any person acting by virtue of subsection (12), is not affected by any defect in the person's appointment by the Assembly.
- (15) Subsections (10) to (12) are subject to paragraph 11 of Schedule 2.

#### **Commencement Information**

**I24** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **26 Clerk of Assembly**

- (1) The Assembly Commission must appoint a person to be the Clerk of the Assembly (referred to in this Act as “the Clerk”).

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- (2) The person appointed under subsection (1) is to be known as the Clerk of the Assembly or by such other title as the standing orders may provide.
- (3) The Clerk's functions may be exercised by any other member of the staff of the Assembly (or person seconded to work at the Assembly) authorised by the Assembly Commission if—
  - (a) the office of Clerk is vacant, or
  - (b) the Clerk is for any reason unable to act.
- (4) The Clerk may authorise any other member of the staff of the Assembly (or person seconded to work at the Assembly) to exercise functions on the Clerk's behalf.

#### **Commencement Information**

**I25** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **27 Assembly Commission**

- (1) There is to be a body corporate to be known as the National Assembly for Wales Commission or Comisiwn Cynulliad Cenedlaethol Cymru (referred to in this Act as "the Assembly Commission").
- (2) The members of the Assembly Commission are to be—
  - (a) the Presiding Officer, and
  - (b) four other Assembly members.
- (3) The standing orders must make provision for the appointment of the four other Assembly members as members of the Assembly Commission.
- (4) The provision included in the standing orders in compliance with subsection (3) must (so far as it is reasonably practicable to do so) secure that not more than one of the members of the Assembly Commission (other than the Presiding Officer) belongs to any one political group.
- (5) The Assembly Commission must—
  - (a) provide to the Assembly, or
  - (b) ensure that the Assembly is provided with,
 the property, staff and services required for the Assembly's purposes.
- (6) The Assembly may give special or general directions to the Assembly Commission for the purpose of, or in connection with, the exercise of the Assembly Commission's functions.
- (7) Any property, rights or liabilities acquired or incurred in relation to matters to which the Assembly would otherwise be entitled or subject are to be treated for all purposes as property, rights or liabilities of the Assembly Commission.
- (8) For further provision about the Assembly Commission see Schedule 2.

#### **Commencement Information**

**I26** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## Committees

### 28 Committees and sub-committees

- (1) The standing orders may provide—
  - (a) for the appointment of committees of the Assembly, and
  - (b) for such committees to have power to appoint sub-committees.
- (2) The members of a committee of the Assembly, or of a sub-committee of such a committee, may not include anyone who is not an Assembly member.
- (3) The standing orders must make provision about the membership, chairing and procedure of committees of the Assembly and sub-committees of such committees.
- (4) The standing orders may include provision for excluding from the proceedings of a committee of the Assembly, or a sub-committee of such a committee, an Assembly member who is not a member of the committee or sub-committee.
- (5) The validity of any proceedings of a committee of the Assembly, or of a sub-committee of such a committee, is not affected by—
  - (a) any vacancy in its membership,
  - (b) any defect in the appointment of its members or of the person who chairs it, or
  - (c) any failure to comply with provisions of the standing orders relating to procedure.

#### Commencement Information

**I27** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### <sup>F68</sup>29 Composition of committees

.....

#### Textual Amendments

**F68** S. 29 omitted (31.3.2017) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 14, 71(2)(b)** (with [Sch. 7 paras. 1, 6](#))

### 30 Audit Committee

- (1) The committees of the Assembly must include one to be known as the Audit Committee or Pwyllgor Archwilio or by such other name as the Assembly may determine; and, if the Assembly makes such a determination, references to the committee in—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,have effect accordingly.
- (2) The Audit Committee is to have the number of members specified by the standing orders.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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) None of the following may be a member of the Audit Committee—
- (a) the First Minister or any person designated to exercise the functions of the First Minister,
  - (b) a Welsh Minister appointed under section 48,
  - (c) the Counsel General or any person designated to exercise the functions of the Counsel General, or
  - (d) a Deputy Welsh Minister.
- (4) The Audit Committee must not be chaired by an Assembly member who is a member of a political group with an executive role.

#### **Commencement Information**

**I28** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Proceedings etc.*

### **31 Standing orders**

- (1) Assembly proceedings are to be regulated by standing orders (referred to in this Act as “the standing orders”).
- (2) The standing orders must include provision for preserving order in Assembly proceedings, including provision for—
  - (a) preventing conduct which would constitute a criminal offence or contempt of court, and
  - (b) a sub judice rule.
- (3) The standing orders may include provision for excluding an Assembly member from Assembly proceedings.
- (4) The standing orders may include provision for withdrawing from an Assembly member any or all of the rights and privileges of membership of the Assembly.
- (5) The standing orders—
  - (a) must include provision requiring the proceedings of the Assembly to be held in public, and for proceedings of a committee of the Assembly or a sub-committee of such a committee to be held in public except in circumstances provided for in the standing orders, and
  - (b) may include provision as to the conditions to be complied with by members of the public attending the proceedings (including provision for excluding any member of the public who does not comply with the conditions).
- (6) The standing orders must include provision—
  - (a) for reporting the proceedings of the Assembly, and for reporting proceedings of committees of the Assembly and sub-committees of such committees which are held in public, and
  - (b) for publishing the reports of proceedings as soon as reasonably practicable after the proceedings take place.



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- (7) The Assembly may by resolution remake or revise the standing orders; but if the motion for a resolution to remake or revise the standing orders is passed on a vote, it has no effect unless at least two-thirds of the Assembly members voting support it.
- (8) The Clerk must from time to time publish the standing orders.

**Commencement Information**

**I29** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**F69** **32 Participation by UK Ministers etc.**

**Textual Amendments**

**F69** S. 32 omitted (31.3.2017) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 15\(a\)](#), [71\(2\)\(b\)](#) (with [Sch. 7 paras. 1, 6](#))

**F70** **33 Consultation about UK Government's legislative programme**

**Textual Amendments**

**F70** S. 33 omitted (31.3.2017) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 15\(b\)](#), [71\(2\)\(b\)](#) (with [Sch. 7 paras. 1, 6](#))

**34 Participation by Counsel General**

- (1) If not an Assembly member the Counsel General may participate in Assembly proceedings to the extent permitted by the standing orders, but may not vote.
- (2) And the standing orders may in other respects provide that they are to apply to the Counsel General if not an Assembly member as to an Assembly member.
- (3) The Counsel General may, in any Assembly proceedings, decline to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if considering that answering the question or producing the document—
  - (a) might prejudice criminal proceedings in the case, or
  - (b) would otherwise be contrary to the public interest.

**Commencement Information**

**I30** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## 35 Equality of treatment

[<sup>F71</sup>(1) The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality. ]

[<sup>F71</sup>(1) The official languages of the Assembly are English and Welsh.

(1A) The official languages must, in the conduct of Assembly proceedings, be treated on a basis of equality.

(1B) All persons have the right to use either official language when participating in Assembly proceedings.

(1C) Reports of Assembly proceedings must, in the case of proceedings which fall within section 1(5)(a) (proceedings of the Assembly), contain a record of what was said, in the official language in which it was said, and also a full translation into the other official language.

(1D) Paragraph 8 of Schedule 2 makes provision about how the Assembly Commission must enable effect to be given to subsections (1) to (1C).]

(2) The Assembly must make appropriate arrangements with a view to securing that Assembly proceedings are conducted with due regard to the principle that there should be equality of opportunity for all people.

### Textual Amendments

**F71** S. 35(1)-(1D) substituted for s. 35(1) (13.11.2012) by [National Assembly for Wales \(Official Languages\) Act 2012 \(anaw 1\), ss. 1, 3\(b\)](#)

### Commencement Information

**I31** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 36 Integrity

(1) The standing orders must include provision—

- (a) for a register of interests of Assembly members, and
- (b) for the register to be published and made available for public inspection.

(2) The standing orders must require Assembly members to register in the register of interests registrable interests, as defined for the purposes of this subsection.

(3) The standing orders must require any Assembly member who has—

- (a) a financial interest, as defined for the purposes of this subsection, or
- (b) any other interest, or an interest of any other kind, as so defined,

in any matter to declare that interest before taking part in Assembly proceedings relating to that matter.

(4) The standing orders may include provision for preventing or restricting the participation in any Assembly proceedings of an Assembly member who has an interest within subsection (2) or (3) in any matter to which the proceedings relate.

(5) The standing orders must include provision prohibiting an Assembly member from—

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- (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified, or
  - (b) urging, in consideration of any such payment or benefit in kind, any other Assembly member to advocate or initiate any cause or matter on behalf of any person by any such means.
- (6) The standing orders must include provision about (or for the making of a code or protocol about) the different roles and responsibilities of Assembly constituency members and Assembly regional members; and—
- (a) Assembly constituency members must not describe themselves in a manner which suggests that they are Assembly regional members, and
  - (b) Assembly regional members must not describe themselves in a manner which suggests that they are Assembly constituency members.
- (7) An Assembly member who—
- (a) takes part in Assembly proceedings without having complied with, or in contravention of, any provision included in the standing orders in pursuance of subsections (2) to (4), or
  - (b) contravenes any provision included in the standing orders in pursuance of subsection (5),
- commits an offence.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) A prosecution for an offence under subsection (7) cannot be instituted except by or with the consent of the Director of Public Prosecutions.
- (10) The validity of any Assembly proceedings is not affected by any contravention or failure to comply with any provision included in the standing orders in pursuance of this section.
- (11) In this section—
- (a) references to an Assembly member (apart from those in subsection (6)) include the Counsel General, if not an Assembly member, and
  - (b) “financial interest” includes a benefit in kind.

#### **Commencement Information**

**I32** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Witnesses and documents*

## **37 Power to call**

- (1) Subject as follows, the Assembly may require any person—
- (a) to attend Assembly proceedings for the purpose of giving evidence, or
  - (b) to produce for the purposes of the Assembly (or a committee of the Assembly or a sub-committee of such a committee) documents in the possession, or under the control, of the person,

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concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions]<sup>F72</sup>, relevant to the exercise of any of the Auditor General for Wales' functions, or relevant to the oversight and supervision of the Auditor General for Wales, or to the oversight and supervision of the exercise of any of his or her functions].

- (2) The Assembly may not impose a requirement under subsection (1) on a person who is not involved in the exercise of functions, or the carrying on of activities, in relation to Wales [<sup>F73</sup>or the Welsh zone].
- (3) The Assembly may not impose a requirement under subsection (1) on a person who—
  - (a) is or has been a Minister of the Crown, or
  - (b) serves or has served in the department of a Minister of the Crown,
 in relation to the exercise of any functions of a Minister of the Crown.
- (4) The Assembly—
  - (a) may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and
  - (b) may not impose such a requirement on a person who is not within paragraph (a) but who is or has been a member of any court or tribunal in connection with the exercise of functions as such a member.
- (5) Where a requirement under subsection (1) is imposed on a person who is or has been a member of the staff of the Welsh <sup>F74</sup>... Government (or a person seconded to work for the Welsh <sup>F74</sup>... Government) in relation to the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any of them may issue a direction under subsection (6).
- (6) A direction under this subsection is a direction—
  - (a) that the person on whom the requirement was imposed need not comply with it, and
  - (b) that the requirement is instead to be complied with by another person specified in the direction.
- <sup>F75</sup>(6A) Subsection (1) applies in relation to requirements imposed on a person in connection with the discharge of the functions of the Gas and Electricity Markets Authority in relation to Wales with the omission of the words after paragraph (b).]
- (7) The powers conferred by subsection (1)—
  - (a) may be exercised by and for the purposes of the Audit Committee, and
  - (b) may be exercised by and for the purposes of any other committee of the Assembly, or any sub-committee of any committee of the Assembly, if the committee or sub-committee is expressly authorised to do so by the Assembly (whether by the standing orders or otherwise).
- (8) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.
- (9) A person acting as prosecutor in criminal proceedings is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the appropriate officer—

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- (a) considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest, and
  - (b) has authorised the person to decline to answer the question or produce the document on that ground.
- (10) In subsection (9) “the appropriate officer” means—
- (a) if the proceedings were instituted by or on behalf of the Welsh Ministers, the First Minister or the Counsel General, the Counsel General, and
  - (b) otherwise, the Attorney General.

#### Textual Amendments

- F72** Words in s. 37(1) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 71](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F73** Words in s. 37(2) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(2\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))
- F75** S. 37(6A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), ss. 66(1), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, [reg. 3\(m\)](#)

#### Commencement Information

- I33** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 38 Notice

- (1) A requirement under section 37 is to be imposed on a person by the Clerk giving the person notice in writing specifying—
- (a) whether the requirement is imposed for the purposes of the Assembly or a specified committee or sub-committee, and
  - (b) the matters mentioned in either paragraph (a) or paragraph (b) of subsection (2).
- (2) Those matters are—
- (a) the time and place at which the person is to attend and the particular subject concerning which the person is required to give evidence;
  - (b) the documents, or types of documents, which the person is to produce, the date by which and person to whom they are to be produced and the particular subject concerning which they are required.
- (3) Notice under subsection (1) is to be given—
- (a) in the case of an individual, by sending it in accordance with subsection (4) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address, or
  - (b) in any other case, by so sending it addressed to the person at the person's registered or principal office.
- (4) A notice is sent in accordance with this subsection if it is sent—
- (a) by a registered post service (within the meaning of the [Postal Services Act 2000 \(c. 26\)](#)), or

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- (b) by a postal service which provides for its delivery by post to be recorded.
- (5) If a direction is issued under subsection (6) of section 37 in relation to a requirement imposed under subsection (1) of that section, the person or persons by whom it is issued must give notice in writing that the direction has been issued—
- (a) if the requirement was imposed for the purposes of the Assembly, to the Presiding Officer, and
  - (b) otherwise, to the person who chairs the committee or sub-committee for the purposes of which it was imposed.

#### Commencement Information

**I34** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 39 Offences

- (1) A person to whom a notice under section 38(1) has been given commits an offence if the person—
- (a) refuses or fails without reasonable excuse to attend proceedings as required by the notice,
  - (b) refuses or fails without reasonable excuse, when attending proceedings as required by the notice, to answer any question concerning the subjects specified in the notice,
  - (c) refuses or fails without reasonable excuse to produce any document required to be produced by the notice, or
  - (d) intentionally alters, suppresses, conceals or destroys any such document.
- (2) Subsection (1) is subject to sections 34(3) and 37(5), (6), (8) and (9).
- (3) If a person charged with an offence under subsection (1)(a), (b) or (c) adduces evidence of a reasonable excuse for the refusal or failure, it is for the prosecution to prove that the person did not have such an excuse.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale,
  - (b) to imprisonment for a term not exceeding 51 weeks, or
  - (c) to both.
- (5) Where an offence under subsection (1) 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,
- that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
- (6) In subsection (5) “director”, in the case of a body corporate whose affairs are managed by its members, means a member of the body corporate.

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#### **Commencement Information**

**I35** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **40 General**

- (1) The Presiding Officer or such other person as may be authorised by the standing orders may—
  - (a) require any person giving evidence in Assembly proceedings to take an oath (or make an affirmation), and
  - (b) administer the oath (or affirmation) to the person.
- (2) A person commits an offence if the person—
  - (a) is required to attend Assembly proceedings for the purpose of giving evidence by a notice under section 38(1), and
  - (b) refuses to take an oath (or make an affirmation) when required to do so for the purposes of the Assembly proceedings.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction—
  - (a) to a fine not exceeding level 5 on the standard scale,
  - (b) to imprisonment for a term not exceeding 51 weeks, or
  - (c) to both.
- (4) The standing orders may provide for the payment of allowances and expenses to persons—
  - (a) attending Assembly proceedings for the purpose of giving evidence, or
  - (b) producing for the purposes of the Assembly (or a committee of the Assembly or a sub-committee of such a committee) documents which they have been required or requested to produce,whether or not in pursuance of a notice under section 38(1).
- (5) The provision made by virtue of subsection (4) may confer functions on the Assembly Commission.
- (6) For the purposes of sections 37 to 39 and this section—
  - (a) a person is to be taken to comply with a requirement to produce a document if the person produces a copy of the document or an extract of the relevant part of the document,
  - (b) “document” means anything in which information is recorded in any form, and
  - (c) references to producing a document are to producing the information recorded in it in a visible and legible form.

#### **Commencement Information**

**I36** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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### *Legal issues*

#### **41 Proceedings by or against Assembly etc.**

- (1) Proceedings by or against the Assembly are to be instituted by or against the Assembly Commission on behalf of the Assembly.
- (2) Proceedings by or against—
  - (a) the Presiding Officer or Deputy Presiding Officer, or
  - (b) a member of the staff of the Assembly,
 are (unless instituted against or by the Assembly Commission) to be instituted by or against the Assembly Commission on behalf of the Presiding Officer, Deputy Presiding Officer or member of staff.
- (3) In any proceedings against the Assembly the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings but may instead make a declaration.
- (4) In any proceedings against—
  - (a) any Assembly member,
  - (b) the Presiding Officer or Deputy Presiding Officer,
  - (c) any member of the staff of the Assembly, or
  - (d) the Assembly Commission,
 the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings if the effect of doing so would be to give any relief against the Assembly which could not have been given in proceedings against the Assembly.
- (5) References in this section to an order include an order which is not final.

#### **Commencement Information**

**I37** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### **42 Defamation**

- (1) For the purposes of the law of defamation—
  - (a) any statement made in Assembly proceedings, and
  - (b) the publication under the authority of the Assembly of any statement,
 is absolutely privileged.
- (2) The Welsh Ministers may by regulations make provision for and in connection with establishing in any legal proceedings that any statement or publication is absolutely privileged by virtue of subsection (1).
- (3) No regulations are to be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (4) In this section “statement” has the same meaning as in the Defamation Act 1996 (c. 31).



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**Commencement Information**

**I38** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**43 Contempt of court**

- (1) The strict liability rule does not apply in relation to any publication—
- (a) made in, for the purposes of, or for purposes incidental to, Assembly proceedings, or
  - (b) to the extent that it consists of a report of Assembly proceedings which either is made by or under the authority of the Assembly or is fair and accurate and made in good faith.
- (2) In subsection (1)—
- “the strict liability rule”, and
  - “publication”,
- have the same meaning as in the Contempt of Court Act 1981 (c. 49).

**Commencement Information**

**I39** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**<sup>F76</sup>44 Corrupt practices**

.....

**Textual Amendments**

**F76** S. 44 repealed (1.7.2011) by [Bribery Act 2010 \(c. 23\)](#), s. 19(1), [Sch. 2](#) (with ss. 16, 19(5)); S.I. 2011/1418, art. 2

**PART 2**

<sup>F74</sup>WELSH ... GOVERNMENT

*Government*

**45 Welsh <sup>F74</sup> ... Government**

- (1) There is to be a Welsh <sup>F74</sup> ... Government, or Llywodraeth <sup>F77</sup> ... Cymru, whose members are—
- (a) the First Minister or Prif Weinidog (see sections 46 and 47),
  - (b) the Welsh Ministers, or Gweinidogion Cymru, appointed under section 48,
  - (c) the Counsel General to the Welsh <sup>F74</sup> ... Government or Cwnsler Cyffredinol i Lywodraeth <sup>F77</sup> ... Cymru (see section 49) (referred to in this Act as “the Counsel General”), and
  - (d) the Deputy Welsh Ministers or Dirprwy Weinidogion Cymru (see section 50).

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- (2) In this Act and in any other enactment or instrument the First Minister and the Welsh Ministers appointed under section 48 are referred to collectively as the Welsh Ministers.

#### Textual Amendments

**F77** Words in s. 45(1) omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **ss. 4(2)(b)**, 29(2)(a) (with s. 4(3))

#### Commencement Information

**I40** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Ministers, staff etc.*

## 46 The First Minister

- (1) The First Minister is to be appointed by Her Majesty after nomination in accordance with section 47.
- (2) The First Minister holds office at Her Majesty's pleasure.
- (3) The First Minister may at any time tender resignation to Her Majesty and ceases to hold office as First Minister when it is accepted.
- (4) A person ceases to hold office as the First Minister if another person is appointed to that office.
- (5) The functions of the First Minister are exercisable by a person designated by the Presiding Officer if—
  - (a) the office of the First Minister is vacant,
  - (b) the First Minister is for any reason unable to act, or
  - (c) the First Minister has ceased to be an Assembly member<sup>[F78]</sup> otherwise than by reason of a dissolution].
- (6) A person may not be designated to exercise the functions of the First Minister unless the person is—
  - (a) an Assembly member, or
  - (b) if the Assembly has been dissolved, a person who ceased to be an Assembly member by reason of the dissolution.
- (7) A person may be designated to exercise the functions of the First Minister only on the recommendation of the Welsh Ministers (unless there is no-one holding office as a Welsh Minister appointed under section 48).
- (8) If a person is designated to exercise the functions of the First Minister, the designation continues to have effect even if the Assembly is dissolved.

#### Textual Amendments

**F78** Words in s. 46(5)(c) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 5**, 29(2)(a)

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#### **Commencement Information**

**I41** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **47 Choice of First Minister**

- (1) If one of the following events occurs, the Assembly must, before the end of the relevant period, nominate an Assembly member for appointment as First Minister.
- (2) The events are—
  - (a) the holding of a poll at a general election,
  - (b) the Assembly resolving that the Welsh Ministers no longer enjoy the confidence of the Assembly,
  - (c) the First Minister tendering resignation to Her Majesty,
  - (d) the First Minister dying or becoming permanently unable to act and to tender resignation, and
  - (e) the First Minister ceasing to be an Assembly member otherwise than by reason of a dissolution.
- (3) The relevant period is the period of 28 days beginning with the day on which the event occurs; but—
  - (a) if another of those events occurs within that period, the relevant period is (subject to paragraph (b)) extended to end with the period of 28 days beginning with the day on which that other event occurs, and
  - (b) the relevant period ends if the Assembly passes a resolution under section 5(2) (a) or when Her Majesty appoints a person as the First Minister.
- (4) The Presiding Officer must recommend to Her Majesty the appointment of the person nominated by the Assembly under subsection (1).

#### **Commencement Information**

**I42** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **48 Welsh Ministers**

- (1) The First Minister may, with the approval of Her Majesty, appoint Welsh Ministers from among the Assembly members.
- (2) A Welsh Minister appointed under this section holds office at Her Majesty's pleasure.
- (3) A Welsh Minister appointed under this section may be removed from office by the First Minister.
- (4) A Welsh Minister appointed under this section may at any time resign.
- (5) A Welsh Minister appointed under this section must resign if the Assembly resolves that the Welsh Ministers no longer enjoy the confidence of the Assembly.
- (6) A Welsh Minister appointed under this section who resigns ceases to hold office immediately.

*Status: Point in time view as at 23/01/2020.*

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- (7) A Welsh Minister appointed under this section ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution.

**Commencement Information**

**I43** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**49 Counsel General**

- (1) The Counsel General is to be appointed by Her Majesty on the recommendation of the First Minister.
- (2) The Counsel General may be removed from office by Her Majesty on the recommendation of the First Minister.
- (3) No recommendation for the appointment or removal of a person as the Counsel General may be made by the First Minister without the agreement of the Assembly.
- (4) The Counsel General may at any time tender resignation to Her Majesty and ceases to hold office as Counsel General when it is accepted.
- (5) The Counsel General ceases to hold office if an Assembly member is nominated under section 47(1) for appointment as First Minister.
- (6) The functions of the Counsel General are exercisable by a person designated by the First Minister if—
  - (a) the office of the Counsel General is vacant, or
  - (b) the Counsel General is for any reason unable to act.
- (7) But subsection (6) ceases to have effect at the end of the period of six months beginning with the day on which a person is designated under it and does not have effect again until after the office of the Counsel General has been filled, or the Counsel General has again become able to act.
- (8) The designation of a person under subsection (6) ceases to have effect if an Assembly member is nominated under section 47(1) for appointment as First Minister.
- (9) A person holding office as the First Minister, a Welsh Minister appointed under section 48 or a Deputy Welsh Minister may not be appointed as the Counsel General or designated under subsection (6); and the Counsel General or a person so designated may not be appointed to any of those offices.

**Commencement Information**

**I44** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**50 Deputy Welsh Ministers**

- (1) The First Minister may, with the approval of Her Majesty, appoint Deputy Welsh Ministers from among the Assembly members to assist the First Minister, a Welsh Minister appointed under section 48 or the Counsel General in the exercise of functions.

*Status: Point in time view as at 23/01/2020.*

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- (2) A Deputy Welsh Minister holds office at Her Majesty's pleasure.
- (3) A Deputy Welsh Minister may be removed from office by the First Minister.
- (4) A Deputy Welsh Minister may at any time resign.
- (5) A Deputy Welsh Minister must resign if the Assembly resolves that the Welsh Ministers no longer enjoy the confidence of the Assembly.
- (6) A Deputy Welsh Minister who resigns ceases to hold office immediately.
- (7) A Deputy Welsh Minister ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution.

#### Commencement Information

**I45** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 51 Limit on number of Ministers

- (1) No more than twelve persons are to hold a relevant Welsh Ministerial office at any time.
- (2) A relevant Welsh Ministerial office means the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.

#### Commencement Information

**I46** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 52 Staff

- (1) The Welsh Ministers may appoint persons to be members of the staff of the Welsh<sup>F74</sup> ... Government.
- (2) Service as a member of the staff of the Welsh<sup>F74</sup> ... Government is service in the [<sup>F79</sup>civil service of the State].
- [<sup>F80</sup>(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
  - (a) subsection (1), and
  - (b) any other enactment about the appointment of persons as members of the staff of the Welsh<sup>F74</sup> ... Government.]
- [<sup>F81</sup>(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.]
- (5) The Welsh Ministers are to pay the salaries and expenses of the members of the staff of the Welsh<sup>F74</sup> ... Government.

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- (6) Section 1(2) and (3) of the Superannuation Act 1972 (c. 11) (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another Minister etc. and consultation by that Minister or another Minister) have effect as if the references to a Minister of the Crown other than the Minister for the Civil Service included the Welsh Ministers.
- (7) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
- (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Welsh<sup>F74</sup> ... Government, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (8) The Welsh Ministers may make payments towards the provision of pensions, allowances or gratuities to or in respect of any person who is or has been a member of the staff of the Welsh<sup>F74</sup> ... Government.
- (9) Without prejudice to any rule of law with respect to the carrying out of functions by members of the [<sup>F79</sup>civil service of the State ] under authority, the Welsh Ministers, the First Minister or the Counsel General may authorise the staff of the Welsh<sup>F74</sup> ... Government to carry out any function on their behalf.
- (10)<sup>F82</sup> .....

#### Textual Amendments

- F79** Words in s. 52(2)(9) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(2\)](#); S.I. 2010/2703, [art. 2\(a\)](#)
- F80** S. 52(3) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(3\)](#); S.I. 2010/2703, [art. 2\(a\)](#)
- F81** S. 52(4) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(4\)](#); S.I. 2010/2703, [art. 2\(a\)](#)
- F82** S. 52(10) omitted (11.11.2010) by virtue of [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(5\)](#); S.I. 2010/2703, [art. 2\(a\)](#)

#### Commencement Information

- I47** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Remuneration, oaths etc.*

## 53 Remuneration

- (1) [<sup>F83</sup>Provision must be made] for the payment of salaries to persons to whom this section applies.
- (2) [<sup>F84</sup>Provision may be made] for the payment of allowances to persons to whom this section applies.
- (3) [<sup>F85</sup>Provision may be made] for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a person to whom this section applies.

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- (4) Such provision may, in particular, include provision for—
- (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
  - (b) the establishment and administration (whether by the Assembly Commission or otherwise) of one or more pension schemes.
- (5) This section applies to—
- (a) the First Minister,
  - (b) every Welsh Minister appointed under section 48,
  - (c) the Counsel General, and
  - (d) every Deputy Welsh Minister.
- (6) Sums required for the making of payments by virtue of provision under this section are payable out of the Welsh Consolidated Fund.
- [<sup>F86</sup>(7) Provision under this section is to be made by determination made by the Board.]
- [<sup>F87</sup>(8) The Assembly Commission must give effect to any determination made by the Board under this section.]

#### Textual Amendments

- F83** Words in s. 53(1) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 12 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F84** Words in s. 53(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 13 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F85** Words in s. 53(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 14 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F86** S. 53(7) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 15 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F87** S. 53(8) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 16 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

- I48** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 54 Remuneration: supplementary

- (1) Different provision may be made under section 53 for different cases.
- (2) [<sup>F88</sup>The Assembly Commission] must ensure that information concerning—
- (a) the amounts paid to each person to whom section 53 applies as salary and allowances, and

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(b) the total amount paid to such persons as salaries and allowances, is published for each financial year <sup>F89</sup> . . .

[<sup>F90</sup>(3) The Assembly Commission must lay before the Assembly every determination made by the Board under section 53(7) as soon as is reasonably practicable after it is made.]

(4) Provision made under section 53(3) does not affect pensions or allowances in payment before the provision was made.

#### Textual Amendments

**F88** Words in s. 54(2) substituted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 17 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

**F89** Words in s. 54(2) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 17 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

**F90** S. 54(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 18 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

**I49** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 55 Oath or affirmation

- (1) On appointment as the First Minister, a Welsh Minister appointed under section 48 or the Counsel General a person must take the official oath in the form set out in section 3 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation).
- (2) On appointment as the First Minister, a Welsh Minister appointed under section 48, the Counsel General or a Deputy Welsh Minister a person must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (or make the corresponding affirmation).
- (3) But subsection (2) does not require a person who is an Assembly member to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) in compliance with the person's duty on the person's return (or, if returned more than once, most recent return) as an Assembly member.
- (4) An oath required by this section is to be taken (or the corresponding affirmation made)
  - (a) before one of the Presiding Judges for the Wales and Chester Circuit (or for any appropriate area which is specified in a direction under section 72(4) of the Courts and Legal Services Act 1990 (c. 41)), or
  - (b) (if no such Presiding Judge is available) before another judge nominated by the Senior Presiding Judge for England and Wales.
- (5) Until a person who is required to take an oath (or make an affirmation) by this section in respect of any office has done so, no salary, allowance, gratuity or payment towards



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the provision of a pension, allowance or gratuity is to be paid under this Act to or in respect of the person as a holder of that office.

- (6) But subsection (5) does not affect any entitlement to payments in respect of the period before the person took the oath (or made the affirmation) once the person has done so.

**Commencement Information**

**I50** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Functions*

**56 Introduction**

- (1) The persons to whom this section applies have the functions conferred or imposed on them by or by virtue of this Act or any other enactment or prerogative instrument.
- (2) This section applies to the Welsh Ministers, the First Minister and the Counsel General.

**Commencement Information**

**I51** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**57 Exercise of functions**

- (1) Functions may be conferred or imposed on the Welsh Ministers by that name.
- (2) Functions of the Welsh Ministers, the First Minister and the Counsel General are exercisable on behalf of Her Majesty.
- (3) Functions of the Welsh Ministers are exercisable by the First Minister or any of the Welsh Ministers appointed under section 48.
- (4) Any act or omission of, or in relation to, the First Minister or any of the Welsh Ministers appointed under section 48 is to be treated as an act or omission of, or in relation to, each of them.
- (5) But subsection (4) does not apply in relation to the exercise of functions conferred or imposed on the First Minister alone.
- (6) Where a function conferred or imposed on the Counsel General is (either generally or in particular circumstances) exercisable concurrently by the Welsh Ministers or the First Minister, subsection (4) applies in relation to the exercise of the function (or to its exercise in those circumstances) as if the Counsel General were included among the Welsh Ministers.

**Commencement Information**

**I52** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 58 Transfer of Ministerial functions

(1) Her Majesty may by Order in Council—

- (a) provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any function so far as exercisable by a Minister of the Crown in relation to Wales [<sup>F91</sup>or the Welsh zone],
- (b) direct that any function so far as so exercisable is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General [<sup>F92</sup>—
  - (i) concurrently or jointly with a Minister of the Crown, or
  - (ii) only with the agreement of, or after consultation with, a Minister of the Crown,] or
- (c) direct that any function so far as exercisable by a Minister of the Crown in relation to Wales [<sup>F93</sup>or the Welsh zone] is to be exercisable by the Minister of the Crown only with the agreement of, or after consultation with, the Welsh Ministers, the First Minister or the Counsel General.

[<sup>F94</sup>(1A) An Order in Council under this section may not make provision about a function of a Minister of the Crown exercisable in relation to the area of the Welsh zone beyond the seaward limit of the territorial sea unless the function is connected with fishing, fisheries or fish health.

(1B) Subsection (1A) does not have effect in relation to an Order in Council to the extent that it contains provision made by virtue of paragraph 4 of Schedule 3 (functions exercisable beyond the territorial sea).]

(2) An Order in Council under this section may, in particular, provide for any function exercisable by the Welsh Ministers, the First Minister or the Counsel General by virtue of an Order in Council under subsection (1)(a) or (b) to be exercisable either generally or in such circumstances as may be specified in the Order in Council, concurrently with any other of the Welsh Ministers, the First Minister or the Counsel General.

[<sup>F95</sup>(2A) Her Majesty may by Order in Council—

- (a) make provision modifying (by reference to geographical extent or otherwise) a previously conferred or transferred water-related function;
- (b) provide for such a function to be exercisable—
  - (i) concurrently or jointly with a Minister of the Crown or the Welsh Ministers, or
  - (ii) only with the agreement of, or after consultation with, a Minister of the Crown or the Welsh Ministers.

(2B) In subsection (2A)—

"previously conferred or transferred function" means a function exercisable by—

- (a) the Welsh Ministers, the First Minister or the Counsel General,
- (b) a Minister of the Crown, or
- (c) any authority or other body,

by virtue of provision contained in or made under this Act or any other enactment;

"water-related function" means a function exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection.]

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- (3) An Order in Council under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
- (a) has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) has been approved by the Welsh Ministers.
- (5) For further provision in connection with the transfer etc. of functions by Orders in Council under this section see Schedule 3.

#### Textual Amendments

- F91** Words in s. 58(1)(a) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(a\)](#); S.I. 2009/3345, [art. 2](#), Sch. para. 7
- F92** Words in s. 58(1)(b) substituted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 21\(1\), 71\(4\)](#) (with Sch. 7 paras. 1, 6); S.I. 2017/893, reg. 2
- F93** Words in s. 58(1)(c) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(b\)](#); S.I. 2009/3345, [art. 2](#), Sch. para. 7
- F94** S. 58(1A)(1B) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(c\)](#); S.I. 2009/3345, [art. 2](#), Sch. para. 7
- F95** S. 58(2A)(2B) inserted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 49, 71\(4\)](#) (with Sch. 7 paras. 1, 6, 7); S.I. 2017/893, reg. 2

#### Commencement Information

- I53** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### [<sup>F96</sup>58A Executive ministerial functions

- (1) Executive ministerial functions, so far as exercisable within devolved competence, are exercisable by the Welsh Ministers.
- (2) Executive ministerial functions that are ancillary to a function of the Welsh Ministers exercised outside devolved competence are also exercisable by the Welsh Ministers.
- (3) Functions exercisable by the Welsh Ministers under subsection (1) or (2) are not exercisable by a Minister of the Crown unless they are functions to which subsection (4) applies.  
  
If they are functions to which subsection (4) applies, they are exercisable by the Welsh Ministers concurrently with any relevant Minister of the Crown.
- (4) This subsection applies to—

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- (a) functions ancillary to a function of the Welsh Ministers that is exercisable concurrently or jointly with a Minister of the Crown;
  - (b) functions ancillary to a function of a Minister of the Crown;
  - (c) functions that are not ancillary to another function;
  - (d) functions in relation to observing and implementing obligations under EU law.
- (5) In this section—
- ““executive ministerial function”” means a function of Her Majesty of a kind that is exercisable on Her behalf by a Minister of the Crown (including a function involving expenditure or other financial matters), but not a function conferred or imposed by or by virtue of any legislation or the prerogative;
  - ““within devolved competence”” and ““outside devolved competence”” are to be read in accordance with subsections (7) and (8).
- (6) For the purposes of this section a function is ““ancillary to”” another function if or to the extent that it is exercisable with a view to facilitating, or in a way that is conducive or incidental to, the exercise of the other function.
- (7) It is outside devolved competence—
- (a) to make any provision by subordinate legislation that would be outside the legislative competence of the Assembly if it were included in an Act of the Assembly (see section 108A), or
  - (b) to confirm or approve any subordinate legislation containing such provision.
- (8) In the case of a function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that a provision of an Act of the Assembly conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly.]

#### Textual Amendments

**F96** S. 58A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)

#### [<sup>F97</sup> 58B Implementation of EU law: general

- (1) Section 2(2) of the European Communities Act 1972 (secondary legislation implementing EU obligations, etc) applies to the Welsh Ministers as if they were a Minister of the Crown or government department designated by Order in Council under that provision.
- (2) But subsection (1) confers no power to make provision that would be outside the legislative competence of the Assembly if it were included in an Act of the Assembly (see section 108A).
- (3) In particular, it confers no power to make provision that may be included in an Act of the Assembly only—
  - (a) with the consent of the appropriate Minister (see paragraphs 8(1), 10(1) and 11(1) of Schedule 7B), or
  - (b) after consultation with the appropriate Minister (see paragraph 11(2) of that Schedule),

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unless that consent has been given or that consultation has been carried out.

- (4) Subsection (1) does not restrict any power conferred on a Minister of the Crown or government department by an Order in Council under section 2(2) of the European Communities Act 1972.
- (5) In section 2(4) of the European Communities Act 1972 as it has effect by virtue of subsection (1) above, the reference to an Act of Parliament is to be read as a reference to an Act of the Assembly.
- (6) A statutory instrument containing any order, rules, regulations or scheme made by virtue of this section, if made without a draft having been approved by resolution of the Assembly, is subject to annulment in pursuance of a resolution of the Assembly; and paragraph 2(2) of Schedule 2 to European Communities Act 1972 does not apply to such an instrument.
- (7) In this section ““appropriate Minister”” has the same meaning as in paragraph 8 of Schedule 7B.]

#### Textual Amendments

**F97** S. 58B inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 20\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)

## 59 Implementation of <sup>F98</sup>EU law <sup>F99</sup>: designation of Welsh Ministers, etc]

- (1) The power to designate a Minister of the Crown or government department under section 2(2) of the European Communities Act 1972 (c. 68) may be exercised to designate the Welsh Ministers.
  - (2) Accordingly, the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council designating them.
- <sup>F100</sup>(2A) Any such restrictions or conditions do not apply in relation to the power that the Welsh Ministers have under that section by virtue of section 58B above.]
- (3) A statutory instrument containing provision made by the Welsh Ministers in the exercise of <sup>F101</sup> a power exercisable by virtue of a designation under section 2(2) of the European Communities Act 1972 ], if made without a draft having been approved by resolution of the Assembly, is subject to annulment in pursuance of a resolution of the Assembly.
  - (4) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 (Parliamentary procedure) does not apply to the statutory instrument unless it contains provision—
    - (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
    - (b) relating to an English border area, or
    - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to <sup>F102</sup>Wales, the Welsh zone or a part of Wales or the Welsh zone)].

*Status: Point in time view as at 23/01/2020.*

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- (5) The power conferred by section 56 of the Finance Act 1973 (c. 51) (services provided in pursuance of [<sup>F98</sup>an EU] obligation etc.) on the Minister in charge of a government department to make (with the consent of the Treasury) regulations prescribing, or providing for the determination of, fees and charges in respect of things done by the department may be exercised by the Welsh Ministers (with the consent of the Treasury) for prescribing, or providing for the determination of, fees and charges in respect of corresponding things done by the Welsh Ministers.
- (6) A statutory instrument containing regulations made by the Welsh Ministers in the exercise of that power is subject to annulment in pursuance of a resolution of the Assembly.
- (7) Section 56(4) of the Finance Act 1973 does not cause the statutory instrument to be subject to annulment in pursuance of a resolution of either House of Parliament unless it contains regulations—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to [<sup>F103</sup>Wales, the Welsh zone or a part of Wales or the Welsh zone]).

#### Textual Amendments

- F98** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, [3-6](#)
- F99** Words in s. 59 heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 20\(2\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)
- F100** S. 59(2A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 20\(2\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)
- F101** Words in s. 59(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 20\(2\)\(c\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)
- F102** Words in s. 59(4)(c) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 43, 324](#), [Sch. 4 Pt. 2 para. 6\(4\)\(a\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)
- F103** Words in s. 59(7)(c) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 43, 324](#), [Sch. 4 Pt. 2 para. 6\(4\)\(b\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

#### Modifications etc. (not altering text)

- C5** S. 59(3) modified (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 143\(2\)\(b\)](#), 182(1)(c) (with [s. 180](#))

#### Commencement Information

- I54** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by [s. 161\(1\)](#) (subject to [s. 161\(4\)\(5\)](#))

#### [<sup>F104</sup>59A Shared powers

Schedule 3A, which sets out functions of Ministers of the Crown and others that are exercisable concurrently or jointly with the Welsh Ministers, has effect.]

*Status: Point in time view as at 23/01/2020.*

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### Textual Amendments

**F104** S. 59A inserted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 21(3), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/893](#), [reg. 2](#)

## 60 Promotion etc. of well-being

- (1) The Welsh Ministers may do anything which they consider appropriate to achieve any one or more of the following objects—
  - (a) the promotion or improvement of the economic well-being of Wales,
  - (b) the promotion or improvement of the social well-being of Wales, and
  - (c) the promotion or improvement of the environmental well-being of Wales.
- (2) The power under subsection (1) may be exercised in relation to or for the benefit of—
  - (a) the whole or any part of Wales, or
  - (b) all or any persons resident or present in Wales.
- (3) The power under subsection (1) includes power to do anything in relation to or for the benefit of any area outside Wales, or all or any persons resident or present anywhere outside Wales, if the Welsh Ministers consider that it is likely to achieve one or more of the objects in that subsection.
- (4) The power under subsection (1) includes power—
  - (a) to enter into arrangements or agreements with any person,
  - (b) to co-operate with, or facilitate or co-ordinate the activities of, any person,
  - (c) to exercise on behalf of any person any functions of that person, and
  - (d) to provide staff, goods, services or accommodation to any person.

### Commencement Information

**I55** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 61 Support of culture etc.

- The Welsh Ministers may do anything which they consider appropriate to support—
- (a) archaeological remains in Wales,
  - (b) ancient monuments in Wales,
  - (c) buildings and places of historical or architectural interest in Wales,
  - (d) historic wrecks in Wales,
  - (e) arts and crafts relating to Wales,
  - (f) museums and galleries in Wales,
  - (g) libraries in Wales,
  - (h) archives and historical records relating to Wales,
  - (i) cultural activities and projects relating to Wales,
  - (j) sport and recreational activities relating to Wales, and
  - (k) the Welsh language.

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**Commencement Information**

**I56** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**62 Representations about matters affecting Wales**

The Welsh Ministers, the First Minister and the Counsel General may make appropriate representations about any matter affecting Wales.

**Commencement Information**

**I57** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

<sup>F105</sup>**63 Consultation about cross-border bodies**

.....

**Textual Amendments**

**F105** S. 63 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 22, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)

**64 Polls for ascertaining views of the public**

- (1) The Welsh Ministers may hold a poll in an area consisting of Wales or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the functions of the Welsh Ministers (other than that under section 62) should be exercised.
- (2) The persons entitled to vote in a poll under this section are those who—
  - (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the area in which the poll is held, and
  - (b) are registered in the register of local government electors at an address within the area in which the poll is held.
- (3) The Welsh Ministers may by order make provision—
  - (a) as to the conduct of polls (or any poll) under this section, or
  - (b) for the combination of polls (or any poll) under this section with polls at any elections.
- (4) An order under subsection (3) may apply or incorporate, with or without modifications or exceptions, any provision of or made under any enactment relating to elections or referendums; and the provision which may be made under paragraph (a) of that subsection includes, in particular, provision for disregarding alterations in a register of electors.
- (5) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Assembly.



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#### Commencement Information

**I58** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 65 Private bills

- (1) The Welsh Ministers may promote private bills in Parliament and may oppose any private bill in Parliament.
- (2) Subsection (1) does not cause the Welsh Ministers to have power to apply for orders under section 1 or 3 of the Transport and Works Act 1992 (c. 42) by virtue of section 20 of that Act (which gives a body with power to promote and oppose private bills power to apply for and object to such orders).

#### Commencement Information

**I59** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 66 Provision of information to Treasury

Where it appears to the Treasury that any information in the possession, or under the control, of the Welsh Ministers is required for the exercise of any function by the Treasury, the Treasury may require the Welsh Ministers to provide the information to the Treasury in such form as the Treasury may reasonably specify.

#### Commencement Information

**I60** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### [<sup>F106</sup>66A Provision of information to the Office for Budget Responsibility

- (1) The Office for Budget Responsibility has a right of access at any reasonable time to all information held by—
  - (a) the Welsh Ministers, or
  - (b) any devolved Welsh authority within paragraph (a) or (b) of section 157A(1) that is specified in regulations made by the Secretary of State,that it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).
- (2) The Office is entitled to require from any person holding or accountable for such information any assistance or explanation that the Office reasonably thinks necessary for that purpose.
- (3) No regulations are to be made under subsection (1)(b) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) This section is subject to any enactment or rule of law that operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.]

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### Textual Amendments

**F106** S. 66A inserted (1.4.2018) by Wales Act 2017 (c. 4), ss. 65, 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(m)

## 67 Legal proceedings

- (1) Where the Counsel General considers it appropriate for the promotion or protection of the public interest, the Counsel General may institute in the Counsel General's name, defend or appear in any legal proceedings to which this section applies.
- (2) This section applies to legal proceedings relating to matters with respect to which any functions of the Welsh Ministers, the First Minister or the Counsel General are exercisable.

### Commencement Information

**I61** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 68 Contracts

- (1) The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Welsh Ministers, the First Minister or the Counsel General but subject to any appropriate modifications.
- (2) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

**I62** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 69 Charges for documents

- (1) The Welsh Ministers may make a charge for supplying copies of (or of any part of) any document which they publish or make available for public inspection.
- (2) Subsection (1) has effect subject to any provision contained in, or made under, any enactment which makes provision for—
  - (a) the making of charges for the inspection of documents,
  - (b) the making of charges for supplying copies of documents (or parts of documents), or
  - (c) the supply of copies of documents (or parts of documents) free of charge.
- (3) This section applies to the First Minister and the Counsel General as to the Welsh Ministers.

*Status: Point in time view as at 23/01/2020.*

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#### Commencement Information

**I63** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 70 Financial assistance

- (1) [<sup>F107</sup>The First Minister] may give financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which [<sup>F108</sup>the First Minister considers] will secure, or help to secure, the attainment of any objective which [<sup>F109</sup>the Minister aims] to attain in the exercise of any of [<sup>F110</sup>the Minister's functions].
- (2) [<sup>F111</sup>The First Minister] may attach conditions to the giving of financial assistance [<sup>F112</sup>by the Minister]; and the conditions which may be attached include, in particular, conditions requiring the repayment of the whole or any part of a grant, or the making of any other payments, in any circumstances.
- [<sup>F113</sup>(3) This section applies in relation to the Counsel General as in relation to the First Minister.

(As regards the Welsh Ministers, see section 58A.)]

#### Textual Amendments

- F107** Words in s. 70(1) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(a)(i), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F108** Words in s. 70(1) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(a)(ii), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F109** Words in s. 70(1) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(a)(iii), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F110** Words in s. 70(1) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(a)(iv), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F111** Words in s. 70(2) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(b)(i), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F112** Words in s. 70(2) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(b)(ii), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)
- F113** S. 70(3) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 19(2)(c), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)

#### Commencement Information

**I64** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 71 Supplementary

- (1) The persons to whom this section applies may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any of their other functions.
- [<sup>F114</sup>(2) This section applies to the First Minister and the Counsel General.

(As regards the Welsh Ministers, see section 58A.)]

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#### Textual Amendments

**F114** S. 71(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(3\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)

#### Commencement Information

**I65** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*“Inclusive” approach to exercise of functions*

## 72 Partnership Council

- (1) The Welsh Ministers must establish and maintain a body to be known as the Partnership Council for Wales or Cyngor Partneriaeth Cymru (“the Partnership Council”).
- (2) The Partnership Council is to consist of members appointed by the Welsh Ministers from among—
  - (a) the Welsh Ministers,
  - (b) the Deputy Welsh Ministers, and
  - (c) the members of local authorities in Wales.
- (3) Before appointing members of the Partnership Council under subsection (2)(c), the Welsh Ministers must consult such associations of local authorities in Wales as they consider appropriate.
- (4) The Partnership Council may—
  - (a) give advice to the Welsh Ministers about matters affecting the exercise of any of their functions,
  - (b) make representations to the Welsh Ministers about any matters affecting, or of concern to, those involved in local government in Wales, and
  - (c) give advice to those involved in local government in Wales.
- (5) For the purposes of this section the following are local authorities in Wales—
  - (a) county councils, county borough councils and community councils in Wales,
  - (b) National Park authorities for National Parks in Wales,
  - (c) [<sup>F115</sup>police and crime commissioners] for police areas in Wales,
  - (d) fire and rescue authorities for areas in Wales, and
  - (e) authorities of any description specified for the purposes of this paragraph by order made by the Welsh Ministers.
- (6) No order may be made under subsection (5)(e) unless the Welsh Ministers have consulted the Partnership Council.
- (7) A statutory instrument containing an order under subsection (5)(e) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

**F115** Words in s. 72(5)(c) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 352](#); [S.I. 2012/2892, art. 2\(i\)](#)

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#### **Commencement Information**

**I66** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **73 Local government scheme**

- (1) The Welsh Ministers must make a scheme (“the local government scheme”) setting out how they propose, in the exercise of their functions, to sustain and promote local government in Wales.
- (2) The Welsh Ministers—
  - (a) must keep the local government scheme under review, and
  - (b) may from time to time remake or revise it.
- (3) In determining the provision to be included in the local government scheme, the Welsh Ministers must have regard to any advice which has been given, and to any representations which have been made, to them by the Partnership Council.
- (4) The Welsh Ministers must publish the local government scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (5) If the Welsh Ministers publish a scheme or revisions under subsection (4) they must lay a copy of the scheme or revisions before the Assembly.
- (6) After each financial year the Welsh Ministers must—
  - (a) publish a report of how the proposals set out in the local government scheme were implemented in that financial year, and
  - (b) lay a copy of the report before the Assembly.

#### **Commencement Information**

**I67** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **74 Voluntary sector scheme**

- (1) The Welsh Ministers must make a scheme (“the voluntary sector scheme”) setting out how they propose, in the exercise of their functions, to promote the interests of relevant voluntary organisations.
- (2) In this section “relevant voluntary organisations” means bodies (other than local authorities or other public bodies) whose activities—
  - (a) are carried on otherwise than for profit, and
  - (b) directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area).
- (3) In determining the provision to be included in the voluntary sector scheme, the Welsh Ministers must consider how they intend to exercise such of their functions as relate to matters affecting, or of concern to, relevant voluntary organisations.
- (4) The voluntary sector scheme must specify—
  - (a) how the Welsh Ministers propose to provide assistance to relevant voluntary organisations (whether by grants, loans, guarantees or any other means),

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- (b) how the Welsh Ministers propose to monitor the use made of any assistance provided by them to relevant voluntary organisations, and
  - (c) how the Welsh Ministers propose to consult relevant voluntary organisations about the exercise of such of their functions as relate to matters affecting, or of concern to, such organisations.
- (5) The Welsh Ministers—
- (a) must keep the voluntary sector scheme under review, and
  - (b) may from time to time remake or revise it.
- (6) Before making, remaking or revising the voluntary sector scheme, the Welsh Ministers must consult such relevant voluntary organisations as they consider appropriate.
- (7) The Welsh Ministers must publish the voluntary sector scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (8) If the Welsh Ministers publish a scheme or revisions under subsection (7) they must lay a copy of the scheme or revisions before the Assembly.
- (9) After each financial year the Welsh Ministers must—
- (a) publish a report of how the proposals set out in the voluntary sector scheme were implemented in that financial year, and
  - (b) lay a copy of the report before the Assembly.

#### **Commencement Information**

**I68** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **75 Business scheme**

- (1) The Welsh Ministers must make a scheme (“the business scheme”) setting out how they propose, in the exercise of their functions, to take account of the interests of business.
- (2) The business scheme must specify how the Welsh Ministers propose—
- (a) to carry out consultation about the exercise of such of their functions as relate to matters affecting the interests of business, and
  - (b) to consider the impact of the exercise of their functions on the interests of business.
- (3) The Welsh Ministers—
- (a) must keep the business scheme under review, and
  - (b) may from time to time remake or revise it.
- (4) Before making, remaking or revising the business scheme, the Welsh Ministers must consult such organisations representative of business (including trade unions) and such other organisations as they consider appropriate.
- (5) The Welsh Ministers must publish the business scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).

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- (6) If the Welsh Ministers publish a scheme or revisions under subsection (5) they must lay a copy of the scheme or revisions before the Assembly.
- (7) The Welsh Ministers must—
  - (a) within the period of two years beginning with the day on which the business scheme is first made, and
  - (b) subsequently at intervals of no more than two years, publish a report of how the proposals set out in the business scheme have been implemented.
- (8) The Welsh Ministers must lay before the Assembly a copy of each report published under subsection (7).

#### **Commencement Information**

**169** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **76 Regulatory impact assessments**

- (1) The Welsh Ministers must make a code of practice setting out their policy on—
  - (a) the carrying out of regulatory impact assessments in connection with relevant Welsh subordinate legislation, and
  - (b) the carrying out of consultation in connection with regulatory impact assessments,  
("the regulatory impact assessment code").
- (2) For the purposes of this section—
  - (a) a regulatory impact assessment is an assessment as to the likely costs and benefits of complying with relevant Welsh subordinate legislation, and
  - (b) subordinate legislation is relevant Welsh subordinate legislation if it is made by the Welsh Ministers, the First Minister or the Counsel General and the statutory instrument (or a draft of the statutory instrument) containing it is required to be laid before the Assembly.
- (3) The Welsh Ministers—
  - (a) must keep the regulatory impact assessment code under review, and
  - (b) may from time to time remake or revise it.
- (4) Before making, remaking or revising the regulatory impact assessment code, the Welsh Ministers must consult such persons as they consider appropriate.
- (5) The Welsh Ministers must publish the regulatory impact assessment code when they make it and whenever they remake it; and, if they revise the code without remaking it, they must publish either the revisions or the code as revised (as they consider appropriate).
- (6) If the Welsh Ministers publish a code or revisions under subsection (5) they must lay a copy of the code or revisions before the Assembly.

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#### Commencement Information

**I70** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 77 Equality of opportunity

- (1) The Welsh Ministers must make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) After each financial year the Welsh Ministers must publish a report containing—
  - (a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and
  - (b) an assessment of how effective those arrangements were in promoting equality of opportunity,
 and must lay a copy of the report before the Assembly.

#### Commencement Information

**I71** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 78 The Welsh language

- (1) The Welsh Ministers must adopt a strategy (“the Welsh language strategy”) setting out how they propose to promote and facilitate the use of the Welsh language.
- <sup>F116</sup>(2) .....
- <sup>F116</sup>(3) .....
- (4) The Welsh Ministers—
  - (a) must keep under review <sup>F117</sup>... the Welsh language strategy <sup>F117</sup>..., and
  - (b) may from time to time adopt a new strategy or [<sup>F118</sup>revise it].
- (5) Before adopting or revising a strategy <sup>F119</sup>..., the Welsh Ministers must consult such persons as they consider appropriate.
- (6) The Welsh Ministers must publish the Welsh language strategy <sup>F120</sup>... when they first adopt it and—
  - (a) if they adopt a new strategy <sup>F121</sup>... they must publish it, and
  - (b) if they revise the Welsh language strategy <sup>F122</sup>... (rather than adopting a new strategy <sup>F121</sup>...) they must publish either the revisions or the strategy <sup>F121</sup>... as revised (as they consider appropriate).
- (7) If the Welsh Ministers publish a strategy <sup>F123</sup>..., or revisions, under subsection (6) they must lay a copy of the strategy or scheme, or revisions, before the Assembly.
- [<sup>F124</sup>(8) After each financial year the Welsh Ministers must publish a report of how the proposals set out in the Welsh language strategy were implemented in that financial year and how effective their implementation has been in promoting and facilitating the use of the Welsh language and must lay a copy of the report before the Assembly.]



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- [<sup>F125</sup>(9) For each financial year, the Welsh Ministers must publish a plan setting out how they will implement the proposals set out in the Welsh language strategy during that year.
- (10) The plan must be published as soon as reasonably practicable before the commencement of the financial year to which it relates.]

#### Textual Amendments

- F116** S. 78(2)(3) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(i)**
- F117** Words in s. 78(4)(a) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(ii)**
- F118** Words in s. 78(4)(b) substituted (31.3.2016) by [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(iii)**
- F119** Words in s. 78(5) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(iv)**
- F120** Words in s. 78(6) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(v)**
- F121** Words in s. 78(6) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(iv)**
- F122** Words in s. 78(6)(b) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(vi)**
- F123** Words in s. 78(7) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(iv)**
- F124** S. 78(8) substituted (31.3.2016) by [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(vii)**
- F125** S. 78(9)(10) inserted (5.2.2012) by [Welsh Language \(Wales\) Measure 2011 \(nawm 1\)](#), **ss. 148(2), 156(2)**; [S.I. 2012/223](#), art. 2(a)

#### Commencement Information

- I72** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### [<sup>F126</sup>79 Sustainable development

- (1) The Welsh Ministers must, in the exercise of their functions, make appropriate arrangements to promote sustainable development.
- (2) After each financial year the Welsh Ministers must publish a report containing a statement of the arrangements made in pursuance of subsection (1) that had effect during that financial year and must lay a copy of the report before the Assembly.
- (3) The arrangements referred to in subsection (1) may be made by the Welsh Ministers exercising their functions under section (2) of the Well-being of Future Generations (Wales) Act 2015 (duty of Welsh public bodies to set objectives and take steps to meet them in accordance with the sustainable development principle).]

#### Textual Amendments

- F126** S. 79 substituted (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), **ss. 16, 56(2)**; [S.I. 2016/86](#), art. 3

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*[<sup>F98</sup>EU] law, human rights and international obligations etc.*

## 80 [<sup>F98</sup>EU] law

- (1) [<sup>F98</sup>An][<sup>F98</sup>EU] obligation of the United Kingdom is also an obligation of the Welsh Ministers if and to the extent that the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions.
- (2) Subsection (1) does not apply in the case of [<sup>F98</sup>an][<sup>F98</sup>EU] obligation of the United Kingdom if—
  - (a) it is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes [<sup>F127</sup>the whole or part of Wales or of the Welsh zone]).
- (3) But if such [<sup>F98</sup>an][<sup>F98</sup>EU] obligation could (to any extent) be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions, a Minister of the Crown may by order provide for the achievement by the Welsh Ministers (in the exercise of their functions) of so much of the result to be achieved under the [<sup>F98</sup>EU] obligation as is specified in the order.
- (4) The order may specify the time by which any part of the result to be achieved by the Welsh Ministers is to be achieved.
- (5) No order is to be made by a Minister of the Crown under subsection (3) unless the Minister of the Crown has consulted the Welsh Ministers.
- (6) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Where an order under subsection (3) is in force in relation to [<sup>F98</sup>an][<sup>F98</sup>EU] obligation, to the extent that the [<sup>F98</sup>EU] obligation involves achieving what is specified in the order it is also an obligation of the Welsh Ministers (enforceable as if it were an obligation of the Welsh Ministers under subsection (1)).
- (8) [<sup>F128</sup>The Welsh Ministers have no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.
- (8A) But subsection (8) does not apply—
  - (a) so far as the modification would be within the Assembly's legislative competence if it were included in an Act of the Assembly, or
  - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (8B) No regulations are to be made under subsection (8) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (8C) A Minister of the Crown must not lay a draft as mentioned in subsection (8B) unless—
  - (a) the Assembly has made a consent decision in relation to the laying of the draft, or

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- (b) the 40 day period has ended without the Assembly having made such a decision.
- (8D) For the purposes of subsection (8C) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
  - (b) a decision not to agree a motion consenting to the laying of the draft, or
  - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (8E) In subsection (8C)—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers, and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.
- (8F) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (8B) must—
- (a) provide a copy of the draft to the Welsh Ministers, and
  - (b) inform the Presiding Officer that a copy has been so provided.
- (8G) See also section 157ZA (duty to make explanatory statement about regulations under subsection (8) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (8H) No regulations may be made under subsection (8) after the end of the period of two years beginning with exit day.
- (8I) Subsection (8H) does not affect the continuation in force of regulations made under subsection (8) at or before the end of the period mentioned in subsection (8H).
- (8J) Any regulations under subsection (8) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (8K) Subsections (8C) to (8I) do not apply in relation to regulations which only relate to a revocation of a specification.
- (8L) The restriction in subsection (8) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of the Welsh Ministers to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.]
- (9) Subsections (1) and (8) apply to the First Minister and the Counsel General as to the Welsh Ministers.

#### Textual Amendments

**F127** Words in s. 80(2)(b) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(5\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)

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**F128** S. 80(8)-(8L) substituted for s. 80(8) (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(3)(b), **Sch. 3 para. 2** (with s. 19, Sch. 2 para. 3(5)(6), 14(5)(6), Sch. 8 paras. 37, 41, 42); S.I. 2020/1622, reg. 3(1) (with reg. 10)

**Modifications etc. (not altering text)**

**C6** S. 80(8)-(8L): power to repeal conferred (4.7.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), **ss. 12(9)-(11)**, 25(4) (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

**C7** S. 80(8) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), Sch. 8 para. 41(7)(9) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2

**Commencement Information**

**I73** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**81 Human rights**

- (1) The Welsh Ministers have no power—
  - (a) to make, confirm or approve any subordinate legislation, or
  - (b) to do any other act,
 so far as the subordinate legislation or act is incompatible with any of the Convention rights.
- (2) Subsection (1) does not enable a person—
  - (a) to bring any proceedings in a court or tribunal, or
  - (b) to rely on any of the Convention rights in any such proceedings,
 in respect of an act unless that person would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act.
- (3) Subsection (2) does not apply to the Attorney General, the Counsel General, the Advocate General for Scotland, the Advocate General for Northern Ireland or the Attorney General for Northern Ireland.
- (4) Subsection (1)—
  - (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998 (c. 42), is not unlawful under subsection (1) of that section, and
  - (b) does not enable a court or tribunal to award in respect of any act any damages which it could not award on finding the act unlawful under that subsection.
- (5) Subsection (1) applies to the First Minister and the Counsel General as to the Welsh Ministers.
- (6) In subsection (2) “the Convention” has the same meaning as in the Human Rights Act 1998.

**Commencement Information**

**I74** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## **82 International obligations etc.**

- (1) If the Secretary of State considers that any action proposed to be taken by the Welsh Ministers would be incompatible with any international obligation, the Secretary of State may by order direct that the proposed action is not to be taken.
- (2) If the Secretary of State considers that an action capable of being taken by the Welsh Ministers is required for the purposes of giving effect to any international obligation, the Secretary of State may by order direct the Welsh Ministers to take the action.
- (3) If the Secretary of State considers that any subordinate legislation made, or which could be revoked, by the Welsh Ministers is incompatible with any international obligation or the interests of defence or national security, the Secretary of State may by order revoke the legislation.
- (4) An order under subsection (3) may include provision for the order to have effect from a date earlier than that on which it is made; but—
  - (a) such a provision does not affect any rights or liabilities acquired or incurred before the date on which the order is made, and
  - (b) no person is to be guilty of an offence merely because of such a provision.
- (5) The Secretary of State may make an order containing provision such as is specified in subsection (6) where—
  - (a) an international obligation is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes <sup>F129</sup>the whole or part of Wales or of the Welsh zone)].
- (6) The provision referred to in subsection (5) is provision for the achievement by the Welsh Ministers (in the exercise of their functions) of so much of the result to be achieved under the international obligation as is specified in the order.
- (7) The order may specify the time by which any part of the result to be achieved by the Welsh Ministers is to be achieved.
- (8) Where an order under subsection (5) is in force in relation to an international obligation, references to the international obligation in subsections (1) to (3) are to an obligation to achieve so much of the result to be achieved under the international obligation as is specified in the order by the time or times so specified.
- (9) No order is to be made by the Secretary of State under subsection (2), (3) or (5) unless the Secretary of State has consulted the Welsh Ministers.
- (10) An order under this section must state the reasons for making it.
- (11) A statutory instrument containing—
  - (a) subject to subsection (12), an order under subsection (1), or
  - (b) an order under subsection (5),is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A statutory instrument containing only an order under subsection (1) revoking a previous order under that subsection—

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- (a) is not subject to annulment in pursuance of a resolution of either House of Parliament, but
  - (b) is to be laid before Parliament.
- (13) No order is to be made under subsection (2) or (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (14) Subsections (1), (2) and (3) apply to the First Minister and the Counsel General as to the Welsh Ministers; and where subsection (9) operates in relation to an order under subsection (2) or (3) relating to the First Minister or the Counsel General the reference in subsection (9) to the Welsh Ministers is to the First Minister or the Counsel General.
- (15) In this section “action” includes making, confirming or approving subordinate legislation and in subsection (2) also includes introducing into the Assembly a proposed Assembly Measure or a Bill.

#### Textual Amendments

**F129** Words in s. 82(5)(b) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(6\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

#### Commencement Information

**I75** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Functions: supplementary*

### 83 Agency arrangements and provision of services

- (1) Arrangements may be made between the Welsh Ministers and any relevant authority for—
- (a) any functions of one of them to be exercised by the other,
  - (b) any functions of the Welsh Ministers to be exercised by members of staff of the relevant authority,
  - (c) any functions of the relevant authority to be exercised by members of the staff of the Welsh <sup>F74</sup>... Government, or
  - (d) the provision of administrative, professional or technical services by one of them for the other.
- (2) Any arrangements under paragraph (a), (b) or (c) of subsection (1) for the exercise of functions of the Welsh Ministers do not affect the responsibility of the Welsh Ministers; and such arrangements for the exercise of any functions of a relevant authority do not affect the responsibility of the relevant authority.
- (3) The references in subsections (1) and (2) to functions do not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.
- (4) In this section “relevant authority” means any Minister of the Crown or government department, any public authority (including any local authority) in England and Wales or the holder of any public office in England and Wales.

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- (5) This section applies to the First Minister and the Counsel General as to the Welsh Ministers.

**Modifications etc. (not altering text)**

- C8** S. 83 modified by 2005 c. 11, s. 15(3) (as inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 7(3), 29(2)(b), (3)**)

**Commencement Information**

- I76** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**84 Different exercise of functions by Welsh Ministers etc.**

- (1) This section applies where—
- an enactment confers or imposes a function exercisable in relation to England and Wales, and
  - the function is to any extent conferred or imposed on the Welsh Ministers by the enactment or transferred to, or made exercisable by, the Welsh Ministers by or by virtue of this Act.
- (2) The enactment is to be taken to permit—
- the exercise of the function by the Welsh Ministers whether or not it is exercised otherwise than by the Welsh Ministers, and
  - the exercise of the function differently by the Welsh Ministers (on the one hand) and otherwise than by the Welsh Ministers (on the other).
- (3) The reference in subsection (1)(a) to a function exercisable in relation to England and Wales includes a function exercisable in relation both to England and Wales and to another country or territory or other countries or territories.
- (4) Subsection (2) is subject to—
- the enactment by which the function is conferred or imposed on the Welsh Ministers, or
  - any provision by or by virtue of which the function is transferred to, or made exercisable by, the Welsh Ministers.
- (5) Subsection (2) does not limit any power to exercise a function in relation to Wales whether or not it is exercised in relation to England, or to exercise a function differently in relation to Wales and England, where this section does not apply.
- (6) In this section “enactment” includes a future enactment.
- (7) This section applies in relation to the First Minister and the Counsel General as to the Welsh Ministers.

**Commencement Information**

- I77** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 85 Construction of references to Ministers and departments

- (1) So far as may be necessary for the purpose or in consequence of the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any reference in any enactment or other document to—
  - (a) a Minister of the Crown, or
  - (b) a government department,
 (whether by name or in general terms) is to be construed as being or including a reference to the Welsh Ministers, the First Minister or the Counsel General (according to by whom the function in question is exercisable).
- (2) References in any enactment to property vested in or held for the purposes of a government department is to be construed as including references to property vested in or held for the purposes of the Welsh Ministers, the First Minister or the Counsel General (and in relation to property so vested or held the Welsh Ministers, the First Minister or the Counsel General are each deemed to be a government department for the purposes of any enactment).
- (3) In this section “enactment” includes a future enactment.

### Commencement Information

**I78** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 86 Laying of reports and statements

- (1) This section applies where—
  - (a) any enactment makes provision (“provision for Parliamentary laying”) for any report or statement to be laid before Parliament or either House of Parliament,
  - (b) the report or statement is not one which, by or by virtue of this Act, is to be made by or given to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission, and
  - (c) the report or statement relates to matters with respect to which functions are exercisable by the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission.
- (2) If no functions relating to the matters are exercisable by a Minister of the Crown, the provision for Parliamentary laying is to be construed as provision for the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) If any are, the provision for Parliamentary laying is to be construed as provision for the report or statement to be laid before the Assembly as well as before Parliament or either House of Parliament.
- (4) In this section—
  - (a) references to a report or statement include any other document (except one containing subordinate legislation), and
  - (b) “enactment” includes a future enactment.



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#### **Commencement Information**

**179** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Property, rights and liabilities*

#### **87 Property, rights and liabilities of Welsh Ministers etc.**

- (1) Property, rights and liabilities may belong to—
  - (a) the Welsh Ministers by that name,
  - (b) the First Minister by that name, or
  - (c) the Counsel General by that name.
- (2) Property and rights acquired by or transferred to the Welsh Ministers belong to, and liabilities incurred by the Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (3) Property and rights acquired by or transferred to any of the Welsh Ministers appointed under section 48 belong to, and liabilities incurred by any of those Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (4) Property and rights acquired by or transferred to the First Minister belong to, and liabilities incurred by the First Minister are liabilities of, the First Minister for the time being.
- (5) Property and rights acquired by or transferred to the Counsel General belong to, and liabilities incurred by the Counsel General are liabilities of, the Counsel General for the time being.
- (6) In relation to property and rights acquired by or transferred to (or belonging to), or to liabilities incurred by—
  - (a) the Welsh Ministers or any of the Welsh Ministers appointed under section 48,
  - (b) the First Minister, or
  - (c) the Counsel General,references to the Welsh Ministers, the First Minister or the Counsel General in any register or other document are to be read in accordance with this section.

#### **Commencement Information**

**180** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### **88 Transfer of Ministerial property, rights and liabilities**

For provision about the transfer of property, rights and liabilities of Ministers of the Crown to the Welsh Ministers etc. see Schedule 4.

#### **Commencement Information**

**181** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## *Supplementary*

### **89 Rights and liabilities of the Crown in different capacities**

- (1) Rights and liabilities may arise between the Crown in right of Her Majesty's Government in the United Kingdom and the Crown in right of the Welsh<sup>F74</sup> ... Government by virtue of a contract, by operation of law or by virtue of an enactment as they may arise between subjects.
- (2) Property, rights and liabilities may be transferred between the Crown in one of those capacities and the Crown in the other capacity as they may be transferred between subjects; and they may together create, vary or extinguish any property, rights or liabilities as subjects may.
- (3) Proceedings in respect of—
  - (a) any property, rights or liabilities to which the Crown in one of those capacities is entitled or subject under subsection (1) or (2), or
  - (b) the exercise of, or failure to exercise, any function exercisable by an office-holder of the Crown in one of those capacities,
 may be instituted by the Crown in either capacity; and the Crown in the other capacity may be a separate party in the proceedings.
- (4) This section applies to the Crown in right of a devolved administration (other than the Welsh<sup>F74</sup> ... Government) as it applies to the Crown in right of Her Majesty's Government in the United Kingdom.
- (5) In this section “office-holder” means—
  - (a) in relation to the Crown in right of Her Majesty's Government in the United Kingdom, any Minister of the Crown or other office-holder under the Crown in that capacity,
  - (b) in relation to the Crown in right of the Welsh<sup>F74</sup> ... Government, the First Minister, a Welsh Minister appointed under section 48 or the Counsel General, and
  - (c) in relation to the Crown in right of a devolved administration other than the Welsh<sup>F74</sup> ... Government, an office-holder in that administration;
 and “subject” means a person not acting on behalf of the Crown.

#### **Commencement Information**

**182** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **90 Documents**

- (1) A document is validly executed by the Welsh Ministers if it is executed by the First Minister or any Welsh Minister appointed under section 48.
- (2) The application of the seal of the Welsh Ministers is to be authenticated by the First Minister, any Welsh Minister appointed under section 48 or any person authorised by the Welsh Ministers (whether generally or specifically) for that purpose.
- (3) A document purporting to be—
  - (a) duly executed under the seal of the Welsh Ministers, or

*Status: Point in time view as at 23/01/2020.*

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- (b) signed on behalf of the Welsh Ministers,  
is to be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.
- (4) A certificate signed by the First Minister or a Welsh Minister appointed under section 48 that any document purporting to be executed by the Welsh Ministers or signed by them or on their behalf was so executed or signed is conclusive evidence of that fact.
- (5) A document purporting to be signed by or on behalf of—  
(a) the First Minister, or  
(b) the Counsel General,  
is to be received in evidence and, unless the contrary is proved, is to be taken to be so signed.
- (6) A certificate signed by the First Minister or the Counsel General that any document purporting to be signed by or on behalf of the First Minister or the Counsel General was so signed is conclusive evidence of that fact.
- (7) The Documentary Evidence Act 1868 (c. 37) (proof of documents) has effect as if—  
(a) in the first column of Schedule 1 there were included a reference to the Welsh Ministers, the First Minister, a Welsh Minister appointed under section 48 and the Counsel General,  
(b) in the second column of that Schedule there were included in connection with that reference a reference to a member of the staff of the Welsh<sup>F74</sup> ... Government, and  
(c) in section 2 of that Act the reference to regulations issued by or under the authority of an officer mentioned in the first column of the Schedule included a reference to any document issued by or under the authority of a person or persons within paragraph (a).

**Commencement Information**

**183** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**91 Validity of acts**

- (1) The validity of any act of a person as First Minister is not affected by any defect in the person's nomination by the Assembly.
- (2) The validity of any act of a person as the Counsel General is not affected by any defect in the Assembly's agreement to the person's appointment.

**Commencement Information**

**184** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**92 Official secrets**

The following are Crown servants for the purposes of the Official Secrets Act 1989 (c. 6)—

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- (a) the First Minister and any person designated to exercise the functions of the First Minister,
- (b) each Welsh Minister appointed under section 48,
- (c) the Counsel General and any person designated to exercise the functions of the Counsel General, and
- (d) each Deputy Welsh Minister.

#### Commencement Information

**I85** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### [<sup>F130</sup>PART 3

#### ASSEMBLY MEASURES

#### Textual Amendments

**F130** Pt. 3 ceases to have effect (5.5.2011) by virtue of [Government of Wales Act 2006 \(c. 32\), s. 106\(1\)\(1\)](#) (with [ss. 106\(2\), 106A](#)) (as amended (5.5.2011) by [S.I. 2011/1011](#), art. 4; see [S.I. 2011/1011](#), arts. 2, 3 for date of commencement of the Assembly Act provisions)

#### *Power*

### 93 Assembly Measures

- (1) The Assembly may make laws, to be known as Measures of the National Assembly for Wales or Mesurau Cynulliad Cenedlaethol Cymru (referred to in this Act as “Assembly Measures”).
- (2) A proposed Assembly Measure is enacted by being passed by the Assembly and approved by Her Majesty in Council.
- (3) The validity of an Assembly Measure is not affected by any invalidity in the Assembly proceedings leading to its enactment.
- (4) Every Assembly Measure is to be judicially noticed.
- (5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

#### Commencement Information

**I86** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 94 Legislative competence

- (1) Subject to the provisions of this Part, an Assembly Measure may make any provision that could be made by an Act of Parliament.

*Status: Point in time view as at 23/01/2020.*

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- (2) An Assembly Measure is not law so far as any provision of the Assembly Measure is outside the Assembly's legislative competence.
- (3) A provision of an Assembly Measure is within the Assembly's legislative competence only if it falls within subsection (4) or (5).
- (4) A provision of an Assembly Measure falls within this subsection if—
  - (a) it relates to one or more of the matters specified in Part 1 of Schedule 5 [<sup>F131</sup>and does not fall within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule (whether or not the exception is under a heading corresponding to the field which includes the matter).], and
  - (b) it neither applies otherwise than in relation to Wales nor confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales.
- (5) A provision of an Assembly Measure falls within this subsection if—
  - (a) it provides for the enforcement of a provision (of that or any other Assembly Measure) which falls within subsection (4) or it is otherwise appropriate for making such a provision effective, or
  - (b) it is otherwise incidental to, or consequential on, such a provision.
- (6) But a provision which falls within subsection (4) or (5) is outside the Assembly's legislative competence if—
  - (a) it breaches any of the restrictions in [<sup>F132</sup> paragraphs 1 to 6 of] Part 2 of Schedule 5, having regard to any exception in Part 3 of that Schedule from those restrictions,
  - (b) it extends otherwise than only to England and Wales, or
  - (c) it is incompatible with the Convention rights or with [<sup>F98</sup>EU] law.
- (7) For the purposes of this section the question whether a provision of an Assembly Measure relates to one or more of the matters specified in Part 1 of Schedule 5 [<sup>F133</sup>(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)] is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

#### Textual Amendments

- F98** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6
- F131** Words in s. 94(4)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), art. 2(2)
- F132** Words in s. 94(6)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), art. 2(3)
- F133** Words in s. 94(7) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), art. 2(4)

#### Modifications etc. (not altering text)

- C9** S. 94(6)(b) restricted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), 2(2)

#### Commencement Information

- I87** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## **95 Legislative competence: supplementary**

- (1) Her Majesty may by Order in Council—
  - (a) amend Part 1 of Schedule 5 to add a matter which relates to one or more of the fields listed in that Part, or to vary or remove any matter,
  - (b) amend that Part to add a new field or to vary or remove any field, or
  - (c) amend Part 2 or 3 of that Schedule.
- (2) An Order in Council under this section does not have effect to amend Part 1 of Schedule 5 by adding a field if, at the time when the amendment comes into force, no functions in the field are exercisable by the Welsh Ministers, the First Minister or the Counsel General.
- (3) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
 as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (4) An Order in Council under this section may make provision having retrospective effect.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
  - (a) has been laid before, and approved by a resolution of, the Assembly, and
  - (b) having been so approved, has been laid before, and approved by a resolution of, each House of Parliament.
- (6) As soon as is reasonably practicable after the draft of an Order in Council under this section has been approved by a resolution of the Assembly, the First Minister must ensure that—
  - (a) notice in writing of the resolution, and
  - (b) a copy of the draft,
 is sent to the Secretary of State.
- (7) The Secretary of State must, before the end of the period of 60 days beginning immediately after the day on which notice of the Assembly's resolution is received, either—
  - (a) lay the draft before each House of Parliament, or
  - (b) give notice in writing to the First Minister of the Secretary of State's refusal to do so and the reasons for that refusal.
- (8) As soon as is reasonably practicable after the First Minister receives notice of the Secretary of State's refusal to lay the draft before each House of Parliament and the reasons for that refusal—
  - (a) the First Minister must lay a copy of the notice before the Assembly, and
  - (b) the Assembly must ensure that it is published.
- (9) In reckoning the period of 60 days mentioned in subsection (7) no account is to be taken of any period during which Parliament is dissolved or prorogued or both Houses are adjourned for more than four days.

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- (10) The amendment of Schedule 5 by an Order in Council under this section does not affect—
- (a) the validity of an Assembly Measure passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Assembly Measure.

## **96 Scrutiny of proposed Orders in Council**

The Counsel General or the Attorney General may refer to the Supreme Court for decision the question whether a matter which a proposed Order in Council under section 95 proposes to add to Part 1 of Schedule 5 relates to a field listed in that Part.

### *Procedure*

## **97 Introduction of proposed Assembly Measures**

- (1) A proposed Assembly Measure may, subject to the standing orders, be introduced in the Assembly—
  - (a) by the First Minister, any Welsh Minister appointed under section 48, any Deputy Welsh Minister or the Counsel General, or
  - (b) by any other Assembly member.
- (2) The person in charge of a proposed Assembly Measure must, on or before the introduction of the proposed Assembly Measure, state that, in that person's view, its provisions would be within the Assembly's legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a proposed Assembly Measure in the Assembly—
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the proposed Assembly Measure would be within the Assembly's legislative competence, and
  - (b) state that decision.
- (4) A statement under this section must be made in both English and Welsh; but, subject to that, the form of the statement and the manner in which it is to be made are to be determined under the standing orders.
- (5) The standing orders—
  - (a) may provide for a statement under this section to be published, and
  - (b) if they do so, must provide for it to be published in both English and Welsh.

### **Commencement Information**

**188** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **98 Proceedings on proposed Assembly Measures**

- (1) The standing orders must include provision—
  - (a) for general debate on a proposed Assembly Measure with an opportunity for Assembly members to vote on its general principles,

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- (b) for the consideration of, and an opportunity for Assembly members to vote on, the details of a proposed Assembly Measure, and
  - (c) for a final stage at which a proposed Assembly Measure can be passed or rejected.
- (2) Subsection (1) does not prevent the standing orders making provision to enable the Assembly to expedite proceedings in relation to a particular proposed Assembly Measure.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to proposed Assembly Measures of any of the following kinds—
- (a) proposed Assembly Measures which restate the law,
  - (b) proposed Assembly Measures which repeal or revoke spent enactments, and
  - (c) private proposed Assembly Measures.
- (4) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in accordance with the standing orders.
- (5) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure if the text of the proposed Assembly Measure is in both English and Welsh, unless the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.
- (6) The standing orders must provide for an opportunity for the reconsideration of a proposed Assembly Measure after its passing if (and only if)—
- (a) the Supreme Court decides on a reference made in relation to the proposed Assembly Measure under section 99 that the proposed Assembly Measure or any provision of it would not be within the Assembly's legislative competence,
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 is withdrawn following a request for withdrawal of the reference under section 100(2)(b), or
  - (c) an order is made in relation to the proposed Assembly Measure under section 101.
- (7) The standing orders must, in particular, ensure that any proposed Assembly Measure amended on reconsideration is subject to a final stage at which it can be approved or rejected.
- (8) References in subsections (4), (5) and (6) of this section and sections 93(2) and 95(10) to the passing of a proposed Assembly Measure are, in the case of a proposed Assembly Measure which has been amended on reconsideration, to be read as references to its approval.

#### **Commencement Information**

**189** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



*Status: Point in time view as at 23/01/2020.*

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## 99 Scrutiny of proposed Assembly Measures by Supreme Court

- (1) The Counsel General or the Attorney General may refer the question whether a proposed Assembly Measure, or any provision of a proposed Assembly Measure, would be within the Assembly's legislative competence to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a proposed Assembly Measure at any time during—
  - (a) the period of four weeks beginning with the passing of the proposed Assembly Measure, and
  - (b) any period of four weeks beginning with any subsequent approval of the proposed Assembly Measure in accordance with provision included in the standing orders in compliance with section 98(7).
- (3) No reference may be made in relation to a proposed Assembly Measure—
  - (a) by the Counsel General if the Counsel General has notified the Clerk that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has notified the Clerk that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the proposed Assembly Measure has been approved as mentioned in subsection (2)(b) since the notification.

### Commencement Information

**190** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 100 ECJ references

- (1) This section applies where—
  - (a) a reference has been made in relation to a proposed Assembly Measure under section 99,
  - (b) a reference for a preliminary European Court ruling has been made by the Supreme Court in connection with that reference, and
  - (c) neither of those references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the proposed Assembly Measure—
  - (a) the Clerk must notify the Counsel General and the Attorney General of that fact, and
  - (b) the person who made the reference in relation to the proposed Assembly Measure under section 99 must request the withdrawal of the reference.
- (3) In this section “ a reference for a preliminary European Court ruling ” means a reference of a question to the European Court under Article 234 of the Treaty establishing the European Community, Article 41 of the Treaty establishing the European Coal and Steel Community or Article 150 of the Treaty establishing the European Atomic Energy Community.

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### Commencement Information

**191** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 101 Power to intervene in certain cases

- (1) This section applies if a proposed Assembly Measure contains provisions which the Secretary of State has reasonable grounds to believe—
  - (a) would have an adverse effect on any matter which is not specified in Part 1 of Schedule 5 [<sup>F134</sup>(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)],
  - (b) might have a serious adverse impact on water resources in England, water supply in England or the quality of water in England,
  - (c) would have an adverse effect on the operation of the law as it applies in England, or
  - (d) would be incompatible with any international obligation or the interests of defence or national security.
- (2) The Secretary of State may make an order prohibiting the Clerk from submitting the proposed Assembly Measure for approval by Her Majesty in Council.
- (3) The order must identify the proposed Assembly Measure and the provisions in question and state the reasons for making the order.
- (4) The order may be made at any time during—
  - (a) the period of four weeks beginning with the passing of the proposed Assembly Measure,
  - (b) any period of four weeks beginning with any subsequent approval of the proposed Assembly Measure in accordance with provision included in the standing orders in compliance with section 98(7), or
  - (c) if a reference is made in relation to the proposed Assembly Measure under section 99, the period of four weeks beginning with the reference being decided or otherwise disposed of by the Supreme Court.
- (5) The Secretary of State must not make an order in relation to a proposed Assembly Measure if the Secretary of State has notified the Clerk that no order is to be made in relation to the proposed Assembly Measure.
- (6) Subsection (5) does not apply if the proposed Assembly Measure has been approved as mentioned in subsection (4)(b) since the notification.
- (7) An order in force under this section at a time when such approval is given ceases to have effect.
- (8) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F134** Words in s. 101(1)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(5\)](#)

*Status: Point in time view as at 23/01/2020.*

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#### **Commencement Information**

**I92** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **102 Approval of proposed Assembly Measures**

- (1) It is for the Clerk to submit proposed Assembly Measures for approval by Her Majesty in Council.
- (2) The Clerk may not submit a proposed Assembly Measure for approval by Her Majesty in Council at any time when—
  - (a) the Attorney General or the Counsel General is entitled to make a reference in relation to the proposed Assembly Measure under section 99,
  - (b) such a reference has been made but has not been decided or otherwise disposed of by the Supreme Court, or
  - (c) an order may be made in relation to the proposed Assembly Measure under section 101.
- (3) The Clerk may not submit a proposed Assembly Measure in its unamended form for approval by Her Majesty in Council if—
  - (a) the Supreme Court has decided on a reference made in relation to the proposed Assembly Measure under section 99 that the proposed Assembly Measure or any provision of it would not be within the Assembly's legislative competence, or
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 has been withdrawn following a request for withdrawal of the reference under section 100(2)(b).
- (4) Once an Assembly Measure has been approved by Her Majesty in Council, the Clerk of the Privy Council must send the Order in Council approving the Assembly Measure to the Clerk.
- (5) The date of the approval by Her Majesty in Council of an Assembly Measure is to be written on the Assembly Measure by the Clerk, and forms part of the Assembly Measure.
- (6) The Clerk must publish the Order in Council by which an Assembly Measure is approved.
- (7) The standing orders must include provision for the notification by the Clerk to the Assembly of the date of the approval of an Assembly Measure by Her Majesty in Council.
- (8) The validity of an Assembly Measure is not affected by any failure to comply with provision made by or by virtue of subsection (4), (5) or (7).]

#### **Commencement Information**

**I93** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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## PART 4

### ACTS OF THE ASSEMBLY

F135 ...

#### Textual Amendments

**F135** S. 103 cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 2** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

### <sup>F136</sup>103 Referendum about commencement of Assembly Act provisions

.....

#### Textual Amendments

**F136** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 2** (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

### <sup>F136</sup>104 Proposal for referendum by Assembly

.....

#### Textual Amendments

**F136** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 2** (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

### <sup>F136</sup>105 Commencement of Assembly Act provisions

.....

#### Textual Amendments

**F136** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 2** (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

### <sup>F136</sup>106 Effect on Measures of commencement of Assembly Act provisions

.....

#### Textual Amendments

**F136** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 2** (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

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## <sup>F136</sup>106A Enactment of proposed Assembly Measures

.....

### Textual Amendments

**F136** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

### Power

## 107 Acts of the Assembly

- (1) The Assembly may make laws, to be known as Acts of the National Assembly for Wales or Ddeddfau Cynulliad Cenedlaethol Cymru (referred to in this Act as “Acts of the Assembly”).
- (2) Proposed Acts of the Assembly are to be known as Bills; and a Bill becomes an Act of the Assembly when it has been passed by the Assembly and has received Royal Assent.
- (3) The validity of an Act of the Assembly is not affected by any invalidity in the Assembly proceedings leading to its enactment.
- (4) Every Act of the Assembly is to be judicially noticed.
- (5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

[<sup>F137</sup>(6) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Assembly.]

### Textual Amendments

**F137** S. 107(6) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), [ss. 2, 71\(2\)\(a\)](#) (with [Sch. 7 paras. 1, 6](#))

### Commencement Information

**I94** S. 107 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

## <sup>F138</sup>108 Legislative competence

.....

### Textual Amendments

**F138** S. 108A substituted for s.108 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 3\(1\), 71\(3\)](#) (with [Sch. 7 paras. 1, 2, 6](#)); [S.I. 2017/1179](#), reg. 2

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## [<sup>F138</sup>108A] Legislative competence

- (1) An Act of the Assembly is not law so far as any provision of the Act is outside the Assembly's legislative competence.
- (2) A provision is outside that competence so far as any of the following paragraphs apply—
  - (a) it extends otherwise than only to England and Wales;
  - (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales;
  - (c) it relates to reserved matters (see Schedule 7A);
  - (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions;
  - (e) it is incompatible with the Convention rights or with EU law.
- (3) But subsection (2)(b) does not apply to a provision that—
  - (a) is ancillary to a provision of any Act of the Assembly or Assembly Measure or to a devolved provision of an Act of Parliament, and
  - (b) has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision.
- (4) For this purpose, a provision of an Act of Parliament is ““devolved”” if it would be within the Assembly's legislative competence if it were contained in an Act of the Assembly (ignoring any requirement for consent or consultation imposed under paragraph 8, 10 or 11 of Schedule 7B or otherwise).
- (5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the Assembly is disregarded.
- (6) The question whether a provision of an Act of the Assembly relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.
- (7) For the purposes of this Act a provision is ancillary to another provision if it—
  - (a) provides for the enforcement of the other provision or is otherwise appropriate for making that provision effective, or
  - (b) is otherwise incidental to, or consequential on, that provision.]

### Textual Amendments

**F138** S. 108A substituted for s.108 (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 3\(1\), 71\(3\)](#) (with [Sch. 7 paras. 1, 2, 6](#)); [S.I. 2017/1179, reg. 2](#)

### Modifications etc. (not altering text)

**C10** S. 108A modified by [2000 c. 22, s. 7\(9\)](#) (as amended) (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 57](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)

**C11** S. 108A(2)(e) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 8 para. 41\(4\)\(9\)](#) (with [s. 19, Sch. 8 para. 37](#)); [S.I. 2019/399, reg. 2](#)

*Status: Point in time view as at 23/01/2020.*

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## 109 Legislative competence: supplementary

- (1) Her Majesty may by Order in Council amend [<sup>F139</sup>Schedule 7A or 7B].
- (2) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (3) An Order in Council under this section may make provision having retrospective effect.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council [<sup>F140</sup> has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.]
- [<sup>F141</sup>(5) Any alteration of Schedule 7A or 7B, whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise, does not (unless an enactment provides otherwise) affect—
  - (a) the validity of an Act of the Assembly passed before the alteration takes effect, or
  - (b) the previous or continuing operation of such an Act of the Assembly.]

### Textual Amendments

**F139** Words in s. 109(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

**F140** Words in s. 109(4) substituted for s. 109(4)(a)(b) (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

**F141** S. 109(5) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

## [<sup>F142</sup>109A] Legislative competence: restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the Assembly's legislative competence.
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—
  - (a) the Assembly has made a consent decision in relation to the laying of the draft, or
  - (b) the 40 day period has ended without the Assembly having made such a decision.

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- (5) For the purposes of subsection (4) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
  - (b) a decision not to agree a motion consenting to the laying of the draft, or
  - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
- (a) provide a copy of the draft to the Welsh Ministers, and
  - (b) inform the Presiding Officer that a copy has been so provided.
- (7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers, and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.]

#### Textual Amendments

**F142** S. 109A inserted (26.6.2018 for specified purposes) by [European Union \(Withdrawal\) Act 2018](#) (c. 16), **ss. 12(4), 25(2)(b)** (with s. 19, Sch. 2 paras. 3(5), 14(5), Sch. 8 para. 37, Sch. 8 para. 41)

#### Modifications etc. (not altering text)

**C12** S. 109A: power to repeal conferred (4.7.2018) by [European Union \(Withdrawal\) Act 2018](#) (c. 16), **ss. 12(9)-(11), 25(4)** (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

### Procedure

#### 110 Introduction of Bills

- (1) A Bill may, subject to the standing orders, be introduced in the Assembly—



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- (a) by the First Minister, any Welsh Minister appointed under section 48 any Deputy Welsh Minister or the Counsel General, or
  - (b) by any other Assembly member.
- (2) The person in charge of a Bill must, on or before the introduction of the Bill, state that, in that person's view, its provisions would be within the Assembly's legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a Bill in the Assembly—
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the Bill would be within the Assembly's legislative competence, and
  - (b) state that decision.
- (4) A statement under this section must be made in both English and Welsh; but, subject to that, the form of the statement and the manner in which it is to be made are to be determined under the standing orders.
- (5) The standing orders—
  - (a) may provide for a statement under this section to be published, and
  - (b) if they do so, must provide for it to be published in both English and Welsh.

#### Commencement Information

**195** S. 110 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

### [<sup>F143</sup>110] Introduction of Bills: justice impact assessment

- (1) The standing orders must include provision requiring the person in charge of a Bill, on or before the introduction of the Bill, to make a written statement setting out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a “justice impact assessment”).
- (2) The form of the justice impact assessment and the manner in which it is to be made are to be determined under the standing orders.
- (3) The standing orders must provide for the justice impact assessment to be published.]

#### Textual Amendments

**F143** S. 110A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 11, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)

## 111 Proceedings on Bills

- (1) The standing orders must include provision—
  - (a) for general debate on a Bill with an opportunity for Assembly members to vote on its general principles,
  - (b) for the consideration of, and an opportunity for Assembly members to vote on, the details of a Bill, and
  - (c) for a final stage at which a Bill can be passed or rejected.

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- (2) Subsection (1) does not prevent the standing orders making provision to enable the Assembly to expedite proceedings in relation to a particular Bill.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to Bills of any of the following kinds—
  - (a) Bills which restate the law,
  - (b) Bills which repeal or revoke spent enactments, and
  - (c) private Bills.
- (4) The standing orders must include provision for securing that the Assembly may only pass a Bill containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in accordance with the standing orders.
- (5) The standing orders must include provision for securing that the Assembly may only pass a Bill if the text of the Bill is in both English and Welsh, unless the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.
- (6) The standing orders must provide for an opportunity for the reconsideration of a Bill after its passing if (and only if)—
  - [<sup>F144</sup>(za) the Supreme Court decides on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer's decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter,]
  - (a) the Supreme Court decides on a reference made in relation to the Bill under section 112 that the Bill or any provision of it would not be within the Assembly's legislative competence,
  - (b) a reference made in relation to the Bill under section 112 is withdrawn following a request for withdrawal of the reference under section 113(2)(b), or
  - (c) an order is made in relation to the Bill under section 114.
- [<sup>F145</sup>(6A) The standing orders must provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), on a reference made in relation to the Bill under section 111B(2)(a) (reference following Presiding Officer's decision that Bill contains protected subject-matter), the Supreme Court decides that no provision that is subject to the reference relates to a protected subject-matter.]
- [<sup>F146</sup>(7) The standing orders must, in particular, ensure that—
  - (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (6)(a), (b) or (c), and
  - (b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (6)(za) or (6A),
 is subject to a final stage at which it can be approved or rejected.]
- (8) References in subsections (4), (5) and (6) of this section and sections 107(2), 109(5) [<sup>F147</sup>, 111A(3) and (4), 111B(2)(b)] [<sup>F148</sup>, 116(3) and 116C (4)] to the passing of a Bill are, in the case of a Bill [<sup>F149</sup>to which subsection (7)(a) or (b) applies], to be read as references to its approval.

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#### Textual Amendments

- F144** S. 111(6)(za) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(2)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F145** S. 111(6A) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(3)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F146** S. 111(7) substituted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(4)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F147** Words in s. 111(8) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(5)(a)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F148** Words in s. 111(8) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 6(4)**, 29(2)(b)(3)
- F149** Words in s. 111(8) substituted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(5)(b)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)

#### Commencement Information

- I96** S. 111 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

### [<sup>F150</sup>111] Bills with protected subject-matter: super-majority requirement

- (1) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (2) (but not if the provision is incidental to or consequential on another provision of the Bill).
- (2) The matters are—
  - (a) the name of the Assembly,
  - (b) the persons entitled to vote as electors at an election for membership of the Assembly,
  - (c) the system by which members of the Assembly are returned,
  - (d) the specification or number of constituencies, regions or any equivalent electoral area,
  - (e) the number of members to be returned for each constituency, region or equivalent electoral area, and
  - (f) the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.
- (3) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it—
  - (a) decide whether or not, in the view of the Presiding Officer, any provision of the Bill relates to a protected subject-matter, and
  - (b) state that decision.
- (4) If the Presiding Officer decides that any provision of the Bill relates to a protected subject-matter, the Bill is not passed unless the number of Assembly members voting in favour of it at the final stage is at least two-thirds of the total number of Assembly seats.

*Status: Point in time view as at 23/01/2020.*

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### Textual Amendments

**F150** Ss. 111A, 111B inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 9, 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

## 111B Scrutiny of Bills by the Supreme Court (protected subject-matter)

- (1) The Counsel General or the Attorney General may refer the question whether any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill—
  - (a) at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has decided under section 111A(3) that a provision of the Bill relates to a protected subject-matter, or
  - (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has decided under section 111A(3) that no provision of the Bill relates to a protected subject-matter, unless the number of Assembly members voting in favour of the Bill at its passing is at least two-thirds of the total number of Assembly seats.
- (3) No reference may be made in relation to a Bill—
  - (a) by the Counsel General if the Counsel General has notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has, since the notification, been approved or rejected in accordance with standing orders made by virtue of section 111(7).]

### Textual Amendments

**F150** Ss. 111A, 111B inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 9, 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

## 112 Scrutiny of Bills by Supreme Court [<sup>F151</sup>(legislative competence)]

- (1) The Counsel General or the Attorney General may refer the question whether a Bill, or any provision of a Bill, would be within the Assembly's legislative competence to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill at any time during—
  - (a) the period of four weeks beginning with the passing of the Bill, and
  - (b) any period of four weeks beginning with any <sup>F152</sup>... approval of the Bill in accordance with provision included in the standing orders in compliance with section 111(7).
- (3) No reference may be made in relation to a Bill—

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- (a) by the Counsel General if the Counsel General has notified the [<sup>F153</sup>Presiding Officer] that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has notified the [<sup>F153</sup>Presiding Officer] that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has been approved as mentioned in subsection (2)(b) since the notification.

#### Textual Amendments

- F151** Words in s. 112 heading inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(6\)\(a\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F152** Word in s. 112(2)(b) omitted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of [Wales Act 2017 \(c. 4\), ss. 10\(6\)\(b\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F153** Words in s. 112(3)(a)(b) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(a\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

#### Commencement Information

- I97** S. 112 in force at 5.5.2011 by [S.I. 2011/1011, art. 3](#)

### 113 ECJ references

- (1) This section applies where—
- (a) a reference has been made in relation to a Bill under section 112,
  - (b) a reference for a preliminary European Court ruling has been made by the Supreme Court in connection with that reference, and
  - (c) neither of those references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the Bill—
- (a) the [<sup>F154</sup>Presiding Officer] must notify the Counsel General and the Attorney General of that fact, and
  - (b) the person who made the reference in relation to the Bill under section 112 must request the withdrawal of the reference.
- (3) In this section “a reference for a preliminary European Court ruling” means a reference of a question to the European Court under [<sup>F155</sup>Article 267 of the Treaty on the Functioning of the European Union] or Article 150 of the Treaty establishing the European Atomic Energy Community.

#### Textual Amendments

- F154** Words in s. 113(2)(a) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(b\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F155** Words in s. 113(3) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\), art. 2\(1\), Sch. Pt. 1](#) (with [art. 2\(2\)](#))

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### Commencement Information

**I98** S. 113 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

## 114 Power to intervene in certain cases

- (1) This section applies if a Bill contains provisions which the Secretary of State has reasonable grounds to believe—
  - (a) would have an adverse effect on [<sup>F156</sup>a reserved matter],
  - <sup>F157</sup>(b) .....
  - (c) would have an adverse effect on the operation of the law as it applies in England, or
  - (d) would be incompatible with any international obligation or the interests of defence or national security.
- (2) The Secretary of State may make an order prohibiting the [<sup>F158</sup>Presiding Officer] from submitting the Bill for Royal Assent.
- (3) The order must identify the Bill and the provisions in question and state the reasons for making the order.
- (4) The order may be made at any time during—
  - (a) the period of four weeks beginning with the passing of the Bill,
  - (b) any period of four weeks beginning with any <sup>F159</sup>... approval of the Bill in accordance with provision included in the standing orders in compliance with section 111(7), or
  - (c) if a reference is made in relation to the Bill under section [<sup>F160</sup>111B or] 112, the period of four weeks beginning with the reference being decided or otherwise disposed of by the Supreme Court.
- (5) The Secretary of State must not make an order in relation to a Bill if the Secretary of State has notified the [<sup>F161</sup>Presiding Officer] that no order is to be made in relation to the Bill.
- (6) Subsection (5) does not apply if the Bill has been approved as mentioned in subsection (4)(b) since the notification.
- (7) An order in force under this section at a time when such approval is given ceases to have effect.
- (8) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

- F156** Words in s. 114(1)(a) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 4](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F157** S. 114(1)(b) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 52\(1\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(k)
- F158** Words in s. 114(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 12\(2\)\(c\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(c)

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- F159** Word in s. 114(4)(b) omitted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of [Wales Act 2017 \(c. 4\), ss. 10\(7\)\(a\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F160** Words in s. 114(4)(c) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(7\)\(b\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F161** Words in s. 114(5) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(c\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

#### Commencement Information

- I99** S. 114 in force at 5.5.2011 by [S.I. 2011/1011, art. 3](#)

## 115 Royal Assent

- (1) It is for the [<sup>F162</sup>Presiding Officer] to submit Bills for Royal Assent.
  - (2) The [<sup>F163</sup>Presiding Officer] may not submit a Bill for Royal Assent at any time when—
    - (a) the Attorney General or the Counsel General is entitled to make a reference in relation to the Bill under section [<sup>F164</sup>111B or] 112,
    - (b) such a reference has been made but has not been decided or otherwise disposed of by the Supreme Court, or
    - (c) an order may be made in relation to the Bill under section 114.
  - (3) The [<sup>F165</sup>Presiding Officer] may not submit a Bill in its unamended form for Royal Assent if—
    - (a) the Supreme Court has decided on a reference made in relation to the Bill under section 112 that the Bill or any provision of it would not be within the Assembly's legislative competence, or
    - (b) a reference made in relation to the Bill under section 112 has been withdrawn following a request for withdrawal of the reference under section 113(2)(b).
- [<sup>F166</sup>(3A) The Presiding Officer may not submit a Bill for Royal Assent if the Supreme Court has decided on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer's decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter unless, since the decision, the Bill has been approved in accordance with standing orders made by virtue of section 111(7).]
- (4) A Bill receives Royal Assent when Letters Patent under the Welsh Seal signed with Her Majesty's own hand signifying Her Assent are notified to the Clerk.
- [<sup>F167</sup>(4A) The Keeper of the Welsh Seal (*see* section 116(2)) must make arrangements to send the Letters Patent to the National Library of Wales.]
- (5) The date of Royal Assent is to be written on the Act of the Assembly by the Clerk, and forms part of the Act.
- [<sup>F168</sup>(5A) On the copy of the Act of the Assembly on which the Clerk writes the date of Royal Assent the Clerk must write—
  - (a) the calendar year, and
  - (b) any prefix and number which has been assigned to that Act of the Assembly.
- (5B) The information written on the Act of the Assembly in pursuance of subsection (5A) forms part of the Act .

*Status: Point in time view as at 23/01/2020.*

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- (5C) The copy of the Act of the Assembly on which the date of Royal Assent and the information in subsection (5A) is written is to be known as the official print of the Act .
- (5D) The Clerk must make a copy of the official print and certify it as a true copy.
- (5E) The Clerk must send the certified copy to the Queen’s Printer and the official print to the National Library of Wales.
- (5F) The National Library of Wales must ensure that the official prints and Letters Patent it receives are preserved and open to public inspection at all reasonable times.]
- (6) The standing orders must include provision for notification by the Clerk to the Assembly of the date of Royal Assent to an Act of the Assembly.
- (7) The validity of an Act of the Assembly is not affected by any failure to comply with provision made by or by virtue of subsection (4), (5) or (6).

#### Textual Amendments

- F162** Words in s. 115(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 12(1)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F163** Words in s. 115(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 12(1)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F164** Words in s. 115(2)(a) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(8)(a)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F165** Words in s. 115(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 12(1)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F166** S. 115(3A) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), **ss. 10(8)(b)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F167** S. 115(4A) inserted (5.5.2011) by [The Government of Wales Act 2006 \(Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications\) Order 2011 \(S.I. 2011/1011\)](#), [art. 5\(2\)](#)
- F168** S. 115(5A)-(5F) inserted (5.5.2011) by [The Government of Wales Act 2006 \(Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications\) Order 2011 \(S.I. 2011/1011\)](#), [art. 5\(3\)](#)

#### Commencement Information

- I100** S. 115 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

## 116 Welsh Seal <sup>[F169]</sup>: Letters Patent and proclamations]

- (1) There is to be a Welsh Seal.
- (2) The First Minister is to be the Keeper of the Welsh Seal.
- (3) Her Majesty may by Order in Council make provision as to—
- the form and manner of preparation, and
  - the publication,

of Letters Patent signed with Her Majesty's own hand signifying Her Assent to a Bill passed by the Assembly <sup>[F170]</sup> and all royal proclamations under section 4(2) and section 5(4), which have passed under the Welsh Seal].



*Status: Point in time view as at 23/01/2020.*

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- (4) A statutory instrument containing an Order in Council under subsection (3) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

- F169** Words in s. 116 heading substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 5\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)
- F170** Words in s. 116(3) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 5\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

#### Commencement Information

- I101** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## [<sup>F171</sup>PART 4A

### TAXATION

#### Textual Amendments

- F171** Pt. 4A inserted (17.2.2015) by [Wales Act 2014 \(c. 29\), ss. 6\(2\), 29\(2\)\(b\)\(3\)](#)

## CHAPTER 1

### INTRODUCTORY

#### 116A Overview of Part 4A

- (1) In this Part [<sup>F172</sup>—
- (a) Chapter 2 confers on the Assembly power to set rates of income tax to be paid by Welsh taxpayers, and
  - (b) Chapters 3 and 4 specify particular taxes as devolved taxes about which the Assembly may make provision in the exercise of the power conferred by section 107(1).
- (2) The power to make provision about a devolved tax is subject to the restrictions imposed by—
- (a) subsection (3), and
  - (b) the other provisions of this Part.
- (3) A devolved tax may not be imposed where to do so would be incompatible with any international obligations.
- (4) In this Act “ devolved tax ” means a tax specified in this Part as a devolved tax.

#### Textual Amendments

- F172** Words in s. 116A(1) inserted (with effect in accordance with s. 14(3)-(5) of the amending Act) by [Wales Act 2014 \(c. 29\), ss. 8\(2\), 14\(2\), 29\(4\)](#); [S.I. 2018/892, art. 3](#) (with [arts. 5, 6, 8](#))

*Status: Point in time view as at 23/01/2020.*

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## **116B Status of officials of body that collects and manages devolved taxes**

- (1) This section applies where an Act of the Assembly establishes a body that is to be responsible for the collection and management of devolved taxes (whether or not the body is also to be responsible for local government finance or any other matter).
- (2) In this section “ relevant official ” means an officer or member of staff of the body mentioned in subsection (1) who has no functions other than functions relating to—
  - (a) the collection or management of devolved taxes, or
  - (b) local government finance.
- (3) If an Act of the Assembly provides that service as a relevant official is service in the civil service of the State, that provision is <sup>F173</sup>not to be regarded as falling outside the Assembly's legislative competence by virtue of section 108A(2)(b) or (c)].
- (4) In subsections (5) to (7), “ relevant civil servant ” means a relevant official whose service is service in the civil service of the State by virtue of provision of the kind mentioned in subsection (3).
- (5) The Welsh Ministers must pay the salaries and expenses of relevant civil servants.
- (6) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 or section 1 of the Public Service Pensions Act 2013 to or in respect of persons who are or have been relevant civil servants, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (7) The Welsh Ministers may make payments towards the provision of pensions, allowances or gratuities to or in respect of any person who is or has been a relevant civil servant.

### **Textual Amendments**

**F173** Words in s. 116B(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 6](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

## **116C Power to add new devolved taxes**

- (1) Her Majesty may by Order in Council amend this Part so as to—
  - (a) specify, as an additional devolved tax, a tax of any description, or
  - (b) make any other modifications of the provisions relating to devolved taxes which She considers appropriate.
- (2) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
 as Her Majesty considers appropriate in connection with the provision made by the Order.

*Status: Point in time view as at 23/01/2020.*

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- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.
- (4) The amendment of this Part by an Order in Council under this section does not affect—
  - (a) the validity of an Act of the Assembly passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Act of the Assembly.]

## [<sup>F174</sup>CHAPTER 2

### INCOME TAX

#### Textual Amendments

**F174** Pt. 4A Ch. 2 inserted (with effect in accordance with s. 14(3)-(5) of the amending Act) by [Wales Act 2014 \(c. 29\)](#), [ss. 8\(3\), 14\(2\), 29\(4\)](#); [S.I. 2018/892](#), [art. 3](#) (with [arts. 5, 6, 8](#))

#### 116D Power to set Welsh rates for Welsh taxpayers

- (1) The Assembly may by resolution (a “Welsh rate resolution”) set one or more of the following—
  - (a) a Welsh rate for the purpose of calculating the Welsh basic rate;
  - (b) a Welsh rate for the purpose of calculating the Welsh higher rate;
  - (c) a Welsh rate for the purpose of calculating the Welsh additional rate.
- (2) See section 6B of the Income Tax Act 2007 for provision about the calculation of the Welsh basic, higher and additional rates and section 11B of that Act for provision about the income of Welsh taxpayers charged at those rates.
- (3) A Welsh rate resolution applies—
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) Any Welsh rate specified must be a whole number or half a whole number.
- (5) A Welsh rate resolution—
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and
  - (c) must not be made more than 12 months before the start of that year.
- (6) If a Welsh rate resolution is cancelled before the start of the tax year for which it is to apply—
  - (a) the Income Tax Acts have effect for that year as if the resolution had never been made, and
  - (b) the resolution may be replaced by another Welsh rate resolution.
- (7) The standing orders must provide that only the First Minister or a Welsh Minister appointed under section 48 may move a motion for a Welsh rate resolution.

*Status: Point in time view as at 23/01/2020.*

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## **116E Welsh taxpayers**

- (1) For any tax year, a Welsh taxpayer is an individual (T)—
  - (a) who is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013), and
  - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Wales (see section 116G).
- (3) T meets condition B if—
  - (a) T does not have a close connection with England, Scotland or Northern Ireland (see section 116G), and
  - (b) T spends more days of that year in Wales than in any other part of the UK (see section 116H).
- (4) T meets condition C if, for the whole or any part of the year, T is—
  - (a) a member of Parliament for a constituency in Wales,
  - (b) a member of the European Parliament for Wales, or
  - (c) an Assembly member.
- (5) Subsection (1) does not apply if T is a Scottish parliamentarian for the whole or any part of the year (see section 116F).
- (6) For the purposes of subsection (5) and section 116F, T is a Scottish parliamentarian if T is a member as described in any of paragraphs (a) to (c) of section 80D(4) of the Scotland Act 1998 (definition of a Scottish taxpayer).
- (7) In this Chapter “the UK” means the United Kingdom.

## **116F Welsh taxpayers: Scottish parliamentarians**

- (1) An individual (T) who is a Scottish parliamentarian for the whole or any part of a tax year is a Welsh taxpayer for that tax year if—
  - (a) T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
  - (b) T meets condition C in section 116E for that year, and
  - (c) T meets either of the following conditions for that year.
- (2) T meets the first condition if—
  - (a) the number of days in that year on which T is a member as described in any of paragraphs (a) to (c) of section 116E(4), exceeds
  - (b) the number of days in that year on which T is a Scottish parliamentarian.
- (3) T meets the second condition if—
  - (a) the number of days in that year mentioned in paragraphs (a) and (b) of subsection (2) are the same, and
  - (b) T meets condition A or B in section 116E for that year.

## **116G Close connection with Wales or another part of the UK**

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
  - (a) subsection (2) (where T has only one place of residence in the UK), or
  - (b) subsection (3) (where T has 2 or more places of residence in the UK).

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- (2) T has a close connection with a part of the UK if in that year—
  - (a) T has only one place of residence in the UK,
  - (b) that place of residence is in that part of the UK, and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
  - (a) T has 2 or more places of residence in the UK,
  - (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
  - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) more of the year than the times when T's main place of residence is in each other part of the UK (considered separately), and
  - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- (4) In this section “place” includes a place on board a vessel or other means of transport.

#### **116H Days spent in Wales or another part of the UK**

- (1) T spends more days of a year in Wales than in any other part of the UK if (and only if) the number of days in the year on which T is in Wales at the end of the day exceeds each of the following—
  - (a) the number of days in the year on which T is in England at the end of the day;
  - (b) the number of days in the year on which T is in Scotland at the end of the day;
  - (c) the number of days in the year on which T is in Northern Ireland at the end of the day.
- (2) T is treated as not being in the UK at the end of a day if—
  - (a) on that day T arrives in the UK as a passenger,
  - (b) T departs from the UK on the next day, and
  - (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

#### **116I Supplemental powers to modify enactments**

- (1) The Treasury may by order modify section 11B of the Income Tax Act 2007 (income charged at the Welsh basic, higher and additional rates) for the purpose of altering—
  - (a) the definition of the income which is charged to income tax at the rates provided for under the section, or
  - (b) the application of the section in relation to a particular class of income which is so charged.
- (2) The Treasury may by order modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Welsh taxpayer, by reference to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate, instead of the basic rate, the higher rate or the additional rate.
- (3) If the Treasury consider it necessary or expedient to do so, they may by order provide that—
  - (a) a Welsh rate set by the Assembly for a tax year for the purpose of calculating the Welsh basic rate, Welsh higher rate or Welsh additional rate, or

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- (b) the fact that a Welsh rate has not been set by the Assembly for a tax year for any one or more of those purposes,
- does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order.
- (4) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection with an order under subsection (1), (2) or (3).
- (5) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.
- (6) No order is to be made under subsection (1), (2) or (4) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) The power under subsection (1) does not include power to provide that any income which is—
- (a) savings income, or
  - (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,
- is income which is charged to income tax at a rate provided for under section 11B of that Act.

#### **116J Reimbursement of expenses**

The Welsh Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Wales Act 2014 by the Minister or department.

#### **116K Report by the Comptroller and Auditor General**

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).
- (2) Those matters are—
- (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Welsh rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
  - (b) whether the rules and procedures described in paragraph (a) are being complied with,
  - (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Welsh rate resolution, and
  - (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).

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- (3) “The Welsh rate provisions” are—
  - (a) any provision made by or under this Chapter, and
  - (b) any provision made by or under the Income Tax Acts relating to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate.
- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).
- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the Assembly not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty's Revenue and Customs.]

## [<sup>F175</sup>CHAPTER 3

### TAX ON TRANSACTIONS INVOLVING INTERESTS IN LAND

#### Textual Amendments

**F175** Pt. 4A Ch. 3 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 15(1), 29(2)(b)(3)** (with s. 15(2))

#### **116L Tax on transactions involving interests in land**

- (1) A tax which is charged on a Welsh land transaction and complies with the requirements of this section is a devolved tax.
- (2) In this Chapter a “ Welsh land transaction ” means an acquisition of—
  - (a) an estate, interest, right or power in or over land in Wales;
  - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- (3) The tax may be chargeable—
  - (a) whether or not there is any instrument effecting the transaction,
  - (b) if there is such an instrument, regardless of where it is executed, and
  - (c) regardless of where any party to the transaction is or is resident.
- (4) The tax may not be imposed on so much of a Welsh land transaction as relates to land below mean low water mark.
- (5) The following persons are not to be liable to pay the tax—

*Government*  
A Minister of the Crown

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The Welsh Ministers, the First Minister and the Counsel General  
 The Scottish Ministers  
 A Northern Ireland department  
*Parliament etc*  
 The Corporate Officer of the House of Lords  
 The Corporate Officer of the House of Commons  
 The Assembly Commission  
 The Scottish Parliamentary Corporate Body  
 The Northern Ireland Assembly Commission.

### 116M Duty to disclose information on Welsh land transactions to HMRC

- (1) [<sup>F176</sup>The Welsh Revenue Authority] must provide to HMRC such of the information falling within subsection (2) as HMRC may require.
- (2) Information falls within this subsection if it—
  - (a) is relevant information in relation to a Welsh land transaction, and
  - (b) is in the possession or under the control of the person.
- (3) “ Relevant information ”, in relation to a Welsh land transaction, means information which—
  - (a) corresponds to any of the particulars which would be required under Schedule 2 to the Finance Act 1931, but for section 28(3)(c) of that Act, or
  - (b) uniquely identifies, or assists in uniquely identifying, any person who gives consideration for, or is a party to, the transaction.
- (4) Information is to be provided under subsection (1) in such form as HMRC may reasonably specify.
- (5) Information acquired by HMRC under this section is to be treated, for the purposes of the Commissioners for Revenue and Customs Act 2005, as acquired in connection with a function of theirs.
- (6) In this section, “ HMRC ” means Her Majesty's Revenue and Customs. ]

#### Textual Amendments

**F176** Words in s. 116M(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 7](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

## [<sup>F177</sup>CHAPTER 4

### TAX ON DISPOSALS TO LANDFILL

#### Textual Amendments

**F177** Pt. 4A Ch. 4 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\), ss. 18\(1\), 29\(2\)\(b\)\(3\)](#)



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## 116N Tax on disposals to landfill

- (1) A tax charged on disposals to landfill made in Wales is a devolved tax.
- (2) A disposal is a disposal to landfill if—
  - (a) it is a disposal of material as waste, and
  - (b) it is made by way of landfill.]

## PART 5

### FINANCE

#### *Welsh Consolidated Fund*

## 117 Welsh Consolidated Fund

- (1) There is to be a Welsh Consolidated Fund.
- (2) The Welsh Consolidated Fund is to be held with the Paymaster General.

#### *Payments into Welsh Consolidated Fund*

## 118 Grants

- (1) The Secretary of State must from time to time make payments into the Welsh Consolidated Fund out of money provided by Parliament of such amounts as the Secretary of State may determine.
- (2) Any Minister of the Crown, and any government department, may make payments to the Welsh Ministers, the First Minister or the Counsel General of such amounts as may be determined by the Minister of the Crown or those responsible in the department.

## <sup>F178</sup>119 Statement of estimated payments

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### Textual Amendments

**F178** S. 119 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 13\(1\)](#), [71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(d\)](#)

## 120 Destination of receipts

- (1) Any sum received by or on behalf of—
  - (a) the Welsh Ministers, the First Minister or the Counsel General,
  - (b) the Assembly Commission,
  - (c) [<sup>F179</sup>the Wales Audit Office], or
  - (d) the Public Services Ombudsman for Wales,

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is to be paid into the Welsh Consolidated Fund (unless it is paid out of that Fund, and subject as follows); and this subsection applies in spite of provision contained in any other enactment unless the enactment provides expressly that any such sum is not to be paid into the Welsh Consolidated Fund.

- (2) If and to the extent that sums received as mentioned in subsection (1) are received in connection with resources—
- (a) which are within a category specified by resolution of the Assembly for the purposes of this subsection,
  - (b) which accrued to a person within subsection (1), and
  - (c) the retention of which by that person is authorised by a Budget resolution of the Assembly for the financial year in which the resources accrued,
- the sums may be retained for use for the services and purposes specified in a Budget resolution of the Assembly for the financial year in which they are received as services and purposes for which retained resources may be used.
- (3) The Treasury may, after consulting the Welsh Ministers, by order designate any description of sums received as mentioned in subsection (1).
- (4) The Welsh Ministers must make payments to the Secretary of State of sums equal to the total amount of sums of that description.
- (5) Payments by the Welsh Ministers under subsection (4) are to be made at such times, and by such methods, as the Treasury may from time to time determine.
- (6) Sums required for the making of the payments are to be charged on the Welsh Consolidated Fund.
- (7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In this Act “Budget resolution of the Assembly” means a resolution on an annual Budget motion (see section 125) or a supplementary Budget motion (see section 126).

#### Textual Amendments

**F179** Words in s. 120(1)(c) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 72](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Modifications etc. (not altering text)

**C13** S. 120(3) restricted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\), ss. 26\(7\), 30](#); S.I. 2009/490, art. 2 (with art. 3)

#### Commencement Information

**I102** S. 120(3)(7) in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5)); s. 120(1)(2)(4)-(6)(8) in force at 1.4.2007, see s. 161(3)

### *Borrowing*

#### 121 Borrowing by Welsh Ministers

[<sup>F180</sup>(1) The Welsh Ministers may borrow from the Secretary of State—

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- (a) any amounts it appears to them are required by them for the purpose of meeting a temporary excess of sums paid out of the Welsh Consolidated Fund over sums paid into that Fund,
  - (b) any amounts it appears to them are required by them for the purpose of providing a working balance in the Welsh Consolidated Fund, and
  - (c) any amounts which in accordance with rules determined by the Treasury are required by the Welsh Ministers to meet current expenditure because of a shortfall in receipts from devolved taxes, or from income tax charged by virtue of a Welsh rate resolution, against forecast receipts.
- (1A) The Welsh Ministers may, with the approval of the Treasury, borrow by way of loan [<sup>F181</sup>or by the issue of bonds (but not bonds transferable by delivery)] any amounts it appears to them are required by them for the purpose of meeting capital expenditure.
- (1B) An amount is required for the purpose of meeting capital expenditure if the expenditure would be capital expenditure for the purposes of accounts under section 131.]
- (2) Amounts borrowed under this section [<sup>F182</sup>from the Secretary of State] must be repaid to the Secretary of State at such times and by such methods, and interest on such sums must be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (3) Sums required for the repayment of, or the payment of interest on, amounts borrowed under this section are to be charged on the Welsh Consolidated Fund.
- [<sup>F183</sup>(4) The Secretary of State may by order made with the consent of the Treasury amend subsection (1A) so as to vary the means by which the Welsh Ministers may borrow money.
- (5) No order is to be made under subsection (4) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.]

#### Textual Amendments

**F180** S. 121(1)-(1B) substituted for s. 121(1) (1.1.2017) by [Wales Act 2014 \(c. 29\), ss. 20\(3\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

**F181** Words in s. 121(1A) inserted (1.12.2018) by [The Government of Wales Act 2006 \(Variation of Borrowing Power\) Order 2018 \(S.I. 2018/1266\)](#), arts. 1, 2

**F182** Words in s. 121(2) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\), ss. 20\(4\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

**F183** S. 121(4)(5) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\), ss. 20\(5\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

## 122 Lending by Secretary of State

- (1) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as the Secretary of State needs for making loans under section 121.
- (2) The aggregate outstanding in respect of the principal of sums borrowed under [<sup>F184</sup>section 121(1)] must not exceed £500 million.
- (3) The Secretary of State may by order made with the consent of the Treasury substitute for the amount for the time being specified in subsection (2) such <sup>F185</sup>... amount as is specified in the order.

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[<sup>F186</sup>(3A) An amount substituted under subsection (3) may be more or less than the amount for which it is substituted but may not be less than £500 million.]

- (4) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (5) Sums received by the Secretary of State under section 121(2) must be paid into the National Loans Fund.

#### Textual Amendments

- F184** Words in s. 122(2) substituted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(7)**, 29(5)(a); S.I. 2016/1264, art. 2
- F185** Word in s. 122(3) omitted (1.1.2017) by virtue of [Wales Act 2014 \(c. 29\)](#), **ss. 20(8)**, 29(5)(a); S.I. 2016/1264, art. 2
- F186** S. 122(3A) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(9)**, 29(5)(a); S.I. 2016/1264, art. 2

#### [<sup>F187</sup>122A] **Lending for capital expenditure**

- (1) The aggregate at any time outstanding in respect of the principal of amounts borrowed under section 121(1A) shall not exceed [<sup>F188</sup>£1,000 million] .
- (2) The Secretary of State may by order made with the consent of the Treasury substitute for the amount for the time being specified in subsection (1) such amount as may be specified in the order.
- (3) An amount substituted under subsection (2) may be more or less than the amount for which it is substituted but may not be less than [<sup>F189</sup>£1,000 million] .
- (4) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (5) A person lending money to a member of the Welsh Government—
  - (a) is not bound to enquire whether the member of the Welsh Government has power to borrow the money, and
  - (b) is not to be prejudiced by the absence of any such power.
- (6) The Welsh Ministers may not mortgage or charge any of their property as security for money which they have borrowed under section 121(1A).  
 This is subject to section 121(3) (charging of sums on the Welsh Consolidated Fund).
- (7) Security given in breach of subsection (6) is unenforceable.]

#### Textual Amendments

- F187** S. 122A inserted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(10)**, 29(5)(a); S.I. 2016/1264, art. 2
- F188** Words in s. 122A(1) substituted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 18**, 71(2)(d) (with [Sch. 7 paras. 1, 6](#))
- F189** Words in s. 122A(3) substituted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 18**, 71(2)(d) (with [Sch. 7 paras. 1, 6](#))

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### 123 Accounts relating to loans

- (1) The Secretary of State must for each financial year prepare accounts in such form and manner as the Treasury may direct—
  - (a) loans made by the Secretary of State under section 121 or treated as made by paragraph 11(6) of Schedule 3 or paragraph 44(6) of Schedule 11, and
  - (b) repayments and payments of interest made to the Secretary of State in respect of those loans.
- (2) The Secretary of State must send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (3) The Comptroller and Auditor General must—
  - (a) examine, certify and report on accounts sent under subsection (2), and
  - (b) lay copies of the accounts, together with the report prepared under paragraph (a), before each House of Parliament.

#### Commencement Information

**I103** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Expenditure*

### 124 Payments out of Welsh Consolidated Fund

- (1) A sum may only be paid out of the Welsh Consolidated Fund if—
  - (a) it has been charged on that Fund by any enactment, or
  - (b) its payment out is authorised or deemed to be authorised by a Budget resolution of the Assembly (see sections 125 to 128) for or in connection with either of the purposes mentioned in subsection (2),and an approval to draw the payment of the sum out of the Welsh Consolidated Fund is granted by the Auditor General (see section 129).
- (2) Those purposes are—
  - (a) meeting expenditure of a relevant person, and
  - (b) meeting expenditure payable pursuant to a relevant enactment.
- (3) For the purposes of this section and sections 125 to 128 the relevant persons are—
  - (a) the Welsh Ministers, the First Minister and the Counsel General,
  - (b) the Assembly Commission,
  - (c) [<sup>F190</sup>the Wales Audit Office], and
  - (d) the Public Services Ombudsman for Wales.
- (4) For the purposes of this section and sections 125 to 128 a relevant enactment is an enactment which provides for payment out of the Welsh Consolidated Fund.
- [<sup>F191</sup>(4A) A sum paid out of the Welsh Consolidated Fund may not be applied for any purpose other than that for which it was charged or (as the case may be) paid out.]
- (5) This section does not apply to sums paid out of the Welsh Consolidated Fund by virtue of section 130.

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- (6) Any enactment which—
- (a) charges the payment of sums on the Consolidated Fund or requires or authorises the payment of any sum from the Consolidated Fund, or
  - (b) requires or authorises the payment of sums out of money provided by Parliament,
- does not have effect if the sums are payable by any of the relevant persons.

#### Textual Amendments

- F190** Words in s. 124(3)(c) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 73](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F191** S. 124(4A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 13\(2\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(d)

## 125 Annual Budget motions

- (1) For each financial year there is to be moved in the Assembly a motion (referred to in this Act as an “annual Budget motion”) for the purpose of authorising—
  - (a) the amount of resources which may be used in the financial year by the relevant persons, or pursuant to a relevant enactment, for the services and purposes specified in the motion,
  - (b) the amount of resources accruing to the relevant persons in the financial year which may be retained by them to be used for the services and purposes so specified (rather than being paid into the Welsh Consolidated Fund), and
  - (c) the amount which may be paid out of the Welsh Consolidated Fund in the financial year to the relevant persons, or for use pursuant to a relevant enactment, for the services and purposes so specified.
- (2) An annual Budget motion may only be moved by the First Minister or a Welsh Minister appointed under section 48.
- (3) An annual Budget motion must be accompanied by a written statement made by the Welsh Ministers showing—
  - (a) the total amount of the payments which they estimate will be made for the financial year under section 118(1),
  - (b) the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year by Ministers of the Crown and government departments, and
  - (c) the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year otherwise than by a Minister of the Crown or government department.
- (4) In this Act a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

## 126 Supplementary Budget motions

- (1) For any financial year there may be moved in the Assembly one or more motions (referred to in this Act as a “supplementary Budget motion”) for either or both of the purposes specified in subsections (2) and (3).

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- (2) A supplementary Budget motion may approve a variation in any one or more of the following—
  - (a) the amount of resources authorised to be used in the financial year by a relevant person, or pursuant to a relevant enactment, for any service or purpose,
  - (b) the amount of resources accruing to a relevant person in the financial year and authorised to be retained by that person to be used for any service or purpose, and
  - (c) the amount authorised to be paid out of the Welsh Consolidated Fund in the financial year to a relevant person, or for use pursuant to a relevant enactment, for any service or purpose.
- (3) A supplementary Budget motion may authorise any one or more of the following—
  - (a) the amount of resources which may be used in the financial year by a relevant person, or pursuant to a relevant enactment, for a service or purpose specified in the motion,
  - (b) the amount of resources accruing to a relevant person in the financial year which may be retained by that person to be used for a service or purpose so specified, and
  - (c) the amount which may be paid out of the Welsh Consolidated Fund in the financial year to a relevant person, or for use pursuant to a relevant enactment, for a service or purpose so specified.
- (4) A supplementary Budget motion for any financial year may be expressed to have effect from a time before it is made; but that time may not be earlier than—
  - (a) the date on which the last supplementary Budget motion for the financial year was passed, or
  - (b) (if none has) the date on which the annual Budget motion for the financial year was passed.
- (5) A supplementary Budget motion may only be moved by the First Minister or a Welsh Minister appointed under section 48.

#### **[<sup>F192</sup>126] Inclusion in Budget motions of resources used by designated bodies**

- (1) A Budget motion for a financial year may include information relating to resources expected to be used by any body that is a designated body in relation to a relevant person.
- (2) For the purposes of this section a body is a “designated” body in relation to a relevant person if—
  - (a) it is designated in relation to the relevant person by an order made by the Welsh Ministers, or
  - (b) it falls within a description of body designated in relation to the relevant person by such an order.
- (3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally.
- (4) If the Welsh Ministers expect the use of resources by a body in a financial year to involve payments out of a relevant Consolidated Fund to or for the benefit of the body,

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they may not make an order under which the body would be a designated body for the year unless the Treasury have consented to the making of the order.

- (5) “ A relevant Consolidated Fund ” means—
  - (a) the Consolidated Fund of the United Kingdom,
  - (b) the Scottish Consolidated Fund, or
  - (c) the Consolidated Fund of Northern Ireland.
- (6) The Welsh Ministers must, where they think it appropriate, consult the Treasury before designating a body or a description of body.
- (7) In determining for any purpose whether a body has a particular relationship with a relevant person (for example, whether it is controlled by, or otherwise dependent on, the person), the following must be disregarded—
  - (a) the fact that the provisions of a Budget motion relating to the relevant person in respect of a financial year include information relating to the body, and
  - (b) the fact that the relevant person's accounts for a financial year prepared under this or any other Act include information relating to the body.
- (8) An order under subsection (2) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) But subsection (9) does not apply if a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.]

#### **Textual Amendments**

**F192** S. 126A inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 44\(2\), 52\(2\); S.I. 2010/2703, art. 2\(c\)](#)

## **127 Appropriation without Budget resolution**

- (1) If a Budget resolution for a financial year is not passed before the beginning of the financial year, the following are deemed to have been authorised by a Budget resolution of the Assembly for that year—
  - (a) the use in the year for any service or purpose of the relevant percentage of the amount of the resources authorised to be used in the preceding financial year for the service or purpose,
  - (b) the retention in the year for use for any service or purpose of the relevant percentage of the amount of the resources authorised to be retained in the previous financial year for use for the service or purpose, and
  - (c) the payment out of the Welsh Consolidated Fund in the year for any service or purpose of the relevant percentage of the amount authorised to be paid out of the Fund in the previous financial year for the service or purpose.
- (2) “The relevant percentage” is—
  - (a) where a Budget resolution for the financial year is not passed before the end of July in the financial year, 95%, and
  - (b) otherwise, 75%.



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### Commencement Information

**I104** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 128 Contingencies

- (1) This section applies where it is proposed—
  - (a) that resources be used in any financial year by any of the relevant persons, or pursuant to a relevant enactment, otherwise than as authorised by virtue of sections 125 to 127, or
  - (b) that amounts be paid out of the Welsh Consolidated Fund in the year to the relevant persons, or for use pursuant to a relevant enactment, otherwise than as authorised by virtue of those sections.
- (2) The resources may be so used, or the amounts may be so issued, only with the authority of the Welsh Ministers.
- (3) The Welsh Ministers may authorise the use of resources, or the payment of amounts, only if they consider that—
  - (a) the use of the resources, or the payment of the amounts, is necessary in the public interest, and
  - (b) it is not reasonably practicable, for reasons of urgency, for a motion to be moved under section 125 or 126 to authorise the use of the resources or the payment of the amounts.
- (4) The aggregate amount of resources which the Welsh Ministers may at any time authorise to be used under this section by any person, or pursuant to any enactment, in any financial year must not exceed 0.5% of—
  - (a) the aggregate amount of the resources which, at the time, have been authorised by virtue of sections 125 and 126 to be used by that person, or pursuant to that enactment, in that financial year, or
  - (b) (if none have) the aggregate amount of the resources which were so authorised to be used by that person, or pursuant to that enactment, in the immediately preceding financial year.
- (5) The aggregate amount which the Welsh Ministers may at any time authorise to be paid out of the Welsh Consolidated Fund under this section to any person, or for use pursuant to any enactment, in any financial year must not exceed 0.5% of—
  - (a) the aggregate of the amounts which, at the time, have been authorised by virtue of sections 125 and 126 to be paid to that person, or for use pursuant to that enactment, in that financial year, or
  - (b) (if none have) the aggregate of the amounts which were so authorised to be paid to that person, or for use pursuant to that enactment, in the immediately preceding financial year.
- (6) The use of resources, or the payment of amounts, authorised by the Welsh Ministers in accordance with this section is deemed to have been authorised by a Budget resolution of the Assembly.
- (7) Where the Welsh Ministers authorise the use of resources or the payment of amounts under this section, they must, as soon as possible, lay before the Assembly a report setting out—

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- (a) the resources authorised to be used or the amounts authorised to be paid,
- (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
- (c) why they considered it to be necessary to authorise the use of the resources, or the payment of the amounts, under this section.

## 129 Approvals to draw

- (1) The Auditor General must grant approvals to draw payments out of the Welsh Consolidated Fund from time to time at the request of the Welsh Ministers.
- (2) An approval to draw may only be granted if, in the Auditor General's opinion, the proposed payment out of the Welsh Consolidated Fund would comply with section 124.
- (3) A request for the grant of an approval to draw is to be made in any manner which the Welsh Ministers, with the approval of the Auditor General, decide to adopt.
- (4) Where an approval to draw is granted the Paymaster General must make the funds available to the Welsh Ministers, the First Minister, the Counsel General, the Assembly Commission, [<sup>F193</sup>the Wales Audit Office] or the Public Services Ombudsman for Wales (as appropriate).
- (5) The Paymaster General must make available to—
  - (a) the Auditor General, and
  - (b) the principal accounting officer for the Welsh Ministers,
 a daily statement regarding all the issues made out of the Welsh Consolidated Fund in respect of sums charged on that Fund and other payments out of it.
- (6) For the purposes of this Act the principal accounting officer for the Welsh Ministers is the Permanent Secretary to the Welsh <sup>F74</sup>... Government.
- (7) But the Treasury may designate another member of the staff of the Welsh <sup>F74</sup>... Government to be the principal accounting officer for the Welsh Ministers if and for so long as—
  - (a) the Permanent Secretary to the Welsh <sup>F74</sup>... Government is incapable of discharging the responsibilities of principal accounting officer for the Welsh Ministers, or
  - (b) the office of Permanent Secretary to the Welsh <sup>F74</sup>... Government is vacant.
- (8) In this section “Permanent Secretary to the Welsh <sup>F74</sup>... Government” means the person appointed in accordance with section 52 to be the head of the staff of the Welsh <sup>F74</sup>... Government (whether or not that person is known by the title of Permanent Secretary to the Welsh <sup>F74</sup>... Government).

### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

**F193** Words in s. 129(4) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), [s. 35\(2\)](#), [Sch. 4 para. 74](#) (with [Sch. 3 para. 3](#)); [S.I. 2013/1466](#), [art. 3\(1\)](#)

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### 130 Payments in by mistake

Where a sum is paid into the Welsh Consolidated Fund which should not or need not have been paid into the Fund, the Auditor General may grant an approval to draw a payment equal to the amount of that sum out of the Fund.

#### Commencement Information

**I105** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### [<sup>F194</sup>130A] Financial control, accounts and audit

- (1) Welsh legislation must provide—
  - (a) for proper accounts to be prepared by the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and by other persons to whom sums are paid out of the Welsh Consolidated Fund, of their expenditure and receipts,
  - (b) for the Welsh Ministers to prepare an account of payments into and out of the Fund,
  - (c) for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2),
  - (d) for access by persons exercising those functions to such documents as they may reasonably require,
  - (e) for members of the staff of the Welsh Government and Assembly Commission designated for the purpose to be answerable to the Assembly in respect of the expenditure and receipts of each part of the Welsh Government or Assembly Commission, and
  - (f) for the publication of Assembly accounts and of reports on such accounts and for the laying of such accounts and reports before the Assembly.
- (2) The functions referred to in subsection (1)(c) are—
  - (a) issuing credits for the payment of sums out of the Fund;
  - (b) examining Assembly accounts (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 124), and certifying and reporting on them;
  - (c) carrying out examinations into the economy, efficiency and effectiveness with which the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and other persons to whom sums are paid out of the Welsh Consolidated Fund have used their resources in discharging their functions.
- (3) Standing orders must provide for the consideration by the Assembly of accounts and reports laid before it in pursuance of subsection (1)(f).
- (4) Welsh legislation may make further provision for the purpose of ensuring that devolved Welsh authorities that receive sums derived from the Fund are accountable.

That provision may, in particular, include provision for a devolved Welsh authority to which subsection (1)(a) does not apply to be accountable for its expenditure and receipts in respect of functions for which it receives sums derived from the Fund.

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- (5) Persons (other than the Auditor General for Wales) charged with the exercise of any function mentioned in subsection (2) or other like function conferred by Welsh legislation are not subject, in the exercise of that or any ancillary function, to the direction or control of any member of the Welsh Government or of the Assembly.
- (6) Subsection (2)(b) does not apply to accounts prepared by the Auditor General for Wales.
- (7) This section does not require Welsh legislation to impose any requirement that is imposed by any other legislation.
- (8) In this section—
  - ““Assembly accounts”” means any accounts prepared in pursuance of subsection (1)(a) or (b);
  - ““Welsh legislation”” means provision made by or under an Act of the Assembly, and ““other legislation”” means provision made by any other enactment.]

#### **Textual Amendments**

**F194** S. 130A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 13(3)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(d)

### *Financial accountability of Welsh Ministers*

#### **131 Welsh Ministers' accounts**

- (1) The Welsh Ministers must, for each financial year, prepare accounts in accordance with directions given to them by the Treasury.
- (2) The accounts must include details of the financial affairs and transactions of the Counsel General.
- (3) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Welsh Ministers.
- (4) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—
  - (a) the financial affairs and transactions to which the accounts are to relate,
  - (b) the information to be contained in the accounts and the manner in which it is to be presented,
  - (c) the methods and principles in accordance with which the accounts are to be prepared, and
  - (d) the additional information (if any) that is to accompany the accounts.
- (5) Any accounts which the Welsh Ministers are directed under this section to prepare for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (6) The Auditor General must—
  - (a) examine and certify any accounts submitted under this section, and

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- (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (7) In examining accounts submitted under this section, the Auditor General must, in particular, be satisfied—
- (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.
- (8) Where—
- (a) by virtue of any enactment other than this section the Welsh Ministers are under an obligation to prepare accounts dealing with any matters, and
  - (b) it appears to the Treasury that those matters fall to be dealt with in accounts directed to be prepared under this section,
- the Treasury may relieve the Welsh Ministers of that obligation for or in respect of such periods as the Treasury may direct.

#### **Commencement Information**

**I106** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **132 Account relating to Welsh Consolidated Fund**

- (1) The Welsh Ministers must, for each financial year, prepare an account of the payments into and out of the Welsh Consolidated Fund.
- (2) The account must be prepared in accordance with directions given to the Welsh Ministers by the Treasury.
- (3) The directions which the Treasury may give under subsection (2) include, in particular, directions as to—
  - (a) the information to be contained in the account and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the account is to be prepared, and
  - (c) the additional information (if any) that is to accompany the account.
- (4) Any account which the Welsh Ministers are directed under this section to prepare for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (5) The Auditor General must—
  - (a) examine and certify any account submitted under this section, and
  - (b) no later than four months after the account is submitted, lay before the Assembly a copy of it as certified by the Auditor General together with the Auditor General's report on it.
- (6) In examining an account submitted under this section the Auditor General must, in particular, be satisfied—

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- (a) that any payment out of the Welsh Consolidated Fund to which the account relates was paid out in compliance with section 124 or 130, and
- (b) that money which is required to be paid into the Welsh Consolidated Fund has been paid into that Fund.

**Commencement Information**

**I107** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**133 Accounting officers for Welsh Ministers**

- (1) The principal accounting officer for the Welsh Ministers has—
  - (a) in relation to the accounts of the Welsh Ministers and the finances of the Welsh Ministers and the Counsel General, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,
 the responsibilities which are from time to time specified by the Treasury.
- (2) The principal accounting officer for the Welsh Ministers may designate other members of the staff of the Welsh <sup>F74</sup>... Government as additional accounting officers.
- (3) An additional accounting officer has, in relation to such of the accounts of the Welsh Ministers and the finances of the Welsh Ministers and the Counsel General as may be specified by the principal accounting officer for the Welsh Ministers, the responsibilities which are from time to time specified by the principal accounting officer for the Welsh Ministers.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

**Commencement Information**

**I108** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**134 Accounts of subsidiaries of Welsh Ministers**

- (1) For the purposes of the examination by the Auditor General of any accounts of the Welsh Ministers the Auditor General—
  - (a) has a right of access at all reasonable times to every document relating to the accounts of any subsidiary of the Welsh Ministers (whether or not the accounts of the Welsh Ministers being examined relate to the financial affairs and transactions of the subsidiary),
  - (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which the Auditor General reasonably thinks necessary for those purposes, and
  - (c) may require any subsidiary of the Welsh Ministers to provide the Auditor General at times specified by the Auditor General with accounts of such of the subsidiary's transactions as the Auditor General may specify.

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- (2) The Treasury may, by directions given to a subsidiary of the Welsh Ministers, require the subsidiary to include in any accounts which the subsidiary prepares (under, for example, the law relating to companies or charities) such additional information as may be specified in the directions.
- (3) The inclusion of information in any accounts in compliance with such directions does not constitute a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
- (4) In this section “subsidiary of the Welsh Ministers” means—
  - (a) any body corporate or other undertaking in relation to which, if the Welsh Ministers were an undertaking, the Welsh Ministers would be a parent undertaking,
  - (b) any trust of which the Welsh Ministers are settlors, or
  - (c) any charitable institution of which the Welsh Ministers are founders but which is neither a body corporate nor a trust.
- (5) For the purposes of subsection (4)(a)—

“undertaking” has the meaning given by [<sup>F195</sup>section 1161(1) of the Companies Act 2006], and

“parent undertaking” is to be construed in accordance with [<sup>F196</sup>section 1162] of that Act.

#### Textual Amendments

**F195** Words in s. 134(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(2)** (with arts. 6, 11, 12)

**F196** Words in s. 134(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(2)** (with arts. 6, 11, 12)

#### Commencement Information

**I109** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 135 Examinations into Welsh Ministers' use of resources

- (1) The Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the Welsh Ministers and the Counsel General have used their resources in discharging their functions.
- (2) Subsection (1) does not entitle the Auditor General to question the merits of the policy objectives of the Welsh Ministers or the Counsel General.
- (3) In determining how to exercise functions under this section the Auditor General must take into account the views of the Audit Committee as to the examinations to be carried out under this section.
- (4) The Auditor General may lay before the Assembly a report of the results of any examination carried out under this section.

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#### Commencement Information

**I110** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### <sup>F197</sup>136 Examinations by Comptroller and Auditor General

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#### Textual Amendments

**F197** S. 136 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 13\(4\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(d\)](#)

### *Financial accountability of Assembly Commission*

#### 137 Assembly Commission's accounts

- (1) The Assembly Commission must, for each financial year, prepare accounts in accordance with directions given to it by the Treasury.
- (2) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Assembly Commission.
- (3) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—
  - (a) the financial affairs and transactions to which the accounts are to relate,
  - (b) the information to be contained in the accounts and the manner in which it is to be presented,
  - (c) the methods and principles in accordance with which the accounts are to be prepared, and
  - (d) the additional information (if any) that is to accompany the accounts.
- (4) Any accounts which the Assembly Commission is directed under this section to prepare for any financial year must be submitted by the Assembly Commission to the Auditor General no later than 30th November in the following financial year.
- (5) The Auditor General must—
  - (a) examine and certify any accounts submitted under this section, and
  - (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (6) In examining accounts submitted under this section the Auditor General must, in particular, be satisfied—
  - (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received by the Assembly Commission for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.



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#### **Commencement Information**

**II11** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **138 Accounting officers for Assembly Commission**

- (1) For the purposes of this Act the principal accounting officer for the Assembly Commission is the Clerk.
- (2) But the Treasury may designate another member of the staff of the Assembly to be the principal accounting officer for the Assembly Commission if and for so long as—
  - (a) the Clerk is incapable of discharging the responsibilities of the principal accounting officer for the Assembly Commission, or
  - (b) the office of Clerk is vacant.
- (3) The principal accounting officer for the Assembly Commission has—
  - (a) in relation to the Assembly Commission's accounts and finances, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,the responsibilities which are from time to time specified by the Treasury.
- (4) The principal accounting officer for the Assembly Commission may designate other members of the staff of the Assembly as additional accounting officers.
- (5) An additional accounting officer has, in relation to such of the Assembly Commission's accounts and finances as may be specified by the principal accounting officer for the Assembly Commission, the responsibilities which are from time to time specified by the principal accounting officer for the Assembly Commission.

#### **Commencement Information**

**II12** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **139 Accounts of subsidiaries of Assembly Commission**

- (1) For the purposes of the examination by the Auditor General of any accounts of the Assembly Commission the Auditor General—
  - (a) has a right of access at all reasonable times to every document relating to the accounts of any subsidiary of the Assembly Commission (whether or not the accounts of the Assembly Commission being examined relate to the financial affairs and transactions of the subsidiary),
  - (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which the Auditor General reasonably thinks necessary for those purposes, and
  - (c) may require any subsidiary of the Assembly Commission to provide the Auditor General at times specified by the Auditor General with accounts of such of the subsidiary's transactions as the Auditor General may specify.
- (2) The Treasury may, by directions given to a subsidiary of the Assembly Commission, require the subsidiary to include in any accounts which the subsidiary prepares (under,

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for example, the law relating to companies or charities) such additional information as may be specified in the directions.

- (3) The inclusion of information in any accounts in compliance with such directions does not constitute a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
- (4) In this section “subsidiary of the Assembly Commission” means—
- (a) any body corporate or other undertaking in relation to which the Assembly Commission is a parent undertaking,
  - (b) any trust of which the Assembly Commission is settlor, or
  - (c) any charitable institution of which the Assembly Commission is founder but which is neither a body corporate nor a trust.
- (5) For the purposes of subsection (4)(a)—
- “undertaking” has the meaning given by [<sup>F198</sup>section 1161(1) of the Companies Act 2006], and
- “parent undertaking” is to be construed in accordance with [<sup>F199</sup>section 1162] of that Act.

#### Textual Amendments

**F198** Words in s. 139(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(3)** (with arts. 6, 11, 12)

**F199** Words in s. 139(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(3)** (with arts. 6, 11, 12)

#### Commencement Information

**I113** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 140 Examinations into Assembly Commission's use of resources

- (1) The Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the Assembly Commission has used its resources in discharging its functions.
- (2) Subsection (1) does not entitle the Auditor General to question the merits of the policy objectives of the Assembly Commission.
- (3) In determining how to exercise functions under this section the Auditor General must take into account the views of the Audit Committee as to the examinations to be carried out under this section.
- (4) The Auditor General may lay before the Assembly a report of the results of any examination carried out under this section.

#### Commencement Information

**I114** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Whole of Government of Wales accounts*

#### **141 Whole of government accounts: Welsh Ministers**

- (1) This section applies in respect of a financial year for which the Treasury make arrangements with the Welsh Ministers under section 10(8) of the Government Resources and Accounts Act 2000 (c. 20) (whole of government accounts: consolidation of Welsh accounts).
- (2) The Welsh Ministers must prepare a set of accounts for the group of bodies which provide information to the Welsh Ministers in accordance with the arrangements under section 10(8).
- (3) Accounts prepared under this section may include information referring wholly or partly to activities which—
  - (a) are not activities of bodies falling within subsection (2), but
  - (b) appear to the Welsh Ministers to be activities of a public nature.
- (4) The accounts must contain such information in such form as the Treasury may direct.
- (5) The Treasury must exercise the power under subsection (4) with a view to ensuring that the accounts—
  - (a) present a true and fair view, and
  - (b) conform to generally accepted accounting practice subject to such adaptations as are necessary in the context.
- (6) For the purposes of subsection (5)(a) and (b) the Treasury must in particular—
  - (a) have regard to any relevant guidance issued by the Accounting Standards Board Limited or any other body prescribed for the purposes of [F200]section 464 of the Companies Act 2006[(accounting standards) or to international accounting standards (as defined in [F201]section 474 of that Act)], and
  - (b) require the accounts to include, subject to paragraph (a), a statement of financial performance, a statement of financial position and a cash flow statement.
- (7) Any accounts which the Welsh Ministers are required to prepare under this section for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (8) But the Welsh Ministers may by order substitute another date for the date for the time being specified in subsection (7).
- (9) No order may be made under subsection (7) unless the Welsh Ministers have consulted—
  - (a) the Treasury, and
  - (b) the Auditor General.
- (10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the Assembly.

*Status: Point in time view as at 23/01/2020.*

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#### Textual Amendments

- F200** Words in s. 141(6)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(4)** (with arts. 6, 11, 12)
- F201** Words in s. 141(6)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 256** (with art. 10)

#### Commencement Information

- I115** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 142 Functions of Auditor General

- (1) The Auditor General must examine accounts submitted under section 141 with a view to being satisfied that they present a true and fair view.
- (2) Where the Auditor General has conducted an examination of accounts under subsection (1), the Auditor General must—
  - (a) certify them and issue a report, and
  - (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (3) A person who acts as auditor for the purposes of section 10(2)(c) or (8)(c) of the Government Resources and Accounts Act 2000 (c. 20) must give the Auditor General such information and explanations as the Auditor General may reasonably require for the purposes of this section.

#### Commencement Information

- I116** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Treatment of accounts and audit reports etc.*

### 143 Audit Committee reports

- (1) The Audit Committee may consider, and lay before the Assembly a report on, any accounts, statement of accounts or report laid before the Assembly by—
  - (a) the Auditor General, or
  - <sup>F202</sup>(b) .....
- (2) 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 any of the persons mentioned in subsection (3), and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (3) The persons referred to in subsection (2)(a) are—
  - (a) the principal accounting officer for the Welsh Ministers,

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- (b) the principal accounting officer for the Assembly Commission, and
- (c) additional accounting officers designated under section 133 or 138.

#### Textual Amendments

**F202** S. 143(1)(b) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 75](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

**I117** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 144 Publication of accounts and audit reports etc.

- (1) The Assembly must publish a document to which this subsection applies as soon after the document is laid before the Assembly as is reasonably practicable.
- (2) The documents to which subsection (1) applies are—
  - (a) any accounts, statement of accounts or report laid before the Assembly by the Auditor General,
  - (b) any accounts or report laid before the Assembly by the auditor appointed under [<sup>F203</sup>paragraph 34 of Schedule 1 to the Public Audit (Wales) Act 2013], and
  - (c) any report <sup>F204</sup>... laid before the Assembly by the Audit Committee under section 143(1) <sup>F204</sup>....
  - [<sup>F205</sup>(d) any estimate of income and expenses of the Wales Audit Office laid before the Assembly under section 20(1) of the Public Audit (Wales) Act 2013 (including any modifications made to that estimate under section 20(4) of that Act),
  - (e) any scheme for charging fees laid before the Assembly by the Wales Audit Office under section 24(4)(c) of the Public Audit (Wales) Act 2013,
  - (f) any annual plan laid before the Assembly by the Auditor General and the chair of the Wales Audit Office under section 26 of the Public Audit (Wales) Act 2013,
  - (g) any report laid before the Assembly under paragraph 3(6) of Schedule 2 to the Public Audit (Wales) Act 2013 (reports on the exercise of the functions of the Auditor General and the Wales Audit Office).]

#### Textual Amendments

**F203** Words in s. 144(2)(b) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(2\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

**F204** Words in s. 144(2)(c) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(3\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

**F205** S. 144(2)(d)-(g) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(4\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

**I118** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

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### *Auditor General for Wales*

#### 145 Auditor General

- <sup>F206</sup>(1) .....
- (2) For provision about [<sup>F207</sup>the Auditor General for Wales or Archwilydd Cyffredinol Cymru (referred to in this Act as “the Auditor General”) see Schedule 8 and the Public Audit (Wales) Act 2013].
- (3) The Welsh Ministers must co-operate with the Auditor General where it seems to them appropriate to do so for the efficient and effective discharge of their functions in relation to Welsh NHS bodies.
- (4) “Welsh NHS bodies” has the meaning given by section 60 of the Public Audit (Wales) Act 2004 (c. 23).

#### **Textual Amendments**

**F206** S. 145(1) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 77\(2\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

**F207** Words in s. 145(2) substituted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 77\(3\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### **Commencement Information**

**I119** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

## PART 6

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Welsh public records*

#### 146 Status of Welsh public records

- (1) Welsh public records are not public records for the purposes of the Public Records Act 1958 (c. 51).
- (2) But that Act has effect in relation to Welsh public records (as if they were public records for the purpose of that Act) until an order under section 147 imposes a duty to preserve them on the Welsh Ministers (or a member of the staff of the Welsh <sup>F74</sup>... Government).
- (3) Subsection (2) applies to Welsh public records whether or not, apart from subsection (1), they would be public records for the purposes of the Public Records Act 1958.

#### **Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

*Status: Point in time view as at 23/01/2020.*

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### Commencement Information

**I120** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 147 Transfer of responsibility

- (1) The [<sup>F208</sup>Secretary of State] may by order make provision—
  - (a) imposing or conferring on the Welsh Ministers (or a member of the staff of the Welsh <sup>F74</sup>... Government) functions relating to Welsh public records (including, in particular, functions of preserving them and of making them available for inspection by the public), and
  - (b) imposing on persons responsible for Welsh public records duties relating to the selection of such records for permanent preservation, the safe-keeping of such records and their transfer to a place specified in, or appointed under, the order.
- (2) An order under this section may (in particular) make in relation to Welsh public records provision analogous to that made by the Public Records Act 1958 (c. 51) in relation to records which are public records for the purposes of that Act.
- (3) An order under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as the [<sup>F209</sup>Secretary of State] considers appropriate in connection with the provision made by the order.
- (4) An order under this section which imposes on the Welsh Ministers (or a member of the staff of the Welsh <sup>F74</sup>... Government) a duty to preserve Welsh public records, or Welsh public records of a particular description, must include provision for the [<sup>F209</sup>Secretary of State] to make such arrangements as appear appropriate for the transfer of Welsh public records, or Welsh public records of that description, which are in—
  - (a) the Public Record Office, or
  - (b) a place of deposit appointed under the Public Records Act 1958, to a place specified in, or appointed under, the order.
- (5) No order is to be made under this section unless the [<sup>F209</sup>Secretary of State] has consulted the Welsh Ministers.
- (6) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**F208** Words in s. 147(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), [Sch. para. 4\(a\)](#)

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**F209** Words in s. 147(3)-(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 4(a)**

**Modifications etc. (not altering text)**

**C14** S. 147(1) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)

**C15** S. 147(4)(5) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)

**Commencement Information**

**I121** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**148 Meaning of “Welsh public records”**

(1) The following are Welsh public records—

- (a) administrative and departmental records belonging to Her Majesty which are records of the Welsh <sup>F74</sup>... Government,
- (b) administrative and departmental records of the Auditor General,
- <sup>F210</sup>(ba) administrative and departmental records belonging to Her Majesty which are records of or held by the Welsh Revenue Authority;
- (c) administrative and departmental records belonging to Her Majesty which are records of or held in any government department which is wholly or mainly concerned with Welsh affairs,
- (d) administrative and departmental records belonging to Her Majesty which are records of any office, commission or other body or establishment under Her Majesty's Government which is wholly or mainly concerned with Welsh affairs in a field or fields in which the Welsh Ministers have functions, or the First Minister or the Counsel General has functions,
- (e) administrative and departmental records of the bodies and establishments specified in subsection (2) (but not records of health service hospitals in Wales which are of the descriptions excepted from being public records for the purposes of the Public Records Act 1958 (c. 51) in the case of health service hospitals in England), and
- (f) any other description of records (other than records of the Assembly or the Assembly Commission or records of any court or tribunal or held in any department of the Senior Courts) which is specified by order made by the <sup>F211</sup>Secretary of State].

(2) The bodies and establishments referred to in subsection (1)(e) are—

- (a) the Care Council for Wales,
- <sup>F212</sup>(b) .....
- (c) the Curriculum and Assessment Authority for Wales,
- (d) Family Practitioner Committees for localities in Wales,
- (e) the Further Education Funding Council for Wales,
- (f) the General Teaching Council for Wales,
- (g) health service hospitals, within the meaning of the <sup>F213</sup>National Health Service (Wales) Act 2006], in Wales,
- (h) the Higher Education Funding Council for Wales,
- (i) the Local Government Boundary Commission for Wales,



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- (j) the National Council for Education and Training for Wales,
  - (k) National Health Service 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,
  - [<sup>F214</sup>(ka) the Natural Resources Body for Wales,]
  - (l) the Qualifications, Curriculum and Assessment Authority for Wales,
  - [<sup>F215</sup>(la) Qualifications Wales,]
  - (m) the Wales Centre for Health, and
  - (n) the Welsh Board of Health.
- (3) An order under subsection (1)(f) may be made in relation to a description of records—
- (a) which (immediately before the order is made) are public records for the purposes of the Public Records Act 1958, or
  - (b) which (at that time) are not public records for those purposes.
- (4) No order under subsection (1)(f) may be made—
- (a) in relation to records within paragraph (a) of subsection (3), unless the [<sup>F216</sup>Secretary of State] has consulted the Welsh Ministers, and
  - (b) in relation to records within paragraph (b) of that subsection, without the agreement of the Welsh Ministers.
- (5) A statutory instrument containing an order under subsection (1)(f) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “records” includes—
- (a) written records, and
  - (b) records conveying information by any other means.

#### Textual Amendments

- F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))
- F210** S. 148(1)(ba) inserted (18.10.2017) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\), ss. 34, 194\(2\)](#); S.I. 2017/954, art. 2
- F211** Words in s. 148(1)(f) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), [Sch. para. 4\(b\)](#)
- F212** S. 148(2)(b) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 437\(2\)](#) (with Sch. 7)
- F213** Words in s. 148(2)(g) substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 303](#) (with Sch. 3 Pt. 1)
- F214** S. 148(2)(ka) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 437\(3\)](#) (with Sch. 7)
- F215** S. 148(2)(la) inserted (21.9.2015) by [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), [Sch. 4 para. 7](#); S.I. 2015/1687, art. 2 (with arts. 3-12)
- F216** Words in s. 148(4)(a) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), [Sch. para. 4\(b\)](#)

#### Modifications etc. (not altering text)

- C16** S. 148(1)(f) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), [6\(1\)\(d\)](#) (with art. 7)
- C17** S. 148(4)(a) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), [6\(1\)\(d\)](#) (with art. 7)

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#### Commencement Information

**I122** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *<sup>F217</sup> Consultation with Welsh Ministers*

#### Textual Amendments

**F217** S. 148A and cross-heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 55\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(1\)](#)

## 148A Renewable energy incentive schemes

- (1) The Secretary of State must consult the Welsh Ministers before—
  - (a) establishing a renewable energy incentive scheme that applies in Wales, or
  - (b) amending such a scheme as it relates to Wales.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.
- (3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.
- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—
  - (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);
  - (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).]

### *Miscellaneous*

## 149 Resolution of devolution issues

For provision about the resolution of devolution issues see Schedule 9.

#### Commencement Information

**I123** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## **150 Power to make consequential provision**

- (1) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of—
  - (a) any provision made by an Assembly Measure or Act of the Assembly,
  - (b) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly,
  - (c) any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General, or
  - (d) any provision of subordinate legislation made, or purporting to be made, by any other person (not being a Minister of the Crown) in the exercise of a function conferred or imposed by Act of Parliament where the statutory instrument (or a draft of the statutory instrument) containing the subordinate legislation is required to be laid before the Assembly.
- (2) An order under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as the Secretary of State considers appropriate.
- (3) An order under this section may not make provision with respect to matters within the legislative competence of the Scottish Parliament.
- (4) An order under this section may make provision having retrospective effect.
- (5) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In subsection (1) “made” includes confirmed or approved.

### **Commencement Information**

**I124** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **[<sup>F218</sup>150] Change of name of the Assembly etc: translation of references**

- (1) Subsection (2) applies if an Act of the Assembly, or subordinate legislation made under an Act of the Assembly, changes the name of—
  - (a) the National Assembly for Wales (Cynulliad Cenedlaethol Cymru),
  - (b) the National Assembly for Wales Commission (Comisiwn Cynulliad Cenedlaethol Cymru), or
  - (c) Acts of the National Assembly for Wales (Deddfau Cynulliad Cenedlaethol Cymru).

(See paragraph 7(2)(a)(i) and (xi) and paragraph 7(2)(c)(i) of Schedule 7B.)

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- (2) Unless the context requires otherwise, a reference to the National Assembly for Wales, the National Assembly for Wales Commission or an Act of the National Assembly for Wales (as the case may be), or the Welsh equivalent shown in subsection (1), in—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- is to be read as, or as including, a reference to the new name.]

#### Textual Amendments

**F218** S. 150A inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 16(1), 71(2)(c)** (with [Sch. 7 paras. 1, 6](#))

### 151 Power to remedy ultra vires acts

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers appropriate in consequence of—
- (a) an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, which is not, or may not be, within the Assembly's legislative competence, or
  - (b) any purported exercise by any person of a function conferred or imposed by or under an Assembly Measure or Act of the Assembly which is not, or may not be, an exercise or proper exercise of that function.
- (2) An Order in Council under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate.
- (3) An Order in Council under this section may make provision having retrospective effect.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section 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.
- (5) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I125** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### <sup>F219</sup>152 Intervention in case of functions relating to water etc.

.....

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### Textual Amendments

**F219** S. 152 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 52\(1\)\(b\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(k\)](#)

## 153 Power to vary retrospective decisions

- (1) This section applies where any court or tribunal decides—
  - (a) that an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, is outside the Assembly's legislative competence,
  - (b) that any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly is outside the powers under which it was, or purported to be, made, or
  - (c) that any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General is outside the powers under which it was, or purported to be, made.
- (2) The court or tribunal may make an order—
  - (a) removing or limiting any retrospective effect of the decision, or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In determining whether to make an order under this section, the court or tribunal must (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected by the decision.
- (4) Where a court or tribunal is considering whether to make an order under this section, it must order notice (or intimation) of that fact to be given to the persons specified in subsection (5) (unless a party to the proceedings).
- (5) The persons mentioned in subsection (4) are—
  - (a) in relation to proceedings in England and Wales, the Attorney General and the Counsel General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.
- (6) A person to whom notice (or intimation) is given in pursuance of subsection (4) may take part as a party in the proceedings, so far as they relate to the making of the order.
- (7) In deciding any question as to costs or expenses, the court or tribunal may—
  - (a) take account of any additional expense which it considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of subsection (6), and
  - (b) award the whole or part of the additional expense as costs or expenses to the party who incurred it (whether or not it makes an order under this section and whatever the terms of any such order it does make).
- (8) Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this section including, in

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

(9) In subsection (1) “made” includes confirmed or approved.

#### Commencement Information

**I126** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 154 Interpretation of legislation

(1) This section applies to—

- (a) any provision of an Assembly Measure, or proposed Assembly Measure, which could be read in such a way as to be outside the Assembly's legislative competence,
- (b) any provision of an Act of the Assembly, or a Bill for such an Act, which could be read in such a way as to be outside the Assembly's legislative competence, and
- (c) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly which could be read in such a way as to be outside the powers under which it was, or purported to be, made.

(2) The provision is to be read as narrowly as is required for it to be within competence or within the powers, if such a reading is possible, and is to have effect accordingly.

(3) In subsection (1)(c) “made” includes confirmed or approved.

#### Commencement Information

**I127** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 155 Functions exercisable in relation to Wales

(1) Her Majesty may by Order in Council specify functions which are to be treated for such purposes of this Act as may be specified in the Order in Council—

- (a) as being, or as not being, functions which are exercisable by the Welsh Ministers, the First Minister or the Counsel General, or
- (b) as being, or as not being, functions which are exercisable in relation to Wales [<sup>F220</sup>or the Welsh zone].

(2) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F220** Words in s. 155(1)(b) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(7\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

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#### Commencement Information

**I128** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 156 English and Welsh texts of legislation

(1) The English and Welsh texts of—

- (a) any Assembly Measure or Act of the Assembly which is in both English and Welsh when it is enacted, or
- (b) any subordinate legislation which is in both English and Welsh when it is made,

are to be treated for all purposes as being of equal standing.

[<sup>F221</sup>(1A) Subsection (1) does not apply to any legislation to which Part 2 of the Legislation (Wales) Act 2019 applies (but section 5 of that Act makes corresponding provision in relation to legislation to which that Part applies).]

<sup>F222</sup>(2) .....

<sup>F222</sup>(3) .....

<sup>F222</sup>(4) .....

<sup>F222</sup>(5) .....

#### Textual Amendments

**F221** S. 156(1A) inserted (11.9.2019) by Legislation (Wales) Act 2019 (anaw 4), s. 44(1)(e), **Sch. 2 para. 2(2)(a)**

**F222** S. 156(2)-(5) omitted (11.9.2019) by virtue of Legislation (Wales) Act 2019 (anaw 4), s. 44(1)(e), **Sch. 2 para. 2(2)(b)**

#### Commencement Information

**I129** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Supplementary*

### 157 Orders [<sup>F223</sup>, regulations] and directions

(1) Any power of a Minister of the Crown or the Welsh Ministers under this Act to make an order [<sup>F224</sup>or regulations] is exercisable by statutory instrument.

(2) Any such power and any power under this Act to make an Order in Council—

- (a) may be exercised so as to make different provision for different cases or classes of case or different purposes,
- (b) may be exercised so as to make provision which applies generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case, and
- (c) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.

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- (3) Any power conferred by this Act to give a direction includes power to vary or revoke the direction.

#### Textual Amendments

- F223** Word in s. 157 heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 8(2)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F224** Words in s. 157(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 8(3)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

#### [<sup>F225</sup>157ZA] **Explanatory statements in relation to certain regulations**

- (1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
- (a) must make a statement explaining the effect of the instrument, and
  - (b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—
    - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
    - (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the Assembly has not made that decision.
- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification.]

#### Textual Amendments

- F225** [S. 157ZA](#) inserted (26.6.2018 for specified purposes) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(3)(g), **Sch. 3 para. 43** (with [s. 19](#), [Sch. 8 para. 37](#))

#### [<sup>F226</sup>157A] **“Devolved Welsh authority”**

- (1) In this Act “devolved Welsh authority” means—
- (a) a public authority that meets the conditions in subsection (2),
  - (b) a public authority that is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions), or
  - (c) the governing body of an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992) whose activities are carried on, or principally carried on, in Wales.



*Status: Point in time view as at 23/01/2020.*

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- (2) A public authority meets the conditions in this section if its functions—
  - (a) are exercisable only in relation to Wales, and
  - (b) are wholly or mainly functions that do not relate to reserved matters.
- (3) In determining for the purposes of this section whether functions of a public authority are exercisable only in relation to Wales, no account is taken of any function that—
  - (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from this paragraph) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in subsection (2) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- (5) Her Majesty may by Order in Council amend Schedule 9A—
  - (a) so as to remove or revise an entry, or
  - (b) so as to add or substitute a public authority whose functions—
    - (i) are exercisable wholly or mainly in relation to Wales, and
    - (ii) are wholly or mainly functions that do not relate to reserved matters.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.
- (7) Subsection (6) does not apply to a statutory instrument containing an Order in Council that only makes provision for—
  - (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.

Such an Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section ““public authority”” means a body, office or holder of an office that has functions of a public nature.]

#### Textual Amendments

**F226** S. 157A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 4(1), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(a\)](#)

## 158 Interpretation

- (1) In this Act (except where the context otherwise requires)—

“[<sup>F98</sup>EU] law” means—

  - (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the [<sup>F98</sup>EU] Treaties, and
  - (b) all the remedies and procedures from time to time provided for by or under the [<sup>F98</sup>EU] Treaties,

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“the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42),

“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,

“enactment” includes an Assembly Measure, an Act of the Assembly and subordinate legislation (but see also subsection (2)),

“English border area” means a part of England adjoining Wales (but not the whole of England),

“financial year” means the twelve months ending with 31st March,

“function” means power or duty,

“government department” means any department of the Government of the United Kingdom,

“international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement [<sup>F98</sup>EU] law or the Convention rights,

“Minister of the Crown” includes the Treasury,

“modifications” includes amendments, repeals and revocations,

[<sup>F227</sup>“property” includes rights and interests of any description.]

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (including an instrument made under an Assembly Measure or Act of the Assembly),

“tribunal” means any tribunal in which legal proceedings may be brought,

<sup>F228</sup>  
 . . .

“Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea. [<sup>F229</sup>, and

Welsh zone” means the sea adjacent to Wales which is—

- (a) within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976), and
- (b) specified in an Order in Council under section 58 or an order under subsection (3).]

(2) In sections 95(3), 109(2)[<sup>F230</sup>, 116C(2)][<sup>F231</sup>, 150A(2)] and 151(2) “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.

[<sup>F232</sup>(3) The Secretary of State may by order determine, or make provision for determining, for the purposes of the definitions of “Wales” and the “Welsh zone”, any boundary between waters which are to be treated as parts of the sea adjacent to Wales, or sea within British fishery limits adjacent to Wales, and those which are not.]

(4) An Order in Council under section 58 may include any provision that may be included in an order under subsection (3).

(5) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

(6) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as for those of that Act.

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### Textual Amendments

- F98** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6
- F227** Words in s. 158(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 9** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F228** Word in s. 158(1) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, **Sch. 22 Pt. 1**; [S.I. 2009/3345](#), **art. 2**, Sch. para. 27
- F229** S. 158(1): definition of "Welsh Zone" and preceding word inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 43(2)**, 324; [S.I. 2009/3345](#), **art. 2**, Sch. para. 7
- F230** Word in s. 158(2) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 6(5)**, 29(2)(b)(3)
- F231** Word in s. 158(2) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 16(2)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#))
- F232** S. 158(3) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 43(3)**, 324; [S.I. 2009/3345](#), **art. 2**, Sch. para. 7

## 159 Index of defined expressions

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

the 2007 election	section 161(1)
Acts of the Assembly	section 107(1)
[ <sup>F233</sup> ancillary (in relation to a provision)]	section 108A(7)]
annual Budget motion	section 125(1)
the Assembly	section 1(1)
<sup>F234</sup>	<sup>F234</sup>
. . .	. . .
the Assembly Commission	section 27(1)
Assembly constituency	section 2(1)
Assembly constituency member	section 1(2)(a)
Assembly electoral region	section 2(2) and (3) <sup>F235</sup>
...	...
Assembly Measures	section 93(1)
Assembly member	section 1(3)
Assembly proceedings	section 1(5)
Assembly regional member	section 1(2)(b)
Assembly's legislative competence (in relation to Acts of the Assembly)	[ <sup>F236</sup> section 108A ]
Assembly's legislative competence (in relation to Assembly Measures)	section 94

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the Audit Committee	section 30(1)
the Auditor General	section 145(1)
Budget resolution of the Assembly	section 120(8)
the Clerk	section 26(1)
the Committee of Public Accounts	section 158(6)
[ <sup>F98</sup> EU] law	section 158(1)
constituency vote	section 6(2)
the Convention rights	section 158(1)
the Counsel General	section 45(1)(c)
cross-border body	section 158(1)
the Deputy Presiding Officer	section 25(1)(b)
Deputy Welsh Minister	section 50
[ <sup>F237</sup> devolved tax	section 116A(4)]
[ <sup>F233</sup> devolved Welsh authority	section 157A]
electoral region figure	section 8(5)
electoral region vote	section 6(3)
enactment	section 158(1) and (2)
English border area	section 158(1)
financial year	section 158(1)
the First Minister	sections 46 and 47
function	section 158(1)
government department	section 158(1)
the initial period	section 161(5)
international obligations	section 158(1)
member of the staff of the Assembly	paragraph 3(2) of Schedule 2
member of the staff of the Welsh <sup>F74</sup>	section 52
... Government	
Minister of the Crown	section 158(1)
modifications	section 158(1)
political group	section 24(5)
political group with an executive role	section 25(8)
the Presiding Officer	section 25(1)(a)
the principal accounting officer for the Assembly Commission	section 138(1) and (2)

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the principal accounting officer for the Welsh Ministers	section 129(6) and (7)
[ <sup>F233</sup> property	section 158(1)]
regional returning officer	section 7(7)
registered political party	section 6(6)
relevant enactment (in sections 124 to 128)	section 124(4)
the relevant persons (in sections 124 to 128)	section 124(3)
[ <sup>F233</sup> reserved matters	Schedule 7A]
the standing orders	section 31(1)
subordinate legislation	section 158(1)
supplementary Budget motion	section 126(1)
tribunal	section 158(1)
use of resources	section 125(4)
Wales	section 158(1), (3) and (4)
Welsh <sup>F74</sup>	section 45(1)
... Government	
Welsh Consolidated Fund	section 117
the Welsh Ministers	section 45(2)
[ <sup>F238</sup> “Welsh zone”	section 158(1), (3) and (4)]

### Textual Amendments

- F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))
- F98** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [arts. 2, 3-6](#)
- F233** Words in s. 159 inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 10\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(q\)](#)
- F234** Words in s. 159 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 10\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(q\)](#)
- F235** Words in s. 159 omitted (16.2.2011) by virtue of [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), [s. 19\(1\)](#), [Sch. 12 Pt. 2](#)
- F236** Words in s. 159 substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [s. 71\(4\)](#), [Sch. 6 para. 10\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(q\)](#)
- F237** Words in s. 159 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 6\(6\)](#), [29\(2\)\(b\)\(3\)](#)
- F238** S. 159: entry in index inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 43, 324](#), [Sch. 4 Pt. 2 para. 6\(8\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

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## 160 Minor and consequential amendments

- (1) For minor and consequential amendments see Schedule 10.
- (2) The Secretary of State may by order make such modifications of—
  - (a) any enactment contained in an Act passed before or in the same session as this Act, or
  - (b) any enactment contained in an instrument made before the passing of this Act or in the session in which this Act is passed,
 as the Secretary of State considers appropriate in consequence of this Act.
- (3) No order containing provision under subsection (2)(a) is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

**I130** S. 160(1) in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5)); s. 160(2)-(4) in force at Royal Assent, see s. 161(2)

## 161 Commencement

- (1) Subject as follows, this Act comes into force immediately after the ordinary election under section 3 of the Government of Wales Act 1998 (c. 38) held in 2007 (referred to in this Act as "the 2007 election").
- (2) The following provisions come into force on the day on which this Act is passed—
  - paragraphs 5, 6 and 12 of Schedule 2,
  - sections 95 and 96 and Schedule 5,
  - section 109 and Schedule 7,
  - section 119 and the repeal by Schedule 12 of section 81 of the Government of Wales Act 1998,
  - section 120(3) and (7),
  - section 125 and the repeal by Schedule 12 of section 86 of the Government of Wales Act 1998,
  - sections 157 to 159,
  - section 160(2) to (4),
  - the amendment made by paragraph 61 of Schedule 10 in section 13 of the Political Parties, Elections and Referendums Act 2000 (c. 41),
  - this section,
  - section 162 and Schedule 11,
  - the repeal by Schedule 12 of section 12(1)(d) of the Government of Wales Act 1998, and
  - sections 164 to 166.
- (3) The following provisions come into force on 1st April 2007—

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sections 117 and 118 and the repeal by Schedule 12 of section 80 of the Government of Wales Act 1998,  
section 120(1) and (2), (4) to (6) and (8) and the repeal by Schedule 12 of section 84 of that Act,  
sections 121 and 122 and the repeal by Schedule 12 of section 82 of that Act,  
section 124 and the repeal by Schedule 12 of sections 85(1) and 89 of that Act,  
section 126,  
sections 128 and 129, and  
the amendments in the Local Government, Planning and Land Act 1980 (c. 65), the Local Government Finance Act 1988 (c. 41) and the Housing Act 1988 (c. 50) made by Schedule 10.

- (4) Subject to subsections (2), (3) and (6), the following provisions come into force immediately after the end of the initial period—
- (a) any provision of this Act so far as relating to functions of the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission,
  - (b) any provision of this Act so far as relating to the Auditor General or the Comptroller and Auditor General,
  - (c) any other provision consisting of an amendment made in the Government of Wales Act 1998 (c. 38) by Schedule 10, and
  - (d) the repeal by Schedule 12 of provisions falling to be repealed in consequence of any provision within paragraph (a), (b) or (c).
- (5) In this Act “the initial period” means the period—
- (a) beginning with the day of the poll at the 2007 election, and
  - (b) ending with the day on which the first appointment is made under section 46.
- (6) The repeals by Schedule 12 of each of sections 83, 88, 93(8), 97 and 101A of the Government of Wales Act 1998 (and of the other provisions of that Act so far as relating to them) come into force when the section has been complied with for the financial year ending with 31st March 2007 (and earlier financial years); and sections 123, 131, 132 and 141 do not apply for that financial year.

<sup>F239</sup>(7) .....

#### Textual Amendments

**F239** S. 161(7) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 11](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

## 162 Transitional etc. provision

- (1) For transitional and transitory provisions and savings see Schedule 11.
- (2) The Secretary of State may by order make any other transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) An order under subsection (2) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act.

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- (4) Nothing in Schedule 11 limits the power conferred by subsection (2); and such an order may, in particular, make modifications of that Schedule.
- (5) Nothing in that Schedule, or in any provision made by virtue of subsection (2), prejudices the operation of sections 16 and 17 of the Interpretation Act 1978 (c. 30).
- (6) No order under subsection (2) which contains provisions in the form of amendments or repeals of any provision contained in any of paragraphs 30 to 35, 50 and 51 of Schedule 11 is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

### 163 Repeals and revocations

For repeals and revocations of enactments (including some spent enactments) see Schedule 12.

#### Commencement Information

**I131** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 164 Financial provision

- (1) There is to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by a Minister of the Crown or government department by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable under any other Act out of money provided by Parliament.
- (2) There are to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act (other than any required to be paid into the National Loans Fund).

### 165 Extent

- (1) The following provisions—
  - section 36(7) to (9),
  - section 39, and
  - section 40(2) and (3),
 extend only to England and Wales.
- (2) The amendments, and repeals and revocations, made by this Act have the same extent as the enactments amended or repealed or revoked.

### 166 Short title

This Act may be cited as the Government of Wales Act 2006.



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## SCHEDULES

### <sup>F240</sup>SCHEDULE 1

Section 2

#### Textual Amendments

**F240** Sch. 1 repealed (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. 13(2)(b), 19(1), [Schs. 12](#)

### [<sup>F241</sup>SCHEDULE 1A

SECTION 16

#### DISQUALIFICATION FROM BEING A MEMBER OF THE SENEDD OR A CANDIDATE IN AN ELECTION TO BE A MEMBER OF THE SENEDD

#### Textual Amendments

**F241** Sch. 1A inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(1)(c), [Sch. 3](#)

## PART 1

### CATEGORIES OF PERSONS DISQUALIFIED

#### *Persons under 18 years of age*

- 1 A person who has not attained the age of 18 before the day on which the person is nominated as a candidate for election as a Member of the Senedd.

#### *Citizenship*

- 2 (1) A person who is not—
- (a) a British citizen,
  - (b) a qualifying Commonwealth citizen,
  - (c) a qualifying foreign citizen,
  - (d) a citizen of the Republic of Ireland, or
  - (e) a citizen of the European Union who is resident in the United Kingdom.
- (2) For the purposes of sub-paragraph (1), a person is a qualifying Commonwealth citizen if that person is a Commonwealth citizen who either—

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- (a) is not a person who requires leave under the [Immigration Act 1971 \(c. 77\)](#) to enter or remain in the United Kingdom, or
  - (b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.
- (3) For the purposes of sub-paragraph (1), a qualifying foreign citizen is a person resident in the United Kingdom who—
- (a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of the European Union, and
  - (b) either—
    - (i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
    - (ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.
- (4) But a person is not a qualifying Commonwealth citizen by virtue of sub-paragraph (2) (a) or a qualifying foreign citizen by virtue of sub-paragraph (3)(b)(i) if that person does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).

### *Bankruptcy*

- 3 A person in respect of whom one or more of the following orders has effect—
- (a) a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the [Insolvency Act 1986 \(c. 45\)](#) or Schedule 2ZB to the [Insolvency \(Northern Ireland\) Order 1989 \(S.I. 1989/2405 \(N.I. 19\)\)](#);
  - (b) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Part 13 of the [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989.
- 4 A person who is disqualified from being a member of the House of Commons under section 427 of the Insolvency Act 1986 because of an award of sequestration made by a court in Scotland.

### *Persons guilty of corrupt or illegal practices at elections*

- 5 A person who is incapable of being elected to the House of Commons having been reported personally guilty or convicted of a corrupt or illegal practice under the [Representation of the People Act 1983 \(c. 2\)](#).

### *Persons imprisoned or detained following conviction etc.*

- 6 (1) A person found guilty of one or more offences (whether before or after the passing of this Act and whether in the United Kingdom or elsewhere), and sentenced or ordered to be imprisoned or detained indefinitely or for more than one year.
- (2) A person is disqualified under this paragraph only while the person is—

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- (a) detained anywhere in the United Kingdom, the Channel Islands, the Isle of Man, or elsewhere in the European Union, in pursuance of the sentence or order, or
- (b) unlawfully at large at a time when the person would otherwise be so detained.

### *Sex offenders*

- 7 A person subject to the notification requirements of, or an order under, Part 2 of the [Sexual Offences Act 2003 \(c. 42\)](#).

## PART 2

### OFFICES THAT DISQUALIFY THE HOLDER

#### TABLE

<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
Armed forces	Members of the Royal Navy, the Royal Marines, the regular army (as defined by section 374 of the <a href="#">Armed Forces Act 2006 (c. 52)</a> ) or the Royal Air Force, not including— <ul style="list-style-type: none"> <li>(a) an officer on the retired or emergency list of any of the regular armed forces of the Crown,</li> <li>(b) a person who holds an emergency commission in any of those forces,</li> <li>(c) a person who belongs to any reserve of officers of any of those forces,</li> <li>(d) a naval, army, marine or air force pensioner, or former soldier who is liable to be recalled for service, or</li> <li>(e) a person who is an Admiral of the Fleet, a Field Marshal or a Marshal of the Royal Air Force and does not for the time being hold an appointment in the naval, military or air force service of the Crown</li> </ul>
Auditor General for Wales or Archwilydd Cyffredinol Cymru	The Auditor General
Children’s Commissioner for Wales or Comisiynydd Plant Cymru	The Commissioner and deputy Commissioner
Civil service	Members of the civil service of the State, including the civil service of Northern Ireland, the Northern Ireland Court Service, Her Majesty’s Diplomatic Service and Her Majesty’s Overseas Civil Service

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<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
Civil Service Commission	The First Civil Service Commissioner and Civil Service Commissioners
Commission for Equality and Human Rights	The Commissioners
Commissioner for Older People in Wales or Comisiynydd Pobl Hŷn Cymru	The Commissioner and deputy Commissioner
Commissioner for Public Appointments	The Commissioner
Comptroller and Auditor General or Rheolwr ac Archwilydd Cyffredinol	The Comptroller and Auditor General
Electoral Commission or Comisiwn Etholiadol	The Electoral Commissioners and members of the staff of the Commission
Electoral Registration Officers	Electoral registration officer for any area in Wales
Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau'r Dyfodol Cymru	The Commissioner
Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru	The Chief Inspector
Independent Remuneration Board of the Senedd or Bwrdd Taliadau Annibynnol y Senedd	The members of the Board
Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gynabyddiaeth Ariannol	The members of the Panel
Judicial offices	The following judicial offices— <ul style="list-style-type: none"> <li>(a) Judge of the Supreme Court;</li> <li>(b) Judge of the High Court or Court of Appeal in England and Wales;</li> <li>(c) Judge of the Court of Session or Temporary Judge in Scotland;</li> <li>(d) Judge of the High Court or Court of Appeal in Northern Ireland;</li> <li>(e) Judge of the Court Martial Appeal Court;</li> <li>(f) Chairman of the Scottish Land Court;</li> <li>(g) Circuit Judge in England and Wales;</li> <li>(h) Sheriff principal, sheriff, summary sheriff, temporary sheriff principal, part-time sheriff or part-time summary sheriff in Scotland;</li> <li>(i) County Court Judge or deputy County Court Judge in Northern Ireland;</li> <li>(j) District Judge (Magistrates' Courts) (but not Deputy District Judge)</li> </ul>

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<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
	(Magistrates' Courts)) in England and Wales;
	(k) District judge (magistrates' courts) or deputy district judge (magistrates' courts) in Northern Ireland;
	(l) President of Welsh Tribunals or Llywydd Tribiwnlysoedd Cymru;
	(m) Judge of the Upper Tribunal;
	(n) legal member of the Upper Tribunal for Scotland;
	(o) Chief or other Child Support Commissioner for Northern Ireland or deputy Child Support Commissioner for Northern Ireland;
	(p) Chief or other Social Security Commissioner for Northern Ireland or deputy Social Security Commissioner for Northern Ireland
Legislatures	Members of the legislature of any country or territory outside the United Kingdom
Lieutenancies	Lord-lieutenant or lieutenant of any area in Wales
Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru	The members and chief executive of the Commission
Parliamentary Commissioner for Administration	The Commissioner
Police forces	Members of any police force maintained by— <ul style="list-style-type: none"> <li>(a) a local policing body (within the meaning given by section 101 of the <a href="#">Police Act 1996 (c. 16)</a>),</li> <li>(b) the Scottish Police Authority, or</li> <li>(c) the Northern Ireland Policing Board,</li> </ul> and "member" in relation to a police force means a person holding office as a constable of that force
Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru	The Ombudsman
Returning officers for Senedd elections	The returning officer for any Senedd constituency or Senedd electoral region
Senedd Commission	Members of the staff of the Senedd
Senedd Commissioner for Standards or Comisiynydd Safonau y Senedd	The Commissioner

*Status: Point in time view as at 23/01/2020.*

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<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
Sheriffs	The high sheriff of any area in Wales
Welsh Language Commissioner or Comisiynydd y Gymraeg	The Commissioner, the Deputy Commissioner and the members of the Advisory Panel to the Welsh Language Commissioner]

## SCHEDULE 2

Section 27

### ASSEMBLY COMMISSION

#### *Membership*

- 1 (1) The Presiding Officer holds office as a member of the Assembly Commission until another person is elected to the office of Presiding Officer unless the Presiding Officer ceases to be an Assembly member otherwise than by reason of a dissolution.
- (2) Any other member of the Assembly Commission holds office until another Assembly member is appointed as a replacement unless sub-paragraph (3) applies.
- (3) This sub-paragraph applies if the person—
- resigns office as a member of the Assembly Commission,
  - ceases to be an Assembly member otherwise than by reason of a dissolution, or
  - is removed from office as a member of the Assembly Commission by the Assembly.

#### **Commencement Information**

**I132** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Property*

- 2 The Assembly Commission may acquire, hold and dispose of property.

#### **Commencement Information**

**I133** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Staff*

- 3 (1) The Assembly Commission may appoint staff.
- (2) The Clerk and the other persons appointed by the Assembly Commission are referred to in this Act as the members of the staff of the Assembly.

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- (3) Employment as a member of the staff of the Assembly is not employment under the Crown (but see paragraph 12).
- (4) The Assembly Commission must ensure that—
  - (a) the procedures for the recruitment and selection of persons as members of the staff of the Assembly are broadly in line with those applying to the recruitment and selection of persons as members of the staff of the Welsh <sup>F74</sup>... Government, and
  - (b) the terms and conditions of employment of the members of the staff of the Assembly are broadly in line with those of the members of the staff of the Welsh <sup>F74</sup>... Government.
- (5) The Assembly Commission is to pay the salaries and expenses of the members of the staff of the Assembly.
- (6) The Assembly Commission may make arrangements for the payment of pensions, gratuities or allowances to or in respect of anyone who has ceased to be a member of the staff of the Assembly.
- (7) The Assembly Commission may, in particular, make contributions to, or payments towards the provision of, such pensions, gratuities or allowances.
- (8) In Schedule 1 to the Superannuation Act 1972 (c. 11) (employments etc. to which section 1 of the Act applies), in the appropriate place in the list of “Other Bodies” insert— “Employment as a member of the staff of the National Assembly for Wales.”
- (9) The Assembly Commission must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Assembly, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.

#### **Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

#### **Commencement Information**

**I134** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Powers*

- 4 (1) The Assembly Commission may do anything which appears to it necessary or appropriate for the purpose of, or in connection with, the discharge of its functions.
- (2) That includes, in particular—
  - (a) entering into contracts,
  - (b) charging for goods or services,

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- (c) investing sums not immediately required for the discharge of its functions, and
  - (d) accepting gifts.
- (3) Where (by will or otherwise) any property is (by whatever words used) expressed to be given to the Assembly, the gift takes effect as a gift to the Assembly Commission.
- [<sup>F242</sup>(4) The Senedd Commission may—
- (a) provide goods or services to the public, or
  - (b) make arrangements for the provision of goods or services to the public.
- (4A) The Senedd Commission may charge for goods or services provided under sub-paragraph (4).]
- (5) The Assembly Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet expenditure.
- (6) The Assembly Commission—
- (a) may not borrow money otherwise than under sub-paragraph (5), and
  - (b) may borrow under that sub-paragraph only in accordance with special or general directions given by the Assembly to the Assembly Commission under section 27(6).
- (7) The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Assembly Commission but subject to any appropriate modifications.
- (8) A statutory instrument containing an order under sub-paragraph (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F242** Sch. 2 para. 4(4)(4A) substituted for Sch. 2 para. 4(4) (15.1.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 37, 42\(1\)\(d\)](#)

#### Commencement Information

**I135** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Promotion of awareness of election system and devolved government*

- 5 (1) The Assembly Commission may promote public awareness of—
- (a) the current or any pending system for the election of Assembly members, and
  - (b) the current or any pending system of devolved government in Wales.
- (2) For the purposes of this paragraph and paragraph 6 a system is “pending” if arrangements for giving effect to it have been made by any enactment but the arrangements are not yet in force.
- (3) The Assembly Commission may exercise its power under sub-paragraph (1) in such manner as it thinks fit but may, in particular, do so by—
- (a) carrying out programmes of education or information to promote public awareness, or



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- (b) making grants to other persons or bodies for the purpose of enabling them to carry out such programmes.
- (4) Any grant under sub-paragraph (3)(b) may be made subject to such conditions as the Assembly Commission considers appropriate.
- 6 The Assembly Commission may provide financial assistance to the Electoral Commission for the purpose of enabling it to carry out its functions under section 13(1) of the Political Parties, Elections and Referendums Act 2000 (c. 41) so far as relating to the promotion of public awareness of—
  - (a) the current or any pending system for the election of Assembly members, and
  - (b) the current or any pending system of devolved government in Wales.

#### *Delegation*

- 7 The Assembly Commission may delegate any of its functions to—
  - (a) the Presiding Officer, or
  - (b) the Clerk.

#### **Commencement Information**

**1136** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Principles in accordance with which functions are to be exercised*

- 8 (1) The Assembly Commission must make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) In the exercise of the functions of the Assembly Commission due regard must be had to the principle of promoting sustainable development.
- [<sup>F243</sup>(3) The Assembly Commission must, in the exercise of its functions—
  - (a) treat the official languages of the Assembly on a basis of equality, and
  - (b) make arrangements for enabling effect to be given to section 35(1), (1A), (1B) and (1C).
- (4) The Assembly Commission must—
  - (a) adopt, and
  - (b) publish,a scheme, to be known as the Assembly Commission's Official Languages Scheme ("the Scheme"), specifying the measures which it proposes to take in order to comply with its duties under sub-paragraph (3).
- (5) The Scheme must include (amongst other things) provision about—
  - (a) simultaneous interpretation from one official language into the other—
    - (i) in all Assembly proceedings,
    - (ii) in public meetings conducted on behalf of the Assembly Commission, and
    - (iii) in such other meetings connected with the functions of the Assembly or the Assembly Commission as may be provided for in the Scheme,

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- (b) publication of documents in both official languages, subject to any exceptions identified in the Scheme,
  - (c) public engagement with—
    - (i) Assembly proceedings, and
    - (ii) other functions of the Assembly and of the Assembly Commission, through the medium of either of the official languages,
  - (d) practical measures to foster and continually improve freedom of choice of official language—
    - (i) on the part of those participating in Assembly proceedings, and
    - (ii) in relation to the functions of the Assembly or the Assembly Commission generally,
  - (e) the setting of targets and timescales relating to implementation of the Scheme,
  - (f) the allocation of responsibilities for implementing the Scheme,
  - (g) objective means of measuring progress in implementing the Scheme, and
  - (h) a strategy for ensuring that the staff of the Assembly have, collectively, the language skills necessary to enable the Scheme to be implemented.
- (6) The Scheme must include provision relating to the receipt, investigation and consideration of complaints of failures to give effect to provisions of the Scheme.
- (7) The Scheme must identify those services provided or to be provided in the official languages and explain how those services are to be provided in accordance with paragraph 8(5).
- (8) The Assembly Commission must, in respect of each financial year, lay before the Assembly a report setting out how the Commission has, during the year in question, given effect to the Scheme.
- (9) The report prepared by the Assembly Commission under sub-paragraph (8) must include—
- (a) whether and to what degree the services referred to in sub-paragraph (7) have been provided, and
  - (b) if applicable, the reasons why the Commission has not provided any of the services referred to in sub-paragraph (7) in both official languages.
- (10) The Assembly Commission—
- (a) must review the Scheme as soon as is reasonably practicable after each ordinary general election, or after an extraordinary general election to which section 5(5) applies, and
  - (b) may, at any time, adopt a new Scheme or an amendment to the existing Scheme.
- (11) The Assembly Commission may not adopt a Scheme, or an amendment to a Scheme, unless (whether before or after the coming into force of this paragraph)—
- (a) a draft of the Scheme (or of the amendment) has been—
    - (i) published, and
    - (ii) laid before the Assembly,
  - (b) the Assembly Commission has given—
    - (i) those persons whom the Assembly Commission considers it appropriate to consult in relation to the Scheme, and

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- (ii) the Assembly,  
reasonable opportunity to make representations in relation to the draft,
  - (c) the Assembly Commission has considered any representations made about the draft Scheme (or draft amendment) by—
    - (i) the persons consulted under sub-paragraph (b)(i), and
    - (ii) the Assembly, and
  - (d) the Scheme (or the amendment) incorporating such modifications as the Assembly Commission may, having considered such representations, make, has been laid before and approved by resolution of, the Assembly.
- (12) The Assembly Commission must give effect to the Scheme.]

#### Textual Amendments

**F243** Sch. 2 para. 8(3)-(12) substituted for Sch. 2 para. 8(3) (13.11.2012) by [National Assembly for Wales \(Official Languages\) Act 2012 \(anaw 1\)](#), **ss. 2, 3(b)**

#### Commencement Information

**I137** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Annual report*

- 9 After each financial year the Assembly Commission must—
- (a) publish a report relating to the exercise of its functions during the financial year, and
  - (b) lay a copy of the report before the Assembly.

#### Commencement Information

**I138** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Validity of acts*

- 10 The validity of any act of the Assembly Commission is not affected by—
- (a) any vacancy in its membership,
  - (b) any defect in the appointment of any member, or
  - (c) any lack of qualification for membership of any member.

#### Commencement Information

**I139** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Proceedings*

- 11 (1) The Assembly Commission may determine its own procedure.
- (2) The Presiding Officer is to preside at meetings of the Assembly Commission but the Assembly Commission may appoint another of its members to preside if—
- (a) the office of Presiding Officer is vacant, or

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- (b) the Presiding Officer is for any reason unable to act.

**Commencement Information**

**I140** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Crown status*

- 12 (1) Her Majesty may by Order in Council provide for the Assembly Commission to be treated to any extent as a Crown body for the purposes of any enactment.
- (2) In particular, the Order in Council may for the purposes of any enactment provide—
- (a) for employment as a member of the staff of the Assembly to be treated as employment by the Assembly Commission as a Crown body, or
  - (b) for land held, used or managed by the Assembly Commission, or operations carried out by or on behalf of the Assembly Commission, to be treated as land held, used or managed by, or operations carried out by or on behalf of, the Assembly Commission as a Crown body.
- (3) For the purposes of this paragraph “Crown body” means a body which is a servant or agent of the Crown, and includes a government department.
- (4) A statutory instrument containing an Order in Council under this paragraph is subject to annulment in pursuance of—
- (a) a resolution of either House of Parliament, or
  - (b) a resolution of the Assembly.

SCHEDULE 3

Section 58

TRANSFER ETC. OF FUNCTIONS: FURTHER PROVISIONS

**PART 1**

FUNCTIONS TRANSFERABLE ETC.

*Existing and future functions*

- 1 (1) Subject to sub-paragraph (2), an Order in Council under section 58 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 section 4.

**Commencement Information**

**I141** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status:* Point in time view as at 23/01/2020.

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### *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 is to be regarded for the purposes of section 58 as exercisable by the Minister of the Crown in relation to Wales.

#### **Commencement Information**

**I142** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Cross-border functions*

- 3 (1) The power conferred by section 58 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to Wales includes 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 (2), an English border area.
- (2) An Order in Council under <sup>F244</sup>section 58(1) 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.
- (3) This paragraph does not affect the power conferred by section 58 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to the whole or any part of Wales.

#### **Textual Amendments**

**F244** Words in Sch. 3 para. 3(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 12](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

#### **Commencement Information**

**I143** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Functions exercisable beyond the territorial sea*

- 4 (1) The power conferred by section 58(1)(c) includes power to direct that any function under—
- <sup>F245</sup>(a) .....
  - (b) Part 4 of the Petroleum Act 1998 (c. 17) (abandonment of offshore installations),
  - <sup>F246</sup>(c) the provisions of Parts 4 and 8 of the Marine and Coastal Access Act 2009 (marine licensing and enforcement) specified in sub-paragraph (1A), or

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(d) regulations under section 73 of that Act (appeals),]

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

[<sup>F247</sup>(1A) The provisions of the Marine and Coastal Access Act 2009 mentioned in sub-paragraph (1)(c) are—

- (a) sections 67(1) to (5), 69(1), (3) and (4), 71(1) to (3) and 72(1) to (3) (marine licences), so far as relating to items 1 to 6 and 11 to 13 in section 66(1) of that Act (licensable marine activities);
- (b) section 101 (registers);
- (c) sections 106 and 91(7)(c) (power to take remedial action, and power to require payment of sum representing reasonable expenses of taking such action);
- (d) section 107 (power to test, and charge for testing, certain substances);
- (e) sections 235(3) and 240(1)(c) (enforcement officers).]

(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 58(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 158(3) may include any provision that by virtue of this sub-paragraph may be included in an Order in Council under section 58.

#### Textual Amendments

**F245** Sch. 3 para. 4(1)(a) repealed (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 3\(2\)\(a\)](#), [Sch. 22 Pt. 2](#) (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

**F246** Sch. 3 para. 4(1)(c)(d) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 3\(2\)\(b\)](#) (with s. 111); S.I. 2011/556, art. 3(2)(a)

**F247** Sch. 3 para. 4(1A) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 3\(3\)](#) (with s. 111); S.I. 2011/556, art. 3(2)(a)

#### Commencement Information

**I144** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## PART 2

### EXERCISE OF TRANSFERRED FUNCTIONS

#### Modifications etc. (not altering text)

**C18** Sch. 3 Pt. 2 applied (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 54\(3\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(1)

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**C19** Sch. 3 Pt. 2 applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 31**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(g)

### *[<sup>F98</sup>EU] 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 58 continues 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 [<sup>F98</sup>EU] obligation of the United Kingdom,
  - (b) enabling any such obligation to be implemented,
  - (c) enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of [<sup>F98</sup>EU] Treaties to be exercised, or
  - (d) dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the European Communities Act 1972 (c. 68).

#### **Commencement Information**

**I145** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Agreement or consultation: Ministers and Parliament*

- 6 An Order in Council under section 58 which includes provision—
- (a) transferring to the Welsh Ministers, the First Minister or the Counsel General any function so far as exercisable by a Minister of the Crown <sup>F248</sup>..., or
  - (b) directing that any function is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General <sup>F248</sup>... 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 Welsh Ministers, the First Minister or the Counsel General only with the agreement of, or after consultation with, a Minister of the Crown.

#### **Textual Amendments**

**F248** Words in Sch. 3 para. 6(a)(b) omitted (8.1.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 21(2)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/893](#), reg. 2

#### **Commencement Information**

**I146** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 7 (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.

*Status: Point in time view as at 23/01/2020.*

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- (2) If an Order in Council under section 58 includes provision transferring the function to the Welsh Ministers, the First Minister or the Counsel General it is to be exercisable free from that requirement unless the Order in Council provides otherwise.
- (3) If an Order in Council under that section includes provision directing that the function is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General concurrently with the Minister of the Crown by whom it is exercisable, the Order in Council may provide that is to be exercisable free from that requirement.

**Commencement Information**

**I147** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Agreement or consultation etc.: Assembly and Assembly Commission*

- 8 (1) An Order in Council under section 58 may make provision for a function to be exercisable by the Welsh Ministers, the First Minister or the Counsel General only with the authorisation of, or after consultation with, the Assembly or the Assembly Commission.
- (2) An Order in Council under section 58 making provision for a function to be exercisable by the Welsh Ministers, the First Minister or the Counsel General may, by virtue of subsection (3) of that section, require the Welsh Ministers, the First Minister or the Counsel General—
  - (a) to lay a report before the Assembly, or
  - (b) to send documents to the Clerk,
 in connection with the exercise of the function.

**Commencement Information**

**I148** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Parliamentary and Assembly procedure*

- 9 (1) This paragraph applies where a function to make subordinate legislation (including a function conferred or imposed by or by virtue of this Act or an Act passed after this Act) is transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by an Order in Council under section 58.
- (2) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of any of the descriptions specified in sub-paragraph (3) applied to its exercise by a Minister of the Crown—
  - (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) applies, but
  - (b) (whether or not the case is one to which that sub-paragraph applies) that provision has effect in relation to its exercise by the Welsh Ministers, the First Minister or the Counsel General as if any reference in it to Parliament or either House of Parliament were (or, if it is such a case, included) a reference to the Assembly.



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- (3) The descriptions of provision referred to in sub-paragraph (2) are—
- (a) provision requiring any instrument made in the exercise of the function, or a draft of any such instrument, to be laid before Parliament or either House of Parliament,
  - (b) provision for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either House of Parliament or of both Houses, and
  - (c) provision prohibiting the making of any such instrument without such approval.
- (4) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of either of the descriptions specified in sub-paragraph (5) applied to its exercise by a Minister of the Crown—
- (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) or (7) applies, but
  - (b) (whether or not the case is one to which either of those sub-paragraphs applies) any instrument made in the exercise of the function by the Welsh Ministers, the First Minister or the Counsel General is (or, if it is such a case, is also) subject to the procedure in the Assembly specified by the standing orders.
- (5) The descriptions of provision referred to in sub-paragraph (4) are—
- (a) provision for any instrument made in the exercise of the function to be a provisional order (that is, an order which requires to be confirmed by Act of Parliament), and
  - (b) provision requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18)) made in the exercise of the function to be subject to special parliamentary procedure.
- (6) This sub-paragraph applies in any case if the instrument made in the exercise of the function or (if provision specified in sub-paragraph (3)(a) or (b) applied to a draft of an instrument made in the exercise of the function) a draft of an instrument to be so made—
- (a) contains subordinate legislation made or to be made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers, the First Minister or the Counsel General),
  - (b) contains (or confirms or approves) subordinate legislation relating to an English border area, or
  - (c) contains (or confirms or approves) subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (7) This sub-paragraph applies in any case if, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of the description specified in sub-paragraph (5)(b) applied to an instrument made in exercise of the function by a Minister of the Crown and the Order in Council provided that—
- (a) any order made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of the function, or
  - (b) any order so made in circumstances including those of the case,

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is to be subject to special parliamentary procedure.

- (8) In this paragraph “make” includes confirm or approve and related expressions (except “made exercisable”) are to be construed accordingly; but an instrument (or draft) does not fall within sub-paragraph (6)(a) just because it contains subordinate legislation made (or to be made) by the Welsh Ministers, the First Minister or the Counsel General with the agreement of a Minister of the Crown or government department.

**Commencement Information**

**I149** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Laying of reports and statements*

- 10 (1) This paragraph applies where—
- (a) a function to make or receive a report or statement (including a function conferred or imposed by or by virtue of an Act passed after this Act) is transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by an Order in Council under section 58, and
  - (b) immediately before the coming into force of the provisions of the Order in Council relating to the function, any enactment made provision (“provision for Parliamentary laying”) for a report or statement made or received in the exercise of the function to be laid before Parliament or either House of Parliament by the person making or receiving it.
- (2) The provision for Parliamentary laying applies to the exercise of the function by the Welsh Ministers, the First Minister or the Counsel General as if it required the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) In this paragraph references to a report or statement include any other document (except one containing subordinate legislation).

**Commencement Information**

**I150** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Powers to lend money*

- 11 (1) This paragraph applies where a power to lend money (including a power conferred by or by virtue of an Act passed after this Act) is transferred to the Welsh Ministers by an Order in Council under section 58; but subject to any provision to the contrary in the Order in Council.
- (2) Sub-paragraph (3) applies to any sums which, for the purpose or as a result of the exercise of the power, would be required (apart from that sub-paragraph)—
- (a) to be issued by the Treasury out of the National Loans Fund, or
  - (b) to be paid into that Fund.
- (3) Those sums are instead—
- (a) to be charged on the Welsh Consolidated Fund, or

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- (b) to be paid into that Fund.
- (4) The following provisions apply where—
- (a) the power was exercised by a Minister of the Crown before the transfer, and
  - (b) the sums required for the exercise of the power were issued by the Treasury out of the National Loans Fund.
- (5) Any amount payable by way of repayment of, or of interest on, the loan is to be paid to the Welsh Ministers and into the Welsh Consolidated Fund (instead of to the Minister of the Crown and into the National Loans Fund).
- (6) Amounts equal to those which are to be received by the Welsh Ministers in repayment of principal are to be treated as being loans made to the Welsh Ministers by the Secretary of State on the date of the transfer.
- (7) Such loans are to be repaid to the Secretary of State at such times and by such methods, and interest is to be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (8) Sums required to be paid to the Secretary of State under sub-paragraph (7) are to be charged on the Welsh Consolidated Fund.
- (9) Sums received by the Secretary of State under sub-paragraph (7) are to be paid into the National Loans Fund.

#### Commencement Information

**I151** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### PART 3

#### SUPPLEMENTARY

##### *References to Minister of the Crown etc.*

- 12 References in section 58 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 58(1) and this Schedule to the Welsh Ministers include references to a member of the staff of the Welsh<sup>F74</sup>... Government.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I152** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Saving*

- 13 An Order in Council under section 58 which includes provision—
- (a) transferring a function exercisable by a Minister of the Crown, or
  - (b) directing that a function is to be exercisable only with the agreement of, or after consultation with, any of the Welsh Ministers, the First Minister or the Counsel General,
- does not affect the validity of anything done by or in relation to the Minister of the Crown before the coming into force of the Order in Council.

#### **Modifications etc. (not altering text)**

**C20** Sch. 3 para. 13 applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 31, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(g\)](#)

#### **Commencement Information**

**I153** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## [<sup>F249</sup>SCHEDULE 3A

Section 59A

### FUNCTIONS OF MINISTERS OF CROWN ETC EXERCISABLE CONCURRENTLY OR JOINTLY WITH WELSH MINISTERS

#### **Textual Amendments**

**F249** Sch. 3A inserted (8.1.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 4](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/893, reg. 2](#)

### *Functions exercisable concurrently with Welsh Ministers*

- 1 (1) Functions specified in the table below, so far as exercisable in relation to Wales (or, in the case of functions under the Sea Fish (Conservation) Act 1967 or the Sea Fisheries Act 1968, the Welsh zone), are exercisable concurrently with the Welsh Ministers.
- (2) A function specified in the table that is exercisable subject to a requirement for the approval or consent of the Treasury or the Minister for the Civil Service is exercisable by the Welsh Ministers subject to that requirement except as noted in the table.

<i>Act</i>	<i>Functions</i>
Ministry of Transport Act 1919	Functions of a Minister of the Crown under section 17 (power to make advances).
Industrial Organisation and Development Act 1947	Functions of the Board of Trade under section 11 (grants to the Council of Industrial Design and to design centres).

*Note:* the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.

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Prevention of Pests Act 1949	by Functions of a Minister of the Crown of carrying out research under or in connection with the Act.
Landlord and Tenant Act 1954	Certification functions of a Minister of the Crown under— (a) section 57(1) to (6), and (b) section 58.
Science and Technology Act 1965	Functions of a Minister of the Crown under section 5 (funding of scientific research), except so far as relating to [ <sup>F250</sup> United Kingdom Research and Innovation and] Research Councils.  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Agriculture Act 1967	Notification functions of a Minister of the Crown under section 54(3).
Slaughter of Poultry Act 1967	Functions of a Minister of the Crown under section 4 (power of entry).
Sea Fish (Conservation) Act 1967	Functions of a Minister of the Crown or the Marine Management Organisation under— (a) section 4 (licensing of fishing boats), and (b) section 4A (licensing of vessels receiving trans-shipped fish).  Functions of a Minister of the Crown under section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act).  <i>Note:</i> the functions under sections 4 and 4A are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Sea Fisheries Act 1968	Functions of a Minister of the Crown under section 5(1) and (2)(a) (regulation of conduct of fishing operations).
Transport Act 1968	Functions of a Minister of the Crown under section 57 (grants for research or development in connection with transport services, etc).  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.
Local Government Grants (Social Need) Act 1969	Functions of the Secretary of State under the Act.  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Employment and Training Act 1973	Functions of the Secretary of State under section 2, except for—

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- (a) any function of making arrangements for the principal purpose of helping all those (as distinct from a particular section of the population of Wales) without work to find employment and to help employers to fill vacancies, and
- (b) any function ancillary to that function.

Functions of a Minister of the Crown under—

- (a) section 4 (disclosure of information),
- (b) section 5 (powers to appoint advisers and make payments), and
- (c) section 11(3) (payments in respect of injuries etc).

*Note:* the functions under sections 2 and 5(3) are exercisable by the Welsh Ministers free from any requirement for Treasury approval, and the functions under section 5(2)(b) are exercisable by the Welsh Ministers free from any requirement for the approval of the Minister for the Civil Service.

Local Government Act 1974 Function of a Minister of the Crown of giving notice, other than a notice of discharge, under section 32(3) (non-disclosure of documents).

Import of Live Fish (England and Wales) Act 1980 Functions of a Minister of the Crown under—

- (a) section 1 (power to limit the import etc of fish and fish eggs), and
- (b) section 3(2) (authorisation of act done for scientific or research purpose).

*Note:* the functions under section 1 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.

Wildlife and Country-side Act 1981 Functions of the Secretary of State under—

- (a) section 2(6) (power to declare period of special protection for birds), and
- (b) section 16 (power to grant licences).

Industrial Development Act 1982 Functions of a Minister of the Crown under the Act, except for functions under sections 1, 8(5) and (7), 10, 13A, 15 and 16.

*Note:* the functions under sections 5, 7, 8 (except subsections (5) and (7)), 12 and 13 are exercisable by the Welsh Ministers free from any requirement for Treasury consent or approval.

Inheritance Tax Act 1984 Functions of the Secretary of State under section 230 (acceptance of property in satisfaction of tax) where there is both a Welsh interest and another interest in the property to which the section applies.

Food Act 1984 Functions of a Minister of the Crown under section 69A (information).

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Food and Environmental Protection Act 1985	Functions of a Minister of the Crown under— <ul style="list-style-type: none"> <li>(a) section 1(1) (power to make emergency orders),</li> <li>(b) section 3(1) and (2) (authorisation of investigating officers and enforcement officers),</li> <li>(c) section 13 (powers to test and to charge for testing), and</li> <li>(d) section 17 (codes of practice).</li> </ul>
Local Government Finance Act 1988	Functions of the Secretary of State under section 88B (special grants) so far as they relate to police and crime commissioners.  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Road Traffic Act 1988	Functions of the Secretary of State under— <ul style="list-style-type: none"> <li>(a) section 39(1) (road safety information or advice), and</li> <li>(b) section 40 (payments for road safety measures).</li> </ul> <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.
Official Secrets Act 1989	Functions of the Secretary of State to prescribe persons or classes of member or employee for the purposes of paragraphs (f) and (g) of section 12(1) (meaning of ““Crown servant””), where exercisable in respect of bodies or offices in relation to which both the Welsh Ministers and a Minister of the Crown exercise functions.
Town and Country Planning Act 1990	Functions of a Minister of the Crown under— <ul style="list-style-type: none"> <li>(a) section 304 (grants for research and education), and</li> <li>(b) section 321 (local inquiries).</li> </ul> <i>Note:</i> the functions under section 304 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Planning (Listed Buildings and Conservation Areas) Act 1990	Functions of the Secretary of State under paragraph 6(6) of Schedule 3 (powers of direction regarding disclosure of evidence in local inquiries).
Planning (Hazardous Substances) Act 1990	Functions of a Minister of the Crown under— <ul style="list-style-type: none"> <li>(a) section 38(1) (contribution to compensation payable by local authority), and</li> <li>(b) paragraph 6(6) of the Schedule (powers of direction regarding disclosure of evidence in local inquiries).</li> </ul>

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	<i>Note: the functions under section 38(1) are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i>
Food Safety Act 1990	<p>Functions of the Secretary of State under section 47 of paying remuneration and allowances.</p> <p><i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.</i></p>
Social Security Act 1990	<p>Functions of the Secretary of State under section 15 (grants for the improvement of energy efficiency in certain dwellings etc).</p> <p><i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i></p>
Transport and Works Act 1992	Functions of the Secretary of State under section 9 (schemes of national significance).
Clean Air Act 1993	Functions of a Minister of the Crown under section 46(1) (functions in relation to Crown premises).
Welsh Language Act 1993	<p>Functions under—</p> <ul style="list-style-type: none"> <li>(a) section 25 (powers to give Welsh names to statutory bodies etc), and</li> <li>(b) section 26 (powers to prescribe Welsh forms).</li> </ul>
National Lottery etc. Act 1993	<p>Functions of the Secretary of State under section 26(1) (directions to distributing bodies) so far as it relates to the National Lottery Charities Board and the New Opportunities Fund but excluding any power to give a direction to such bodies as to—</p> <ul style="list-style-type: none"> <li>(a) the allocation of resources to Wales (or any part of Wales) or between Wales (or any part of Wales) and any other part of the United Kingdom, or</li> <li>(b) conditions that apply to the whole of the United Kingdom.</li> </ul> <p>Functions of the Secretary of State under section 26(2) (directions to National Heritage Memorial Fund) but excluding any power to give a direction to the Fund as to—</p> <ul style="list-style-type: none"> <li>(a) the allocation of resources to Wales (or any part of Wales) or between Wales (or any part of Wales) and any other part of the United Kingdom, or</li> <li>(b) conditions that apply to the whole of the United Kingdom.</li> </ul> <p>Functions of the Secretary of State under section 26(5) (consultation) so far as it relates</p>



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	to concurrently exercisable functions under section 26(1) or 26(2).
Housing Act 1996	Functions of the Secretary of State under section 185 (persons from abroad: eligibility for housing assistance).
Human Rights Act 1998	Functions of a Minister of the Crown under section 5(2) (joinder of Minister etc as a party to proceedings) in respect of any proceedings in which a court is considering whether to make a declaration of incompatibility within the meaning of section 4 of the Human Rights Act 1998 in respect of— <ul style="list-style-type: none"> <li>(a) subordinate legislation made by the Assembly, or</li> <li>(b) subordinate legislation made, in relation to Wales, by a Minister of the Crown in the exercise of a function that is exercisable by the Assembly.</li> </ul>
Pollution Prevention and Control Act 1999	Functions under section 2 (regulation of polluting activities) exercisable by the Secretary of State— <ul style="list-style-type: none"> <li>(a) in relation to a cross-border body, <sup>F251</sup> ...</li> <li>(b) <sup>F251</sup> ...</li> </ul>
[ <sup>F252</sup> Education Act 2002]	[ <sup>F253</sup> Functions of the Secretary of State under section 186 (student loans), but excluding the power to make regulations in relation to loans of the description in section 186(2)(a)]

#### Textual Amendments

- F250** Words in Sch. 3A para. 1(2) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 22\(2\)](#); S.I. 2018/241, reg. 2(t)
- F251** Words in Sch. 3A para. 1 omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), art. 1(1), [Sch. 2 para. 2\(a\)](#)
- F252** Words in Sch. 3A para. 1 inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), art. 1(1), [Sch. 2 para. 2\(b\)](#)
- F253** Words in Sch. 3A para. 1 inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), art. 1(1), [Sch. 2 para. 2\(c\)](#)

- 2 (1) The functions listed in sub-paragraph (2), so far as exercisable in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone, are exercisable concurrently with the Welsh Ministers.
- (2) The functions are—
- (a) functions of a Minister of the Crown under the following provisions of the Sea Fish (Conservation) Act 1967—
    - (i) section 1(3), (4) and (6) (size limits for fish carried by fishing boat);
    - (ii) section 3(1), (3) and (4) (regulation of nets and other fishing gear);
    - (iii) section 5 (power to restrict fishing for sea fish);

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- (iv) section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act);
  - (b) functions of a Minister of the Crown or the Marine Management Organisation under the following provisions of the Sea Fish (Conservation) Act 1967—
    - (i) section 4 (licensing of fishing boats);
    - (ii) section 4A (licensing of vessels receiving trans-shipped fish);
  - (c) functions of a Minister of the Crown under the following provisions of the Sea Fisheries Act 1968—
    - (i) section 5(1) and (2)(a) (regulation of conduct of fishing operations);
    - (ii) section 7(1)(g) and (2) (appointment of British sea-fishery officers);
  - (d) functions of a Minister of the Crown under the following provisions of the Fisheries Act 1981—
    - (i) section 15 (schemes of financial assistance);
    - (ii) section 16 (administration schemes by Sea Fish Industry Authority);
  - (e) functions of a Minister of the Crown under section 30(2) of the Fisheries Act 1981 (enforcement of Community rules).
- (3) Any provision of section 4 or 4A of the Sea Fish (Conservation) Act 1967 requiring the consent of the Treasury to the exercise of a function does not apply in relation to the exercise of the function by the Welsh Ministers by virtue of this paragraph.
- (4) In this paragraph ““Welsh fishing boat”” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging.
- 3 (1) The powers to make regulations under sections 10ZC, 10ZD and 53 of the Representation of the People Act 1983 (registration of electors), so far as they are exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, are exercisable by the Welsh Ministers concurrently with that Minister.
- (2) In sub-paragraph (1)—
- ““elections in Wales”” means—
  - (a) an election of Assembly members, or
  - (b) a local government election (within the meaning given by section 203 of the Representation of the People Act 1983) in Wales;
  - ““UK digital service”” means a digital service provided by a Minister of the Crown for the registration of electors.

*Functions exercisable jointly with Welsh Ministers*

- 4 Functions specified in the table below are exercisable jointly with the Welsh Ministers.

<i>Act or instrument</i>	<i>Functions</i>
Crime and Disorder Act 1998	Functions of the Secretary of State under section 6 in relation to strategies for combatting crime and disorder or re-offending in areas in Wales.

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Marine and Coastal Access Act 2009 Functions of the Secretary of State under sections 45, 46 and 47 (preparation, review and amendment of marine policy statement) in relation to a marine policy statement prepared by the Secretary of State and the Welsh Ministers acting jointly (or by the Secretary of State, the Welsh Ministers and one or more other authorities acting jointly).

Functions of the Secretary of State under Schedule 5 (preparation or amendment of marine policy statement) that are exercisable jointly with the Welsh Ministers by virtue of paragraph 2(2)(b) of that Schedule.

Functions of the Secretary of State under subsection (6) of section 70 (inquiries) that are exercisable jointly with the Welsh Ministers by virtue of subsection (7) of that section.

Marine Strategy Regulations 2010 (S.I. 2010/1627) Functions of the Secretary of State under regulation 19 (directions to, and assistance from, public authorities) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation.

Functions of the Secretary of State under regulation 20 (guidance) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation.

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*Functions exercisable concurrently or jointly with Welsh Ministers*

- 5 Functions of the Secretary of State under section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) so far as they relate to—
- (a) the carriage of goods by an inland waterway that is partly in Wales, or
  - (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales (within the meaning of that section),
- are exercisable concurrently or jointly with the Welsh Ministers.

*Interpretation*

- 6 For the purposes of the entry relating to the Inheritance Tax Act 1984 in the table in paragraph 1—
- (a) a Welsh interest exists where—
    - (i) the property in question is located in Wales, or
    - (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Wales or disposed of or transferred to a body or institution in Wales;
  - (b) another interest exists where—
    - (i) the property in question is located outside Wales, or
    - (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it

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be displayed outside Wales or disposed of or transferred to a body or institution outside Wales.]

## SCHEDULE 4

Section 88

### TRANSFERS OF MINISTERIAL PROPERTY, RIGHTS AND LIABILITIES

#### *General transfer of property, rights and liabilities*

- 1 (1) The property, rights and liabilities to which, at the coming into force of an Order in Council under section 58, a Minister of the Crown is entitled or subject in connection with any function exercisable by the Minister of the Crown and transferred by the Order in Council are transferred to and vest in the transferee of the function.
- (2) In this Schedule “the transferee”, in relation to a function transferred by an Order in Council under section 58, means whichever of the Welsh Ministers, the First Minister or the Counsel General may exercise the function by virtue of the Order in Council.
- (3) Anything (including legal proceedings) which relates to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in the process of being done by or in relation to the Minister of the Crown immediately before the coming into force of the Order in Council may be continued by or in relation to the transferee of the function.
- (4) Anything which was done by a Minister of the Crown for the purpose of or in connection with—
- (a) any function exercisable by the Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in effect immediately before the coming into force of the Order in Council has effect as if done by the transferee of the function.
- (5) In any instruments, contracts or legal proceedings which relate to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which are made or commenced before the coming into force of the Order in Council, the transferee of the function is substituted for the Minister of the Crown.

#### **Modifications etc. (not altering text)**

**C21** Sch. 4 para. 1 applied (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 54(3)(b)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(1)

**C22** Sch. 4 para. 1 applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 31**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(g)

*Status: Point in time view as at 23/01/2020.*

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- C23** Sch. 4 para. 1(1) excluded (1.4.2009) by [The Welsh Ministers \(Transfer of Functions\) Order 2009 \(S.I. 2009/703\)](#), [art. 3](#)
- C24** Sch. 4 para. 1(1) excluded (31.3.2010) by [The Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010 \(S.I. 2010/760\)](#), [arts. 1\(3\), 8](#)
- C25** Sch. 4 para. 1(1) excluded (31.12.2011) by [The Welsh Ministers \(Transfer of Functions\) \(No.2\) Order 2009 \(S.I. 2009/3019\)](#), [arts. 1\(2\), 7](#)
- C26** Sch. 4 para. 1(1) excluded (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), [art. 1\(1\)\(6\)](#)
- C27** Sch. 4 para. 1(1) excluded (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), [arts. 1\(2\)\(a\), 4\(1\)](#)

#### Commencement Information

**I154** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 (1) An Order in Council under section 58 may provide that all or any of the provisions of paragraph 1—
- do not apply in relation to the transfer of functions by the Order in Council or to the property, rights and liabilities connected with the functions,
  - are to apply only in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council,
  - do not apply in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council, or
  - apply with modifications in relation to the transfer of a particular function by the Order in Council or to particular property, rights or liabilities connected with the function transferred by the Order in Council in a case where, by virtue of provision made under section 58(2), there is more than one transferee of that function.
- (2) Paragraph 1 does not apply to rights or liabilities relating to the employment of persons in Crown employment (as defined in section 191(3) of the Employment Rights Act 1996 (c. 18)).

#### Modifications etc. (not altering text)

**C28** Sch. 4 para. 2(2) applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 31, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#)

#### Commencement Information

**I155** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Power to make specific transfers etc.*

- 3 (1) The Secretary of State may by order provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of—
- any specified property, rights or liabilities, or
  - property, rights or liabilities of any specified description, to which a Minister of the Crown is entitled or subject.

*Status: Point in time view as at 23/01/2020.*

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- (2) An order under sub-paragraph (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under sub-paragraph (1) may provide—
  - (a) for the creation in favour of a Minister of the Crown of interests in, or rights over, property transferred to the Welsh Ministers, the First Minister or the Counsel General,
  - (b) for the creation in favour of the Welsh Ministers, the First Minister or the Counsel General of interests in, or rights over, property retained by a Minister of the Crown, or
  - (c) for the creation of new rights and liabilities between the Welsh Ministers, the First Minister or the Counsel General on the one hand and a Minister of the Crown on the other.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Welsh Ministers, the First Minister or the Counsel General of—
  - (a) any specified thing, or
  - (b) anything of a specified description,
 commenced by or in relation to a Minister of the Crown.
- (5) The Secretary of State may by order make provision for—
  - (a) any specified thing, or
  - (b) anything of a specified description,
 done by a Minister of the Crown to have effect as if done by the Welsh Ministers, the First Minister or the Counsel General.
- (6) The Secretary of State may by order make provision for the substitution of the Welsh Ministers, the First Minister or the Counsel General for any Minister of the Crown in—
  - (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this paragraph may be made in consequence of the making of an Order in Council under section 58 or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I156** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Supplementary*

- 4 (1) A certificate issued by the Secretary of State that any property has been transferred by—
  - (a) paragraph 1, or
  - (b) an order under paragraph 3,
 is conclusive evidence of the transfer.

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- (2) Paragraph 1, and orders under paragraph 3, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer of the property, rights or liabilities.

**Modifications etc. (not altering text)**

**C29** Sch. 4 para. 4 applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 31, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(g\)](#)

**Commencement Information**

**I157** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

SCHEDULE 5

Section 94

ASSEMBLY MEASURES

**PART 1**

MATTERS

*Field 1: agriculture, fisheries, forestry and rural development*

<sup>F254</sup>*Matter 1.1*

The red meat industry, in relation to—

- (a) increasing efficiency or productivity in the industry;
- (b) improving marketing in the industry;
- (c) improving or developing services that the industry provides or could provide to the community;
- (d) improving the ways in which the industry contributes to sustainable development.

*Interpretation of this field*

In this field “the red meat industry” means all of the activities comprised in—

- (a) breeding, keeping, processing, marketing and distributing cattle, sheep and pigs (alive or dead), and
- (b) producing, processing, marketing, manufacturing and distributing products derived to any substantial extent from those animals (apart from milk and milk products, fleece wool and hides).

For the purposes of this definition—“cattle” means bovine animals, including bison and buffalo; “pigs” means porcine animals, including wild boar and other feral pigs. ]

*Field 2: ancient monuments and historic buildings*

<sup>F255</sup>*Matter 2.1*

The functions of local authorities in the support, improvement and promotion of the appreciation by the public of archaeological remains, ancient monuments, buildings and places of historical or architectural interest, and historic wrecks.

In this matter “local authorities” means the councils of counties and county boroughs in Wales.

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*Field 3: culture*

*[<sup>F256</sup>Matter 3.1*

The functions of local authorities in the support, improvement and promotion of arts and crafts, museums and galleries, libraries, archives and historical records, and cultural activities and projects.

This matter does not include licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.

In this matter “local authorities” means the councils of counties and county boroughs in Wales.

*Field 4: economic development*

*Field 5: education and training*

*[<sup>F257</sup>Matter 5.1*

Provision about the categories of school that may be maintained by [<sup>F258</sup>local authorities].

*Matter 5.2*

Provision about the establishment and discontinuance of schools maintained by [<sup>F258</sup>local authorities], their change from one category to another and their alteration in other respects.

*[<sup>F259</sup>Matter 5.2A*

Conduct and governance of schools maintained by local authorities, including the allocation of functions, property, rights and liabilities relating to such schools.

*Matter 5.2B*

Securing collaboration between persons or bodies with functions relating to schools maintained by local authorities.

*Matter 5.2C*

The following activities by persons or bodies with functions relating to schools maintained by local authorities—

- (a) establishment of bodies to do all or any of the following—
  - (i) carry out activities relating to education or training,
  - (ii) exercise education functions on behalf of local authorities;
- (b) involvement with bodies mentioned in paragraph (a).]

*Matter 5.3*

Provision about the admission of pupils to schools maintained by [<sup>F258</sup>local authorities].

*[<sup>F260</sup>Matter 5.4A*

The regulation of—

- (a) schools that are not maintained by [<sup>F258</sup>local authorities];
- (b) relevant independent educational institutions.]

*Matter 5.5*

Provision about school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters).

*Matter 5.6*

Provision about the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education.



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*Matter 5.7*

Provision about entitlement to primary, secondary and further education and to training.

*Matter 5.8*

Provision about the provision of services that are intended to encourage, enable or assist people—

- (a) to participate effectively in education or training,
- (b) to take advantage of opportunities for employment, or
- (c) to participate effectively in the life of their communities.

*Matter 5.9*

Provision about food and drink provided on school premises or provided for children at a place where they receive education or childcare.

*Matter 5.10*

[<sup>F261</sup>Arrangements for persons to travel to and from the places where they receive education or training.

This matter applies to—

- (a) persons receiving nursery, primary, secondary or further education or training;
- (b) persons described in matter 5.17 receiving higher education.]

<sup>F262</sup> .....

[<sup>F263</sup>*Matter 5.11*

Provision for and in connection with securing the provision of facilities for post-16 education or training.

*Matter 5.12*

Provision for and in connection with the establishment and dissolution of—

- (a) institutions concerned with the provision of further education, and
- (b) bodies that conduct such institutions,

including the circumstances in which an educational institution becomes or ceases to be an institution concerned with the provision of further education.

Provision about—

- (a) the conduct and functions of such institutions and bodies that conduct such institutions;
- (b) the property, rights and liabilities of such institutions and bodies that conduct such institutions;
- (c) property held by any person for the purposes of such an institution;
- (d) the governance and staff of such institutions.

*Matter 5.13*

Provision for and in connection with securing collaboration—

- (a) between bodies that conduct institutions concerned with the provision of further education, or
- (b) between one or more such bodies and other persons or bodies that have functions relating to education or training in Wales,

including, in particular, provision for and in connection with the establishment of bodies for the purpose of discharging functions on behalf of one or more persons or bodies that are party to arrangements for collaboration.

*Matter 5.14*

*Status: Point in time view as at 23/01/2020.*

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The provision of financial resources for and in connection with—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;
- (c) the carrying out of research relating to education or training falling within paragraph (a) or (b).

*Matter 5.15*

The inspection of—

- (za) [<sup>F264</sup>schools;
- (zb) relevant independent educational institutions;]
- (a) education or training provided by institutions concerned with the provision of further education;
- (b) [<sup>F265</sup>pre-16 education or training, or post-16 education or training, provided otherwise than by institutions within paragraphs (za) to (a);]
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.

*Matter 5.16*

The provision of advice and information in connection with, and the carrying out of studies in relation to

- (a) [<sup>F266</sup>pre-16 education or training;
- (b) post-16 education or training;
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.]]

[<sup>F267</sup>*Matter 5.17*

<sup>F268</sup> ..... ]

[<sup>F269</sup>*Matter 5.18*

The provision of any of the following for children or young persons—

- (a) facilities for social or physical training;
- (b) educational activities.

In this matter “children” and “young persons” have the same meaning as in field 15. ]

*Interpretation of this field*

Expressions used in this field and in the Education Act 1996 have the same meaning in this field as in that Act.]

[<sup>F270</sup>In this field—

[<sup>F271</sup>“nursery education” means education suitable for children who have not attained compulsory school age; ]

“post-16 education” means—

- (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age, and
- (b) organised leisure-time occupation connected with such education;

“post-16 training” means—

- (a) training suitable to the requirements of persons who are above compulsory school age, and
- (b) organised leisure-time occupation connected with such training.

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[<sup>F272</sup>“pre-16 education or training” means education or training suitable to the requirements of persons who are of or below compulsory school age;

“relevant independent educational institution” means an institution other than a school which—

(a) provides part-time education for one or more persons of compulsory school age (“part-time students”) whether or not it also provides full-time education for any person, and

(b) would be an independent school but for the fact that the education provided for the part-time student or students is part-time rather than full-time.

For the purposes of the above definition of “relevant independent educational institution”, an institution provides “part-time” education for a person if—

(a) it provides education for the person, and

(b) the education does not amount to full-time education.]

References in this field to an institution concerned with the provision of further education are references to an educational institution, other than a school or an institution within the higher education sector (within the meaning of the Further and Higher Education Act 1992), that is conducted (whether or not exclusively) for the purpose of providing further education.]

*Field 6: environment*

[<sup>F273</sup>*Matter 6.1*

Preventing, reducing, collecting, managing, treating or disposing of waste.

This matter does not include—

(a) regulation of any activity in the sea;

(b) regulation of the provision of postal services by a person who holds, or is required to hold, a licence from the Postal Services Commission authorising the person to convey letters from one place to another (whether or not the licence relates to the services).

See below for further provision about what this matter does not include.

*Matter 6.2*

Disposal of waste in the sea where the waste has been collected, managed or treated on land.

This matter does not include regulation of the following activities—

(a) depositing any substance or object in the sea or on or under the seabed from any vehicle, vessel, aircraft, marine structure or floating container;

(b) depositing any explosive substance or article in the sea or on or under the seabed;

(c) incinerating any substance or object on any vehicle, vessel, marine structure or floating container.

See below for further provision about what this matter does not include.

*Matter 6.3*

Protecting or improving the environment in relation to pollution.

This matter does not include—

(a) regulating the composition and content of fuel used in—

(i) a means of transport,

(ii) non-road mobile machinery, or

(iii) an agricultural or forestry tractor;

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- (b) obligations upon persons who supply transport fuel at or for delivery to places in the United Kingdom to produce evidence showing the supply of renewable transport fuel;
- (c) making provision regarding the proportion of renewable energy consumed in transport, including the imposition of requirements relating to sustainability that determine whether any particular renewable energy is to be counted towards any renewable energy obligation or target;
- (d) provision of financial support in connection with—
  - (i) the production of renewable energy for consumption in transport, or
  - (ii) the use of that energy in transport,
 including the imposition of requirements relating to sustainability that determine whether any particular renewable energy qualifies for financial support.
- (e) regulation of oil and gas exploration and exploitation in those parts of the territorial sea that are not relevant territorial waters.

See below for further provision about what this matter does not include.

#### *Matter 6.4*

Protecting or improving the environment in relation to nuisances.

This matter does not include—

- (a) imposition of criminal or civil liability in respect of energy nuisances that consist of acts, omissions and states of affairs for which there is statutory authority, except criminal or civil liability which the Welsh Ministers have power to impose;
- (b) removal of relevant defences to, or relevant exclusions from, rules of law which impose civil or criminal liability in respect of energy nuisances, except those defences and exceptions which the Welsh Ministers have power to remove;
- (c) regulation of the emission of smoke, artificial light or noise from military premises;
- (d) regulation of gas activities, oil activities, and infrastructure that is necessary for carrying out any such activities;
- (e) regulation of oil and gas exploration and exploitation in the sea;
- (f) regulation of electronic communications and electronic communications networks.

See below for further provision about what this matter does not include.

#### *Not included in matters 6.1, 6.2, 6.3 and 6.4*

Matters 6.1, 6.2, 6.3 and 6.4 do not include any of the following—

- (a) regulation concerning the control of major accident hazards involving dangerous substances (this exception is to be interpreted in accordance with Council Directive 96/82/ EC<sup>F274</sup> and it relates only to activity within the scope of that Directive);
- (b) regulation of the decommissioning of offshore energy installations and related infrastructure.

#### *Not included in matters 6.1 and 6.2*

Matters 6.1 and 6.2 do not include any of the following—

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- (a) regulation of decommissioned explosives that are outside the scope of the Waste Directive by virtue of [<sup>F275</sup>Article 2(1)(b)(v)] [<sup>F275</sup>Article 2(1)(e)] of the Waste Directive and are or have been—
  - (i) held on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or
  - (ii) held by or for the purposes of visiting forces;
- (b) regulation of radioactive material that is at military premises;
- (c) regulation of the capture, conveyance or disposal of carbon dioxide as part of relevant carbon capture and storage.

*Not included in matters 6.3 and 6.4*

Matters 6.3 and 6.4 do not include any of the following—

- (a) regulation of the contained use of genetically modified organisms;
- (b) regulation of the following activities in the sea—
  - (i) depositing any substance or object in the sea or on or under the seabed from any vehicle, vessel, aircraft, marine structure or floating container, or any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
  - (ii) scuttling any vessel or floating container;
  - (iii) constructing, altering or improving works in or over the sea or on or under the seabed;
  - (iv) using any vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed;
  - (v) dredging;
  - (vi) depositing or using any explosive substance or article in the sea or on or under the seabed;
  - (vii) incinerating any substance or object on any vehicle, vessel, marine structure or floating container;
- (c) marine licensing under Part 4 of the Marine and Coastal Access Act 2009<sup>F276</sup>.

*Meaning of “pollution”*

In this field “pollution” means pollution of the air, water or land which may give rise to any environmental harm, including (but not limited to) pollution caused by light, noise, heat or vibrations or any other kind of release of energy.

For the purposes of this definition “air” includes (but is not limited to) air within buildings and air within other natural or man-made structures above or below ground.

*Meaning of “nuisance”*

In this field “nuisance” means an act or omission affecting any place, or a state of affairs in any place, which may impair, or interfere with, the amenity of the environment or any legitimate use of the environment, apart from an act, omission or state of affairs that constitutes pollution. *Meaning of “relevant defence” and “relevant exclusion”*

In matter 6.4, in relation to a rule of law which imposes civil or criminal liability in respect of an energy nuisance (“the unlawful nuisance”)—“relevant defence” means statutory removal (however expressed, and whether conditional or not) of the civil or criminal liability in respect of an act, omission or state of affairs that is within the scope of the unlawful nuisance; “relevant exclusion” means statutory exclusion (however expressed, and whether conditional or not) of an act, omission or state of affairs from the scope of the unlawful nuisance.

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In those definitions, a reference to the scope of the unlawful nuisance is a reference to the class of acts, omissions and states of affairs that constitutes the unlawful nuisance.

*Other interpretation of this field*

In this field— “electricity activity” means any of the following—

- (a) generating electricity at a generating station whose construction, extension or operation requires—
  - (i) the consent of the Secretary of State, or
  - (ii) the authority of an order granting development consent under the Planning Act 2008 <sup>F277</sup> ;
- (b) transmitting, distributing or supplying electricity;

and for this purpose, the reference to consent of the Secretary of State is a reference to consent under powers to regulate generation of electricity; “electronic communication” means a communication transmitted—

- (a) by means of an electronic communications network, or
- (b) by other means but while in an electronic form;

“electronic communications network” means—

- (a) a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of signals of any description, and
- (b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of the signals—
  - (i) apparatus comprised in the system,
  - (ii) apparatus used for the switching or routing of the signals, and
  - (iii) software and stored data;

“energy nuisance” means a nuisance that relates to electricity activities, gas activities, oil activities, or infrastructure that is necessary for carrying out any such activities; “environmental harm” means any of the following—

- (a) harm to the health of humans and other living organisms;
- (b) harm to the quality of the environment, including—
  - (i) harm to the quality of the environment taken as a whole,
  - (ii) harm to the quality of the air, water or land, and
  - (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part;
- (c) offence to the senses of human beings;
- (d) damage to property;
- (e) impairment of, or interference with, the amenity of the environment or any legitimate use of the environment;

“gas activity” means storing, conveying or supplying gas, except any such activity that is carried out by an individual for the domestic purposes of the individual;

“marine structure” means a platform or other artificial structure at sea, other than a pipeline; “military premises” means premises which are—

- (a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or
- (b) occupied by or for the purposes of visiting forces;

“offshore energy installation” means any of the following installations that are maintained in the sea or on the foreshore or other land intermittently covered with

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water, and that are not connected with dry land by a permanent structure providing access at all times and for all purposes—

- (a) installations used for oil activities, gas activities or for the exploration or exploitation of gas or oil;
- (b) carbon dioxide storage installations;
- (c) renewable energy installations;

“oil activity” means storing, conveying or supplying oil, except any such activity that is carried out by an individual for the domestic purposes of the individual; “relevant carbon capture and storage” means the capture and underground disposal of carbon dioxide by a method in which the carbon dioxide is captured at the place of its production and conveyed for disposal by pipeline directly from the place of production to a place of underground disposal; “relevant territorial waters” means the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to Wales is measured; but any order made under section 104(4)(a) of the Water Resources Act 1991 <sup>F278</sup> for the purposes of Part 3 of that Act in relation to an area of the territorial sea adjacent to Wales also applies for the purposes of determining what are relevant territorial waters for the purposes of this field; “sea” means (except where the context otherwise requires) the sea adjacent to Wales out as far as the seaward boundary of the territorial sea; “statutory” means arising by virtue of an Act; “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952; <sup>F279</sup> “Waste Directive” means Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste, as it was originally adopted. <sup>F279</sup> “Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste. ] .

An order or an Order in Council made under or by virtue of section 158(3) or (4) for the purposes of that section also applies for the purpose of determining any boundary between the parts of the sea which are to be treated as adjacent to Wales for the purposes of this field and those which are not.]

*Field 7: fire and rescue services and promotion of fire safety*

*Field 8: food*

*Field 9: health and health services*

<sup>F280</sup> *Matter 9.1*

Provision for and in connection with the provision of redress without recourse to civil proceedings in circumstances in which, under the law of England and Wales, qualifying liability in tort arises in connection with the provision of services (in Wales or elsewhere) as part of the health service in Wales.

<sup>F281</sup> *Matter 9.2*

Assessment of mental health and treatment of mental disorder.

This matter does not include any of the following—

- (a) subjecting patients to—
  - (i) compulsory attendance at any place for the purposes of assessment or treatment,
  - (ii) compulsory supervision, or
  - (iii) guardianship;
- (b) consent to assessment or treatment;
- (c) restraint;
- (d) detention.

*Status: Point in time view as at 23/01/2020.*

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For the purposes of this matter, “treatment of mental disorder” means treatment to alleviate, or prevent a worsening of, a mental disorder or one or more of its symptoms or manifestations; and it includes (but is not limited to) nursing, psychological intervention, habilitation, rehabilitation and care. ]

*Interpretation of this field*

In this field—

“the health service in Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006;

“illness” has the same meaning as in that Act;

[<sup>F282</sup>“mental disorder” means any disorder or disability of the mind, apart from dependence on alcohol or drugs;]

“patient” has the same meaning as in that Act;

“personal injury” includes any disease and any impairment of a person's physical or mental health;

“qualifying liability in tort” means liability in tort owed in respect of or consequent upon personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis of illness or the care or treatment of any patient. ]

*Field 10: highways and transport*

[<sup>F283</sup>*Matter 10.1*

Provision for and in connection with—

- (a) the making, operation and enforcement of schemes for imposing charges in respect of the use or keeping of motor vehicles on Welsh trunk roads;
- (b) the application of the proceeds of charges imposed under such schemes towards purposes relating to transport.

<sup>F284</sup>

[<sup>F285</sup>*Matter 10.2*

Concessionary travel on the following services—

- (a) bus services;
- (b) Welsh services provided under a franchise agreement to which the Welsh Ministers are a party.

Any expression which is used in paragraph (b) and the Railways Act 2005 has the meaning given in that Act.]

*Interpretation of this field*

In this field—

“motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;

“road” has the same meaning as in the Road Traffic Regulation Act 1984;

“Welsh trunk road” means a road for which the Welsh Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984). ]

*Field 11: housing*

[<sup>F286</sup>*Matter 11.1*

The provision of automatic fire suppression systems in new residential premises. In this matter “new residential premises” means—



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- (a) premises newly constructed for residential use;
- (b) premises newly converted to residential use;
- (c) premises converted to use as one or more new residences by subdivision of one or more existing residences; and
- (d) premises converted to use as one or more new residences by amalgamation of one or more existing residences.]

*[<sup>F287</sup>Matter 11.2*

Social housing providers.

*Matter 11.3*

Relevant social housing bodies.

*Matter 11.4*

Tenure of rented social housing and other arrangements under which social housing is provided.

*Matter 11.5*

Disposals of—

- (a) social housing,
- (b) land held or used for the purposes of, or in connection with, social housing, and
- (c) land to which a provision of any of the following enactments applies—
  - (i) Part 2 of the Housing Act 1985;
  - (ii) Part 5 of the Housing Act 1985;
  - (iii) Chapter 2 of Part 1 of the Housing Act 1996;
  - (iv) Chapter 4 of Part 1 of the Housing Act 1996;
  - (v) Chapter 4 of Part 2 of the Housing and Regeneration Act 2008

(insofar as the disposal does not fall within paragraph (a) or (b) of this matter).

*Matter 11.6*

Provision of advice and non-financial assistance to individuals in respect of their obtaining, and living in, housing.

This matter includes, in particular, advice and non-financial assistance in respect of skills that are relevant to the ability to live independently, or more independently, in housing.

*Matter 11.7*

Provision by local authorities of caravan sites for use by Gypsies and Travellers.

*Matter 11.8*

Homelessness.

*Interpretation of this field*

In this field—

“caravan site” means—

- (a) land on which a caravan or other mobile accommodation (apart from a tent) is stationed for the purposes of human habitation, and
- (b) land which is used in conjunction with land falling within paragraph (a) of this definition;

“local authority” means a county council or a county borough council in Wales;

“relevant social housing body” means a person (if, or insofar as, it is not a social housing provider) which has functions relating to—

- (a) social housing providers, or
- (b) social housing;

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but such a person is a relevant social housing body only insofar as the person has functions relating to social housing providers or social housing;

“social housing” means any housing provided by a social housing provider;

“social housing provider” means—

- (a) a local authority, and
- (b) a person (other than a local authority) which—
  - (i) provides housing to, or
  - (ii) has functions relating to allocation of housing to,

people whose needs are not adequately served by the commercial housing market;

but a local authority or such other person is a social housing provider only insofar as it provides, or has functions relating to allocation of, housing.]

*Field 12: local government*

<sup>F288</sup> *Matter 12.1*

<sup>F289</sup> . . .

Provision for and in connection with—

- (a) the constitution of new principal areas and the abolition or alteration of existing principal areas, and
- (b) the establishment of councils for new principal areas and the abolition of existing principal councils.

*Matter 12.2*

Provision for and in connection with—

- (a) the procedure for the making and coming into force of byelaws, and
- (b) the enforcement of byelaws.

“Byelaws” means those of a class which may be confirmed by the Welsh Ministers (but the provision which may be made includes provision to remove a requirement of confirmation).

*Matter 12.3*

Any of the following—

- (a) the principles which are to govern the conduct of members of relevant authorities,
- (b) codes of conduct for such members,
- (c) the conferral on any person of functions relating to the promotion or maintenance of high standards of conduct of such members (including the establishment of bodies to have such functions),
- (d) the making or handling of allegations that members (or former members) of relevant authorities have breached standards of conduct, including in particular—
  - (i) the investigation and adjudication of such allegations and reports on the outcome of investigations,
  - (ii) the action that may be taken where breaches are found to have occurred,
- (e) codes of conduct for employees of relevant authorities.

For the purposes of this matter—

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“relevant authority” has the same meaning as in Part 3 of the Local Government Act 2000, except that other than in paragraph (d) it does not include a police authority,

“member” includes a co-opted member within the meaning of that Part.

#### *Matter 12.4*

Provision for and in connection with strategies of county councils and county borough councils for promoting or improving the economic, social or environmental well-being of their areas or contributing to the achievement of sustainable development in the United Kingdom, including provision imposing requirements in connection with such strategies on other persons with functions of a public nature.

#### *Matter 12.5*

Provision for and in connection with—

- (a) the making of arrangements by relevant Welsh authorities to secure improvement in the way in which their functions are exercised,
- (b) the making of arrangements by relevant Welsh authorities for the involvement in the exercise of their functions of people who are likely to be affected by, or interested in, the exercise of the functions, and
- (c) the assessment and inspection of the performance of relevant Welsh authorities in exercising their functions.

The following are “relevant Welsh authorities”—

- (a) a county council, county borough council or community council in Wales,
- (b) a National Park authority for a National Park in Wales,
- (c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (d) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 in respect of which the county council or charging authority referred to in section 74(1)(b) of that Act was a council or authority for an area in Wales,
- (e) a body to which section 75 of that Act applies (special levies) and which as regards the financial year beginning in 1989 had power to levy a rate by reference to property in Wales.]

#### <sup>F290</sup>*Matter 12.6*

This matter does not include—

- (a) direct elections to executives of principal councils, or
- (b) the creation of a form of executive requiring direct elections.

For the purposes of this matter—

- (a) “executive arrangements” has the same meaning as in Part 2 of the Local Government Act 2000;
- (b) <sup>F291</sup> . . . . .
- (c) “direct elections” means elections by local government electors (within the meaning of section 270(1) of the Local Government Act 1972).

Arrangements by principal councils with respect to the discharge of their functions, including executive arrangements.]

#### <sup>F292</sup>*Matter 12.7*

Committees of principal councils with functions of—

- (a) review or scrutiny, or
- (b) making reports or recommendations.

*Status: Point in time view as at 23/01/2020.*

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This matter does not include committees under section 19 of the Police and Justice Act 2006 (crime and disorder committees).

<sup>F293</sup> . . . ]

<sup>F294</sup> *Matter 12.8*

Areas of communities and constitution, structure, and procedures of local government institutions for communities.

*Matter 12.9*

Electoral arrangements for elected local government institutions for communities. In this matter “electoral arrangements” does not include—

- (a) the local government franchise;
- (b) electoral registration and administration;
- (c) the voting system for the return of members in an election.

*Matter 12.10*

Conferral on local government institutions for communities of powers—

- (a) to which this matter applies,
- (b) that are exercisable in relation to their areas, and
- (c) that are powers exercisable by principal councils in relation to principal areas.

This matter applies to powers to do anything which the holder of the power considers likely to promote or improve the economic, social or environmental well-being of an area.

*Matter 12.11*

Grants from the Welsh Ministers to fund local government for communities.

*Matter 12.12*

Relations between different communities (and their local government institutions), or between communities (and their local government institutions) and principal councils.

*Matter 12.13*

Schemes for the accreditation of quality in local government for communities.

*Matter 12.14*

Public participation in local government for communities (apart from elections).

*Matter 12.15*

The provision of information relating to local government to the public. For the purposes of this matter “local government” means—

- (a) local government for communities;
- (b) local government for counties and county boroughs.

*Matter 12.16*

Salaries, allowances, pensions and other payments for members of the following—

- (a) local government institutions for communities;
- (b) county councils and county borough councils;
- (c) National Park authorities;
- (d) fire and rescue authorities constituted by schemes under section 2 of the Fire and Rescue Services Act 2004 or schemes to which section 4 of that Act apply.

*Matter 12.17*

Promoting and supporting membership of the following—

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- (a) local government institutions for communities;
- (b) county councils and county borough councils.

<sup>F295</sup>*Matter 12.18*

Council tax payable in respect of dwellings that are not the main residence of an individual.]

*Interpretation of this field*

In this field— “communities” means separate areas for the administration of local government, each of which is wholly within a principal area (but does not constitute the whole of a principal area); “principal area” means a county borough or a county; “principal council” means a council for a principal area. ]

*Field 13: National Assembly for Wales*

*Matter 13.1*

Creation of, and conferral of functions on, an office or body for and in connection with investigating complaints about the conduct of Assembly members and reporting on the outcome of such investigations to the Assembly.

*Matter 13.2*

Conferral of functions on the Assembly Commission for and in connection with facilitating the exercise by the Assembly of its functions (including the provision to the Assembly of the property, staff and services required for the Assembly's purposes).

*Matter 13.3*

Provision for and in connection with the payment of salaries, allowances, pensions and gratuities to or in respect of Assembly members, the First Minister, any Welsh Minister appointed under section 48, the Counsel General and any Deputy Welsh Minister.

*Matter 13.4*

Provision for and in connection with the creation and maintenance of a register of interests of Assembly members and the Counsel General.

*Matter 13.5*

Provision about the meaning of Welsh words and phrases in—

- (a) Assembly Measures,
- (b) subordinate legislation made under Assembly Measures, and
- (c) subordinate legislation not so made but made by the Welsh Ministers, the First Minister or the Counsel General.

*Matter 13.6*

Provision for and in connection with the procedures for dealing with proposed private Assembly Measures, including, in particular—

- (a) procedures for hearing the promoters of, and objectors, to proposed private Assembly Measures,
- (b) the persons who may represent such promoters and objectors, and the qualifications that such persons must possess,
- (c) the imposition of fees for and in connection with the promotion of proposed private Assembly Measures, and
- (d) the assessment of costs incurred in connection with proposed private Assembly Measures.

*Field 14: public administration*

<sup>F296</sup>*Matter 14.1* The following provision relating to the Auditor General—

- (a) the following aspects of the Auditor General's terms of appointment—

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- (i) the period of the appointment;
- (ii) salary, allowances and superannuation benefits;
- (iii) pensions and gratuities payable after a person has ceased to be Auditor General;
- (b) the number of times a person may be appointed as Auditor General;
- (c) restrictions on the other offices and positions which may be held by the Auditor General;
- (d) activities of a person who has been (but no longer is) Auditor General;
- (e) provision requiring the Auditor General—
  - (i) to aim to do things efficiently and cost-effectively;
  - (ii) to have regard, as the Auditor General considers appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow;
- (f) the authorisation of persons to exercise functions of the Auditor General on the Auditor General's behalf (including during a vacancy in the office);
- (g) the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions;
- (h) the provision or use of resources for the purposes of the Auditor General's functions including (in particular)—
  - (i) the employment and use of staff;
  - (ii) the procurement and use of services;
  - (iii) the holding of documents or information;
  - (iv) the keeping of records;
    - (i) the charging of fees or other amounts in relation to functions of—
      - (i) the Auditor General, or
      - (ii) auditors appointed by the Auditor General under an enactment;
    - (j) the restatement of any law relating to the Auditor General.]

*Field 15: social welfare*

*[<sup>F297</sup>Matter 15.1*

Charges levied by local authorities for social care services provided or secured by them and payments in respect of individuals with needs relating to their well-being so that they, or persons looking after them, may secure social care services to meet those needs.

This matter does not include [<sup>F298</sup> charges and payments for residential care. ]<sup>F299</sup> . . . ]

*[<sup>F300</sup>Matter 15.2*

Functions of public authorities relating to—

- (a) safeguarding children from harm and neglect;
- (b) safeguarding and promoting the well-being of vulnerable children;
- (c) reducing inequalities in well-being between children or young persons.

This matter applies to the functions of public authorities whose principal functions relate to any one or more of the fields in this Part.

*Matter 15.3*

Adoption services and special guardianship support services.

*Matter 15.4*

Fostering.

*Matter 15.5*

*Status: Point in time view as at 23/01/2020.*

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Social care services for any of the following—

- (a) children;
- (b) persons who care for, or who are about to care for, children;
- (c) young persons;
- (d) persons formerly looked after—
  - (i) who have attained the age of 25, and
  - (ii) who, immediately before attaining that age, have been pursuing, or intending to pursue, education or training.

*Matter 15.6*

Co-operation and arrangements to safeguard and promote the well-being of children or young persons.

This matter applies to co-operation by, and arrangements made by, —

- (a) public authorities whose principal functions relate to any one or more of the fields in this part;
- (b) police authorities and chief officers of police for police areas in Wales;
- (c) the British Transport Police Authority;
- (d) local probation boards for areas in Wales;
- (e) the Secretary of State, in relation to the Secretary of State's functions under sections 2 and 3 of the Offender Management Act 2007, or any provider of probation services under arrangements made under section 3(2) of that Act;
- (f) youth offending teams for areas in Wales;
- (g) the governors of prisons, young offender institutions or secure training centres in Wales (or, in the case of contracted out prisons, young offender institutions or secure training centres or contracted out parts of such institutions, their directors);
- (h) persons other than public authorities who are engaged in activities relating to the well-being of children or young persons.

*Matter 15.7*

Planning by local authorities for the discharge of their functions relating to the well-being of children or young persons.

*Matter 15.8*

Continuing, dissolving or creating an office or body concerned with safeguarding and promoting the well-being of children or young persons; the functions of such an office or body, including in particular—

- (a) reviewing the effect on children or young persons of the exercise by any person of functions related to their well-being;
- (b) reviewing and monitoring—
  - (i) advocacy services;
  - (ii) arrangements for dealing with complaints and representations made by, or on behalf of, children or young persons in respect of persons with functions related to their well-being or persons providing them with social care services;
- (c) examining cases of particular children or young persons;
- (d) considering, and making representations about, any matter affecting the well-being of children or young persons.

<sup>F301</sup>*Matter 15.9*

Supporting the provision of care by carers and promoting the well-being of carers.

This matter includes (but is not limited to) social care services to help carers.

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In this matter “carers” means individuals who provide or intend to provide a substantial amount of care on a regular basis for—

- (a) a child with a physical or mental impairment, or
- (b) an individual aged 18 or over,

but it does not include individuals who provide or intend to provide care—

- (a) by virtue of a contract of employment or other contract with any person, or
- (b) as a volunteer for a body (whether or not incorporated)]

<sup>F302</sup>*Matter 15.10*

Social care services connected to mental health.

This matter does not include the independent mental capacity advocacy services established by Part 1 of the Mental Capacity Act 2005.]

*Interpretation of this field*

In this field—

[<sup>F303</sup>“advocacy services” means services providing assistance (by way of representation or otherwise) in connection with the well-being of any person;]

“children” means persons who have not attained the age of 18;

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health;

“local authorities” means the councils of counties or county boroughs in Wales;

“persons formerly looked after” means persons who, at any time before attaining the age of 18—

- (a) have been in the care of a public authority, or
- (b) have been provided with accommodation by a public authority in order to secure their well-being;

“public authorities” means each public authority within the meaning of section 6 of the Human Rights Act 1998, apart from courts or tribunals;

“social care services” means any of the following provided in connection with the well-being of any person: residential or non-residential care services;

[<sup>F304</sup>information,] advice, counselling or advocacy services; financial or any other assistance;

“vulnerable children” means children—

- (a) who are unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of social care services,
- (b) whose health or development is likely to be significantly impaired, or further impaired, without the provision for them of social care services,
- (c) who have a physical or mental impairment,
- (d) who are in the care of a public authority, or
- (e) who are provided with accommodation by a public authority in order to secure their well-being;

“well-being”, in relation to individuals, means well-being so far as relating to any of the following—

- (a) health and emotional well-being;
- (b) protection from harm and neglect;
- (c) education, training and recreation;
- (d) the contribution made by them to society;



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- (e) social and economic well-being;
- (f) securing their rights;

“young persons” means persons who have attained the age of 18 but not the age of 25.]

*Field 16: sport and recreation*

*[<sup>F305</sup>Matter 16.1*

The provision of recreational facilities and activities for children or young persons. In this matter “children” and “young persons” have the same meaning as in field 15.]

*[<sup>F306</sup>Matter 16.2*

The establishment and maintenance of a route (or a number of routes) for the coast to enable the public to make recreational journeys.

This matter does not include—

- (a) enabling the public to make journeys by mechanically propelled vehicles (except permitted journeys by qualifying invalid carriages);
- (b) the creation of new highways (whether under the Highways Act 1980 or otherwise).

*Matter 16.3*

Securing public access to relevant land for the purposes of open-air recreation.

Land is relevant land if it—

- (a) is at the coast,
- (b) can be used for the purposes of open-air recreation in association with land within paragraph (a), or
- (c) can be used for the purposes of open-air recreation in association with a route within matter 16.2.

In this matter the reference to land at the coast is not limited to coastal land within the meaning of section 3 of the Countryside and Rights of Way Act 2000.

*[<sup>F307</sup>Matter 16.4*

The functions of local authorities in the support, improvement and promotion of sport and recreational activities.

This matter does not include licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.]

*Interpretation of this field*

In this field—

“coast” means the coast of Wales adjacent to the sea, including the coast of any island (in the sea) comprised in Wales;

“estuarial waters” means any waters within the limits of transitional waters within the meaning of the Water Framework Directive (that is to say, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy);

“highway” has the same meaning as in the Highways Act 1980;

[<sup>F308</sup>“local authorities” means the councils of counties and county boroughs in Wales;]

“public foot crossing”, in relation to a river, means a bridge over which, or tunnel through which, there is a public right of way, or a public right of access, by virtue of which the public are able to cross the river on foot;

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“qualifying invalid carriage” means an invalid carriage within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970 (use of invalid carriages on highways) which complies with the prescribed requirements within the meaning of that section;

“relevant upstream waters”, in relation to a river, means the waters from the seaward limit of the estuarial waters of the river upstream to the first public foot crossing;

“sea” includes the relevant upstream waters of a river;

and a journey by a qualifying invalid carriage is a permitted journey if the carriage is being used in accordance with the prescribed conditions within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970.]

*Field 17: tourism*

*Field 18: town and country planning*

<sup>F309</sup>*Matter 18.1*

Provision for and in connection with—

- (a) plans of the Welsh Ministers in relation to the development and use of land in Wales, and
- (b) removing requirements for any such plans.

This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008.

*Matter 18.2*

Provision for and in connection with the review by local planning authorities of matters which may be expected to affect—

- (a) the development of the authorities' areas, or
- (b) the planning of the development of the authorities' areas.

*Matter 18.3*

Provision for and in connection with—

- (a) plans of local planning authorities in relation to the development and use of land in their areas, and
- (b) removing requirements for any such plans.

This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008.

*Interpretation of this field*

In this field—

“local planning authority” in relation to an area means—

- (a) a National Park authority, in relation to a National Park in Wales;
- (b) a county council in Wales or a county borough council, in any other case;

“Wales” has the meaning given by Schedule 1 to the Interpretation Act 1978.]

*Field 19: water and flood defence*

*Field 20: Welsh language*

<sup>F310</sup>*Matter 20.1*

Promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality.

This matter does not include the use of the Welsh language in courts.

This matter does not include imposing duties on persons other than the following—

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- (a) public authorities;
- (b) persons providing services to the public under an agreement, or in accordance with arrangements, made with a public authority;
- (c) persons providing services to the public established by an enactment;
- (d) persons established by prerogative instrument—
  - (i) to advance learning and knowledge by teaching or research or by developing or awarding qualifications;
  - (ii) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding;
  - (iii) to support, improve, promote or provide access to heritage, culture, sport or recreational activities;
  - (iv) engaged in promoting a wider knowledge and representing the interests of Wales to other countries;
  - (v) engaged in central banking;
- (e) persons upon whom functions of providing services to the public are conferred or imposed by an enactment;
- (f) persons providing services to the public who receive public money amounting to £400,000 or more in a financial year;
- (g) persons overseeing the regulation of a profession, industry or other similar sphere of activity;
- (h) providers of social housing;
- (i) persons providing the public with the following kinds of services or with other services which relate to any of those services—
  - (i) gas, water or electricity services (including supply or distribution);
  - (ii) sewerage services (including disposal of sewage);
  - (iii) postal services and post offices;
  - (iv) telecommunications services;
  - (v) education, training (where the provider receives public money for its provision), or career guidance, and services to encourage, enable or assist participation in education, training or career guidance;
  - (vi) bus and railway services;
  - (vii) services to develop or award educational or vocational qualifications;
- (j) persons opting or agreeing to be subject to the imposition of the duties.

With regard to imposing duties in relation to paragraph (b), this matter only includes duties in respect of services to the public provided under an agreement, or in accordance with arrangements, made with a public authority.

A person who receives public money amounting to £400,000 or more in a financial year does not fall within paragraph (f) unless—

- (a) that person also received public money in a previous financial year, or
- (b) a decision has been made that that person will receive public money in a subsequent financial year.

With regard to imposing duties in relation to paragraph (i)—

- (a) this matter only includes duties in respect of the services and the other related services mentioned, and
- (b) in respect of the related services, this matter does not include the provision of related services in a shop, other than post office counter services and the sale of tickets or provision of timetables for bus and railway services.

This matter does not include imposing duties about broadcasting.

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This matter does not include imposing duties on a person (other than on a Welsh language authority) unless there is a means for that person to challenge those duties, as they apply to that person, on grounds of reasonableness and proportionality.

*Matter 20.2*

Provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations upon it).

*Interpretation of this field*

In this field— “broadcasting” means the commissioning, production, scheduling, transmission or distribution of programmes (including advertisements, subtitles, continuity announcements and teletext), access services, interactivity, online content and other output of a similar nature for television, radio, the internet or other online or wireless platforms; “bus service” means a scheduled service, by public service vehicle (within the meaning of section 1 of the Public Passenger Vehicles Act 1981), for the carriage of passengers at separate fares, other than a service—

- (a) for which the whole capacity of the vehicle has been purchased by a charterer for the charterer's own use or for resale;
- (b) which is a journey or trip organised privately by any person acting independently of the vehicle operator; or
- (c) on which the passengers travel together on a journey, with or without breaks and whether or not on the same day, from one or more places to one or more places and back;

“enactment” includes any future enactment; “shop” means any premises where the sale of goods is the principal trade or business carried on; “postal services” means the service of conveying letters, parcels, packets or other articles from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such articles; “public authority” means each public authority within the meaning of section 6 of the Human Rights Act 1998; “public money” means—

- (a) moneys made available directly or indirectly by—
  - (i) the National Assembly for Wales;
  - (ii) the Welsh Ministers;
  - (iii) Parliament;
  - (iv) Ministers of the Crown; or
  - (v) an institution of the [F311European Union];
- (b) moneys provided by virtue of any enactment;

“telecommunications service” means any service that consists of providing access to, or facilities for making use of, any system which exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical, magnetic or electromagnetic energy (including the apparatus comprised in the system), but does not include broadcasting, radio, or television; “Welsh language authority” means a person upon whom an enactment confers or imposes functions of—

- (a) imposing or enforcing on other persons duties relating to the Welsh language,
- (b) determining the duties relating to the Welsh language that are imposed on other persons, or
- (c) deciding challenges to the duties relating to the Welsh language that are imposed on other persons.]

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## Textual Amendments

- F254** Sch. 5 Pt. 1 Field 1: Matter 1.1 inserted (9.7.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Agriculture and Rural Development\) Order 2009 \(S.I. 2009/1758\)](#), **art. 2**
- F255** Sch. 5 Pt. 1 Field 2: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\)](#), arts. 1, **2(2)**
- F256** Sch. 5 Pt. 1 Field 3: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\)](#), arts. 1, **2(3)**
- F257** Sch. 5 Pt. 1 Field 5: Matters 5.1-5.10 and "Interpretation of this field" words inserted by [The National Assembly for Wales \(Legislative Competence\) \(Conversion of Framework Powers\) Order 2007 \(S.I. 2007/910\)](#), **art. 3** (with **art. 2**), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see art. 1(2) of the amending Order and s. 161(5) of this Act.
- F258** Words in Sch. 5 Pt. 1 Field 5 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 59(2)**
- F259** Sch. 5 Pt. 1 Field 5: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Education\) Order 2010 \(S.I. 2010/1209\)](#), arts. 1, **2** (with art. 3)
- F260** Sch. 5 Pt. 1: Matter 5.4A inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173(2)(a)
- F261** Sch. 5 Pt. 1 Field 5 Matter 5.10: words substituted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), **art. 2(2)**
- F262** Sch. 5 Pt. 1 Field 5: words in Matter 5.10 omitted (11.12.2008) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), **art. 6(a)**
- F263** Sch. 5 Pt. 1 Field 5: Matters 5.11-5.16 inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 27**, 32(2)
- F264** Words in Sch. 5 Pt. 1 inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F265** Sch. 5 Pt. 1 Field 5: words in Matter 5.16 substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F266** Words in Sch. 5 Pt. 1 substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F267** Sch. 5 Pt. 1 Field 5: Matter 5.17 inserted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), **art. 2(3)**
- F268** Sch. 5 Pt. 1 Field 5: words in Matter 5.17 omitted (11.12.2008) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), **art. 6(b)**
- F269** Sch. 5 Pt. 1 Field 5: Matter 5.18 inserted (11.12.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), **art. 2**
- F270** Sch. 5 Pt. 1 Field 5: words inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 27**, 32(2)
- F271** Sch. 5 Pt. 1 Field 5: definition inserted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), **art. 2(4)**
- F272** Sch. 5 Pt. 1: definition inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F273** Sch. 5 Pt. 1 Field 6: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\)](#), arts. 1(2), **2**
- F274** O.J. No. L10, 14.1.1997, pp. 13-33. The scope of the Directive was extended by Directive 2003/105/EC of the European Parliament and of the Council (O.J. No. L345, 31.12.2003, pp 97-105). There have been other amendments which are not relevant to this Order.
- F275** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), **Sch. 4 para. 7(2)(a)** (with regs. 2, 47(2))
- F276** 2009 c.23.
- F277** 2008 c. 29. See Part 4 for the requirement for development consent.
- F278** 1991 c. 57.

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- F279** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(b)** (with regs. 2, 47(2))
- F280** Sch. 5 Pt. 1 Field 9: Matter 9.1 inserted by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), **art. 3** (with art. 2), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see Government of Wales Act 2006, s. 161(5)
- F281** Sch. 5 Pt. 1 Field 9: Matter 9.2 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **2(2)**
- F282** Sch. 5 Pt. 1 Field 9: definition of "mental disorder" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **2(3)**
- F283** Sch. 5 Pt. 1 Field 10: Matter 10.1 inserted (26.1.2009) by Local Transport Act 2008 (c. 26), **ss. 122, 134(2)**
- F284** Sch. 5 Pt. 1 Field 10: words in Matter 10.1 repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**
- F285** Sch. 5 Pt. 1 Field 10: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (S.I. 2010/1208), arts. 1(2), **2**
- F286** Sch. 5 Pt. 1 Field 11: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010 (S.I. 2010/1210), arts. 1, **2**
- F287** Sch. 5 Pt. 1 Field 11: Matters 11.2-11.8 and "Interpretation of this field" with relevant text inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **2(2)**
- F288** Sch. 5 Pt. 1 Field 12: Matters 12.1-12.5 inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 235, 245(2), Sch. 17 para. 2**
- F289** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(2)**
- F290** Sch. 5 Pt. 1 Field 12: Matter 12.6 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F291** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(3)**
- F292** Sch. 5 Pt. 1 Field 12: Matter 12.7 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F293** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(4)**
- F294** Sch. 5 Pt. 1 Field 12: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(5)**
- F295** Sch. 5 Pt. 1 Field 12: Matter 12.18 inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **3(2)**
- F296** Words in Sch. 5 Pt. 1 inserted (22.5.2011) by Budget Responsibility and National Audit Act 2011 (c. 4), s. 29, **Sch. 6 para. 3**
- F297** Sch. 5 Pt. 1 Field 15: Matter 15.1 inserted (10.7.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2008 (S.I. 2008/1785), **art. 2**
- F298** Sch. 5 Pt. 1 Field 15: words inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(a)**
- F299** Sch. 5 Pt. 1 Field 15: words omitted (11.12.2008) by virtue of The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(a)**
- F300** Sch. 5 Pt. 1 Field 15: Matters 15.2-15.8 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(b)**
- F301** Sch. 5 Pt. 1 Field 15: Matter 15.9 inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F302** Sch. 5 Pt. 1 Field 15: Matter 15.10 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(2)**

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- F303** Sch. 5 Pt. 1 Field 15: definition of "advocacy services" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(3)**
- F304** Sch. 5 Pt. 1 Field 15: word inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F305** Sch. 5 Pt. 1 Field 16: Matter 16.1 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 4**
- F306** Sch. 5 Pt. 1 Field 16: Matters 16.2, 16.3 and Interpretation inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 310, 324(2)(d)** (with s. 308)
- F307** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(a)**
- F308** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(b)**
- F309** Sch. 5 Pt. 1: Matters 18.1-18.3 inserted (26.1.2009) by Planning Act 2008 (c. 29), **ss. 202, 241(6)** (with s. 226)
- F310** Sch. 5 Pt. 1 Field 20: Matter 20.1 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2010 (S.I. 2010/245), arts. 1(2), **3(2)**
- F311** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3-6**
- F312** Sch. 5 Pt. 1: "Exceptions to Matters" repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**

### Textual Amendments

- F254** Sch. 5 Pt. 1 Field 1: Matter 1.1 inserted (9.7.2009) by The National Assembly for Wales (Legislative Competence) (Agriculture and Rural Development) Order 2009 (S.I. 2009/1758), **art. 2**
- F255** Sch. 5 Pt. 1 Field 2: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(2)**
- F256** Sch. 5 Pt. 1 Field 3: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(3)**
- F257** Sch. 5 Pt. 1 Field 5: Matters 5.1-5.10 and "Interpretation of this field" words inserted by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), **art. 3** (with **art. 2**), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see art. 1(2) of the amending Order and s. 161(5) of this Act.
- F258** Words in Sch. 5 Pt. 1 Field 5 substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(2)**
- F259** Sch. 5 Pt. 1 Field 5: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Education) Order 2010 (S.I. 2010/1209), arts. 1, **2** (with **art. 3**)
- F260** Sch. 5 Pt. 1: Matter 5.4A inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173(2)(a)**
- F261** Sch. 5 Pt. 1 Field 5 Matter 5.10: words substituted (10.4.2008) by The National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 (S.I. 2008/1036), **art. 2(2)**
- F262** Sch. 5 Pt. 1 Field 5: words in Matter 5.10 omitted (11.12.2008) by virtue of The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 6(a)**
- F263** Sch. 5 Pt. 1 Field 5: Matters 5.11-5.16 inserted (23.12.2007) by Further Education and Training Act 2007 (c. 25), **ss. 27, 32(2)**
- F264** Words in Sch. 5 Pt. 1 inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**
- F265** Sch. 5 Pt. 1 Field 5: words in Matter 5.16 substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**
- F266** Words in Sch. 5 Pt. 1 substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**

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- F267** Sch. 5 Pt. 1 Field 5: Matter 5.17 inserted (10.4.2008) by The National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 (S.I. 2008/1036), **art. 2(3)**
- F268** Sch. 5 Pt. 1 Field 5: words in Matter 5.17 omitted (11.12.2008) by virtue of The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 6(b)**
- F269** Sch. 5 Pt. 1 Field 5: Matter 5.18 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 2**
- F270** Sch. 5 Pt. 1 Field 5: words inserted (23.12.2007) by Further Education and Training Act 2007 (c. 25), **ss. 27, 32(2)**
- F271** Sch. 5 Pt. 1 Field 5: definition inserted (10.4.2008) by The National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 (S.I. 2008/1036), **art. 2(4)**
- F272** Sch. 5 Pt. 1: definition inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**
- F273** Sch. 5 Pt. 1 Field 6: words inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Environment) Order 2010 (S.I. 2010/248), **arts. 1(2), 2**
- F274** O.J. No. L10, 14.1.1997, pp. 13-33. The scope of the Directive was extended by Directive 2003/105/EC of the European Parliament and of the Council (O.J. No. L345, 31.12.2003, pp 97-105). There have been other amendments which are not relevant to this Order.
- F275** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(a)** (with regs. 2, 47(2))
- F276** 2009 c.23.
- F277** 2008 c. 29. See Part 4 for the requirement for development consent.
- F278** 1991 c. 57.
- F279** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(b)** (with regs. 2, 47(2))
- F280** Sch. 5 Pt. 1 Field 9: Matter 9.1 inserted by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), **art. 3** (with art. 2), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see Government of Wales Act 2006, s. 161(5)
- F281** Sch. 5 Pt. 1 Field 9: Matter 9.2 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), **arts. 1(2), 2(2)**
- F282** Sch. 5 Pt. 1 Field 9: definition of "mental disorder" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), **arts. 1(2), 2(3)**
- F283** Sch. 5 Pt. 1 Field 10: Matter 10.1 inserted (26.1.2009) by Local Transport Act 2008 (c. 26), **ss. 122, 134(2)**
- F284** Sch. 5 Pt. 1 Field 10: words in Matter 10.1 repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**
- F285** Sch. 5 Pt. 1 Field 10: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (S.I. 2010/1208), **arts. 1(2), 2**
- F286** Sch. 5 Pt. 1 Field 11: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010 (S.I. 2010/1210), **arts. 1, 2**
- F287** Sch. 5 Pt. 1 Field 11: Matters 11.2-11.8 and "Interpretation of this field" with relevant text inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), **arts. 1(2), 2(2)**
- F288** Sch. 5 Pt. 1 Field 12: Matters 12.1-12.5 inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 235, 245(2), Sch. 17 para. 2**
- F289** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), **arts. 1, 2(2)**
- F290** Sch. 5 Pt. 1 Field 12: Matter 12.6 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F291** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), **arts. 1, 2(3)**
- F292** Sch. 5 Pt. 1 Field 12: Matter 12.7 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**



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- F293** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(4)**
- F294** Sch. 5 Pt. 1 Field 12: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(5)**
- F295** Sch. 5 Pt. 1 Field 12: Matter 12.18 inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **3(2)**
- F296** Words in Sch. 5 Pt. 1 inserted (22.5.2011) by Budget Responsibility and National Audit Act 2011 (c. 4), s. 29, **Sch. 6 para. 3**
- F297** Sch. 5 Pt. 1 Field 15: Matter 15.1 inserted (10.7.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2008 (S.I. 2008/1785), **art. 2**
- F298** Sch. 5 Pt. 1 Field 15: words inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(a)**
- F299** Sch. 5 Pt. 1 Field 15: words omitted (11.12.2008) by virtue of The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(a)**
- F300** Sch. 5 Pt. 1 Field 15: Matters 15.2-15.8 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(b)**
- F301** Sch. 5 Pt. 1 Field 15: Matter 15.9 inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F302** Sch. 5 Pt. 1 Field 15: Matter 15.10 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(2)**
- F303** Sch. 5 Pt. 1 Field 15: definition of "advocacy services" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(3)**
- F304** Sch. 5 Pt. 1 Field 15: word inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F305** Sch. 5 Pt. 1 Field 16: Matter 16.1 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 4**
- F306** Sch. 5 Pt. 1 Field 16: Matters 16.2, 16.3 and Interpretation inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 310, 324(2)(d)** (with s. 308)
- F307** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(a)**
- F308** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(b)**
- F309** Sch. 5 Pt. 1: Matters 18.1-18.3 inserted (26.1.2009) by Planning Act 2008 (c. 29), **ss. 202, 241(6)** (with s. 226)
- F310** Sch. 5 Pt. 1 Field 20: Matter 20.1 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2010 (S.I. 2010/245), arts. 1(2), **3(2)**
- F311** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3-6**
- F312** Sch. 5 Pt. 1: "Exceptions to Matters" repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**

## PART 2

### [<sup>F313</sup>EXCEPTIONS TO MATTERS AND GENERAL RESTRICTIONS]

#### Textual Amendments

- F313** Sch. 5 Pt. 2: heading substituted (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(8)**

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### *[<sup>F314</sup>Exceptions to matters*

#### **Textual Amendments**

**F314** Sch. 5 Pt. 2: para. A1 and headings preceding/after said para. inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(9\)](#)

[<sup>F315</sup>A1 These are the exceptions mentioned in section 94(4)(a) and (7)—

*[<sup>F316</sup>Culture (field 3 of Part 1)*

- (1) Public lending right.
- (2) Classification of films, and video recordings.]

*[<sup>F317</sup>Economic development (field 4 of Part 1)*

- (1) Generation of electricity at generating stations whose construction, extension or operation requires—

- (a) the consent of the Secretary of State, or
- (b) the authority of an order granting development consent under the Planning Act 2008,

and for this purpose, the reference to consent of the Secretary of State is a reference to consent under powers to regulate generation of electricity.

- (2) Transmitting, distributing or supplying electricity.
- (3) Energy conservation, apart from the encouragement of energy efficiency otherwise than by prohibition or regulation.
- (4) Nuclear energy and nuclear installations, including—
  - (a) nuclear safety, and
  - (b) liability for nuclear occurrences,
 but this paragraph does not include disposal of very low level radioactive waste moved from a site whose use requires a nuclear site licence under the Nuclear Installations Act 1965]

*Highways and transport (field 10 of Part 1)*

- (1) Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.

[ Road freight transport services, including goods vehicles operating licensing.]

<sup>F318</sup>(1A)

- <sup>F319</sup>(2) Regulation of the use of relevant vehicles on roads, the construction and use of relevant vehicles, and conditions under which relevant vehicles may be so used, apart from—

- (a) regulation of use of relevant vehicles carrying animals for the purposes of protecting human, animal, fish or plant health or the environment,<sup>F320</sup> . . .
- (b) regulation relating to matter 10.1<sup>F321</sup>, and
- (c) regulation of the description of vehicle which may be used pursuant to learner transport arrangements (including description by reference to a vehicle's construction or equipment), but not including the setting of

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technical standards for construction or equipment which differ from the standards that would or might otherwise apply to that vehicle.]

For the purpose of this paragraph, “ relevant vehicles ” means motor vehicles, mobile machinery and agricultural and forestry tractors. ]

- (3) Road traffic offences.
- (4) Driver licensing.
- (5) Driving instruction.
- (6) Insurance of motor vehicles.
- (7) Drivers' hours.
- (8) Traffic regulation on special roads (apart from regulation relating to matter 10.1).
- (9) Pedestrian crossings.
- (10) Traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000 for purposes relating to matter 10.1).
- (11) Speed limits.
- (12) Public service vehicle operator licensing.
- (13) Provision and regulation of railway services, apart from financial assistance which—
  - (a) does not relate to the carriage of goods,
  - (b) is not made in connection with a railway administration order, and
  - (c) is not made in connection with [<sup>F322</sup>Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road].
- (14) Transport security[<sup>F323</sup> (apart from regulation relating to the carriage of supervising adults on vehicles used pursuant to learner transport arrangements)]  
[ Aviation, air transport, airports and aerodromes, apart from—  
<sup>F324</sup>(14A) (a) financial assistance to providers or proposed providers of air transport services or airport facilities or services,  
(b) strategies by the Welsh Ministers or local or other public authorities about provision of air services, and  
(c) regulation of the use of aircraft carrying animals for the purpose of protecting—
  - (i) human health, apart from the health of persons in aircraft,
  - (ii) animal, fish or plant health, or
  - (iii) the environment.]
- [<sup>F325</sup>(15) Shipping, apart from—
  - (a) financial assistance for shipping services to, from or within Wales, and
  - (b) regulation of the use of vessels carrying animals for the purposes of protecting—
    - (i) human health, apart from the health of persons on vessels,
    - (ii) animal, fish or plant health, or
    - (iii) the environment.]

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- (16) Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.
- (17) Technical and safety standards of vessels.
- [<sup>F326</sup>(18) Harbours, docks, piers and boatslips, apart from—
- (a) those used or required wholly or mainly for the fishing industry, for recreation, or for communications between places in Wales (or for two or more of those purposes), and
  - (b) regulation for the purposes of protecting human, animal, fish or plant health or the environment.
- (19) Carriage of dangerous goods, including transport of radioactive material.]
- [<sup>F327</sup> In paragraphs (2) and (14) “ learner transport arrangements ” means arrangements of the kind described in matter 5.10 which consist of the provision of motor vehicles and are made by—
- (a) public authorities (within the meaning of field 15) exercising functions relating to education or training, or
  - (b) institutions or other bodies concerned with the provision of education or training.]

*Social welfare (field 15 of Part 1)*

(1) Child support.

(2) Child trust funds, apart from subscriptions to such funds by—

    - (a) a county council or county borough council in Wales, or
    - (b) the Welsh Ministers.

(3) Tax credits.

(4) Child benefit and guardian's allowance.

(5) Social security.

(6) Independent living funds.

(7) Motability.

(8) Vaccine damage payments.

(9) Intercountry adoption, apart from adoption agencies and their functions, and functions of the “Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

(10) The Children's Commissioner established under the Children Act 2004.

(11) Family law and proceedings apart from—

    - (a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and
    - (b) Welsh family proceedings officers.

(12) Welfare foods.

[<sup>F328</sup>*Sport and recreation (field 16 of Part 1)*

    - (1) Betting, gaming and lotteries.]

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*[<sup>F329</sup>Water and flood defence (field 19 of Part 1)*

- (1) Appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales.
- (2) Licensing and regulation of any licensed water supplier within the meaning of the Water Industry Act 1991, apart from regulation in relation to licensed activities using the supply system of a water undertaker whose area is wholly or mainly in Wales.]]

**Textual Amendments**

- F315** Sch. 5 Pt. 2 para. A1 and headings preceding/after said para. inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\), art. 2\(9\)](#)
- F316** Sch. 5 Pt. 2 para. A1: heading and following text inserted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\), arts. 1, 3\(2\)](#)
- F317** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(2\)](#)
- F318** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(a\)](#)
- F319** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(b\)](#)
- F320** Word in Sch. 5 Pt. 2 para. A1(2) omitted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(2\)\(a\)](#)
- F321** Sch. 5 Pt. 2 para. A1(2)(c) and word inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(2\)\(b\)](#)
- F322** Words in Sch. 5 Pt. 2 para. A1(13)(c) substituted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 4\(2\)](#)
- F323** Words in Sch. 5 Pt. 2 para. A1(14) inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(3\)](#)
- F324** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(c\)](#)
- F325** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(d\)](#)
- F326** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(e\)](#)
- F327** Words in Sch. 5 Pt. 2 para. A1(19) inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(4\)](#)
- F328** Sch. 5 Pt. 2 para. A1: heading and following text inserted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\), arts. 1, 3\(3\)](#)
- F329** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(4\)](#)

***General restrictions]***

*Functions of Ministers of the Crown*

- 1 (1) A provision of an Assembly Measure cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown.
- (2) A provision of an Assembly Measure cannot confer or impose, or confer power by subordinate legislation to confer or impose, any function on a Minister of the Crown.

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### *Criminal offences*

- 2 (1) A provision of an Assembly Measure cannot create, or confer power by subordinate legislation to create, any criminal offence punishable—
- (a) on summary conviction, with imprisonment for a period exceeding the prescribed term or with a fine exceeding the amount specified as level 5 on the standard scale, or
  - (b) on conviction on indictment, with a period of imprisonment exceeding two years.
- (2) In sub-paragraph (1) “the prescribed term” means—
- (a) where the offence is a summary offence, 51 weeks, and
  - (b) where the offence is triable either way, twelve months.

### *[<sup>F330</sup>Police areas*

#### **Textual Amendments**

**F330** Sch. 5 Pt. 2 para. 2A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), ss. 235, 245(2), [Sch. 17 para. 3](#)

[<sup>F331</sup>2A A provision of an Assembly Measure cannot make any alteration in police areas.]

#### **Textual Amendments**

**F331** Sch. 5 Pt. 2 para. 2A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), ss. 235, 245(2), [Sch. 17 para. 3](#)

### *Enactments other than this Act*

- 3 [<sup>F332</sup>(1)] A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the Table below—

TABLE

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972 (c. 68)	The whole Act
Data Protection Act 1998 (c. 29)	The whole Act
Government of Wales Act 1998 (c. 38)	Sections 144(7), 145, 145A and 146A(1)
Human Rights Act 1998 (c. 42)	The whole Act
Civil Contingencies Act 2004 (c. 36)	The whole Act
Re-Use of Public Sector Information Regulations 2005 (S.I. 2005/1505)	The whole set of Regulations

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- [<sup>F333</sup>(2) Sub-paragraph (1), so far as it applies in relation to sections 145, 145A and 146A(1) of the Government of Wales Act 1998, does not apply to a provision to which sub-paragraph (3) applies.
- (3) This sub-paragraph applies to a provision of an Assembly Measure which—
- (a) is a provision relating to matter 14.1,
  - (b) provides for the enforcement of a provision relating to matter 14.1 or is otherwise appropriate for making such a provision effective, or
  - (c) is otherwise incidental to, or consequential on, such a provision.]

#### Textual Amendments

**F332** Sch. 5 para. 3(1): Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 6 para. 4(2)(a)**

**F333** Sch. 5 para. 3(2), (3) inserted (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 6 para. 4(2)(b)**

- 4 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.
- 5 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any functions of the Comptroller and Auditor General [<sup>F334</sup>or the National Audit Office].

#### Textual Amendments

**F334** Words in Sch. 5 para. 5 inserted (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 5 para. 27(1)**; S.I. 2011/2576, art. 5

#### *This Act*

- 6 (1) A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- [<sup>F335</sup>(2) Sub-paragraph (1) does not apply to—
- (a) sections 20, 22, 24, 35(1), 36(1) to (5) and (7) to (11), 53, 54, 78 and 156(2) to (5); or
  - (b) paragraph 8(3) of Schedule 2.]
- (3) Sub-paragraph (1) does not apply to any provision—
- (a) making modifications of so much of any enactment as is modified by this Act, or
  - (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Assembly Measure.
- [<sup>F336</sup>(4) Sub-paragraph (1) does not apply in relation to any provision to which paragraph 3(3) applies.

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- (5) But, subject to sub-paragraph (6), a provision to which paragraph 3(3) applies cannot modify, or confer power by subordinate legislation to modify, paragraph 3 of Schedule 8.
- (6) Sub-paragraph (5) does not prevent the conferral of functions on a committee of the Assembly that—
- (a) does not consist of or include any of the following persons—
    - (i) the First Minister or any person designated to exercise functions of the First Minister,
    - (ii) a Welsh Minister appointed under section 48,
    - (iii) the Counsel General or any person designated to exercise the functions of the Counsel General, or
    - (iv) a Deputy Welsh Minister, and
  - (b) is not chaired by an Assembly member who is a member of a political group with an executive role.]

#### Textual Amendments

**F335** Sch. 5 Pt. 2 para. 6(2) substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **4(2)**

**F336** Sch. 5 para. 6(4)-(6) inserted (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, [Sch. 6 para. 4\(3\)](#)

### PART 3

#### [<sup>F337</sup>EXCEPTIONS FROM GENERAL RESTRICTIONS IN PART 2]

#### Textual Amendments

**F337** Sch. 5 Pt. 3: heading substituted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(10\)](#)

#### [<sup>F338</sup>Interpretation

#### Textual Amendments

**F338** Sch. 5 Pt. 3 para. 6Z and cross-heading inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(11\)](#)

6Z In this Part “ general restrictions in Part 2 ” means paragraphs 1 to 6 of Part 2. ]

#### Textual Amendments

**F338** Sch. 5 Pt. 3 para. 6Z and cross-heading inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(11\)](#)



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### *Functions of Ministers of the Crown*

7 <sup>F339</sup>(1) <sup>F340</sup>[The general restrictions in Part 2 do not] prevent a provision of an Assembly Measure removing or modifying, or conferring power by subordinate legislation to remove or modify, any function of a Minister of the Crown if the Secretary of State consents to the provision.

<sup>F341</sup>(2) Part 2 does not prevent a provision of an Assembly Measure relating to matter 20.1 or 20.2 of Part 1, conferring or imposing, or conferring power by subordinate legislation to confer or impose, any function on a Minister of the Crown if the Secretary of State consents to the provision, but functions so conferred or imposed may not be made enforceable against Ministers of the Crown by means of criminal offences.]

#### **Textual Amendments**

**F339** Sch. 5 Pt. 3 para. 7 renumbered as para. 7(1) (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **5(2)**

**F340** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(12)**

**F341** Sch. 5 Pt. 3 para. 7(2) inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **5(2)**

### *<sup>F342</sup>Police areas*

#### **Textual Amendments**

**F342** Sch. 5 Pt. 3 para. 7A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), ss. 235, 245(2), **Sch. 17 para. 4**

7A Part 2 does not prevent a provision of an Assembly Measure making an alteration to the boundary of a police area in Wales if the Secretary of State consents to the provision.]

### *<sup>F343</sup>Comptroller and Auditor General and National Audit Office]*

#### **Textual Amendments**

**F343** Sch. 5 para. 8 heading substituted (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 5 para. 27(2)**; S.I. 2011/2576, art. 5

Text here

8 <sup>F344</sup>[The general restrictions in Part 2 do not] prevent a provision of an Assembly Measure modifying, or conferring power by subordinate legislation to modify, any enactment relating to the Comptroller and Auditor General<sup>F345</sup> or the National Audit Office] if the Secretary of State consents to the provision.

#### **Textual Amendments**

**F344** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(12)**

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**F345** Words in Sch. 5 para. 8 inserted (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, [Sch. 5 para. 27\(1\)](#); S.I. 2011/2576, art. 5

### *Restatement*

- 9 Part 2 does not prevent a provision of an Assembly Measure—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
  - (b) repealing or revoking any spent enactment,
- or conferring power by subordinate legislation to do so.

### *Subordinate legislation*

- 10 <sup>[F346]</sup>The general restrictions in Part 2 do not] prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised,
  - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject, and
  - (c) applying any enactment comprised in or made under an Assembly Measure relating to the documents by which such powers may be exercised.

#### **Textual Amendments**

**F346** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(12\)](#)

<sup>[F347]</sup>*Data Protection Act 1998*

#### **Textual Amendments**

**F347** Sch. 5 para. 11 and cross-heading inserted by [The National Assembly for Wales \(Legislative Competence\) \(Conversion of Framework Powers\) Order 2007 \(S.I. 2007/910\)](#), [art. 4](#) (with [art. 2](#)), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [art. 2\(1\)](#) of the amending Order and [s. 161\(5\)](#) of this Act

- 11 Part 2 does not prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, [section 31\(6\)](#) of the [Data Protection Act 1998](#) so that it applies to complaints under any Assembly Measure relating to [matter 9.1](#) in [Part 1](#).]

*Status: Point in time view as at 23/01/2020.*

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### Textual Amendments

**F347** Sch. 5 para. 11 and cross-heading inserted by [The National Assembly for Wales \(Legislative Competence\) \(Conversion of Framework Powers\) Order 2007 \(S.I. 2007/910\)](#), **art. 4** (with **art. 2**), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see **art. 2(1)** of the amending Order and **s. 161(5)** of this Act

## <sup>F348</sup>SCHEDULE 6

### Textual Amendments

**F348** Sch. 6 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **s. 71(4)**, **Sch. 6 para. 13** (with **Sch. 7 paras. 1, 6**); [S.I. 2017/1179](#), **reg. 3(q)**

## <sup>F349</sup>SCHEDULE 7

Section 108

### Textual Amendments

**F349** Schs. 7A, 7B substituted for Sch. 7 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **s. 71(3)**, **Sch. 1** (with **Sch. 7 paras. 1, 2, 6**); [S.I. 2017/1179](#), **reg. 2**

## [<sup>F349</sup>SCHEDULE 7A

Section 108A

### RESERVED MATTERS

#### PART 1

#### GENERAL RESERVATIONS

##### *The Constitution*

- 1 The following aspects of the constitution are reserved matters—
  - (a) the Crown, including succession to the Crown and a regency;
  - (b) the union of the nations of Wales and England;
  - (c) the Parliament of the United Kingdom.
- 2 (1) Paragraph 1 does not reserve—

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- (a) Her Majesty's executive functions,
  - (b) functions exercisable by any person acting on behalf of the Crown, or
  - (c) the use of the Welsh Seal.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate.
- (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
- (4) In this paragraph ““executive function”” does not include a function conferred or imposed by or by virtue of any legislation or the prerogative.
- 3 (1) Paragraph 1 does not reserve property belonging—
- (a) to Her Majesty in right of the Crown,
  - (b) to Her Majesty in right of the Duchy of Lancaster, or
  - (c) to the Duchy of Cornwall.
- (2) Paragraph 1 does not reserve property belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.
- (3) Sub-paragraphs (1) and (2) do not affect the reservation by paragraph 1 of—
- (a) the hereditary revenues of the Crown,
  - (b) the royal arms and standard, or
  - (c) the compulsory acquisition of property—
    - (i) belonging to Her Majesty in right of the Crown;
    - (ii) belonging to Her Majesty in right of the Duchy of Lancaster;
    - (iii) belonging to the Duchy of Cornwall;
    - (iv) held or used by a Minister of the Crown or government department.
- 4 (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.

*Public service*

- 5 The Civil Service of the State is a reserved matter.

*Political parties*

- 6 The following are reserved matters—
- (a) the registration of political parties;
  - (b) funding of political parties and of their members and officers;
  - (c) accounting requirements in relation to political parties;
- but this is subject to paragraph 7.
- 7 Paragraph 6 does not reserve making payments to any political party for the purpose of assisting members of the Assembly who are connected with the party to perform their Assembly duties.

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### *Single legal jurisdiction of England and Wales*

- 8 (1) The following are reserved matters—
- (a) courts (including, in particular, their creation and jurisdiction);
  - (b) judges (including, in particular, their appointment and remuneration);
  - (c) civil or criminal proceedings (including, in particular, bail, costs, custody pending trial, disclosure, enforcement of orders of courts, evidence, sentencing, limitation of actions, procedure, prosecutors and remedies);
  - (d) pardons for criminal offences;
  - (e) private international law;
  - (f) judicial review of administrative action.
- (See also paragraphs 3 and 4 of Schedule 7B (restrictions on modifying private law and criminal law).)
- (2) The reference to prosecutors in sub-paragraph (1)(c) does not prevent an Act of the Assembly from making provision about responsibility for the prosecution of devolved offences.
- (3) Sub-paragraph (1) does not reserve—
- (a) welfare advice to courts in respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question;
  - (b) representation in respect of such proceedings;
  - (c) the provision of support (including information and advice), to children ordinarily resident in Wales and their families, in respect of such proceedings;
  - (d) Welsh family proceedings officers.

### *Tribunals*

- 9 (1) Tribunals, including—
- (a) their membership,
  - (b) the appointment and remuneration of their members,
  - (c) their functions and procedure, and
  - (d) appeals against their decisions,
- are a reserved matter.
- (2) But this paragraph does not apply to a tribunal (a “devolved tribunal”) all of whose functions are functions that—
- (a) are exercisable only in relation to Wales, and
  - (b) do not relate to reserved matters.
- (3) In the case of a tribunal which has functions that do not relate to reserved matters, sub-paragraph (1) does not reserve any function of deciding an appeal or application which—
- (a) relates to a matter that is not a reserved matter, and
  - (b) is not an appeal against the decision of a tribunal (other than a devolved tribunal),
- but it does reserve the tribunal's procedure in relation to that function.
- (4) In determining for the purposes of this paragraph whether functions of a tribunal are exercisable only in relation to Wales, no account is taken of any function that—

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- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (5) Where the question whether this paragraph applies to a particular tribunal is relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for deciding the question is the time when the Act is passed.

#### *Foreign affairs etc*

- 10 (1) International relations, regulation of international trade, and international development assistance and co-operation are reserved matters.
- (2) In sub-paragraph (1) “international relations” includes—
- (a) relations with territories outside the United Kingdom;
  - (b) relations with the EU and its institutions;
  - (c) relations with other international organisations.
- (3) But sub-paragraph (1) does not reserve—
- (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under EU law, or
  - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.
- (4) In this paragraph “the Human Rights Convention” means—
- (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and
  - (b) the Protocols to the Convention,
- as they have effect for the time being in relation to the United Kingdom.

#### *Defence*

- 11 The following are reserved matters—
- (a) the defence of the realm;
  - (b) the naval, military or air forces of the Crown, including reserve forces;
  - (c) visiting forces;
  - (d) international headquarters and defence organisations;
  - (e) trading with the enemy and enemy property.

## PART 2

### SPECIFIC RESERVATIONS

#### *Preliminary*

- 12 The matters to which any of the Sections in this Part apply are reserved matters.

*Status: Point in time view as at 23/01/2020.*

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- 13 A Section applies to any matter described or referred to in it when read with any exceptions or interpretation provisions in that Section.
- 14 Any exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading ““Exceptions”” does not affect any other Section).

#### RESERVATIONS

##### *Head A—Financial and Economic Matters*

###### *Section A1A1 Fiscal, economic and monetary policy*

- 15 Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

###### *Exceptions*

Devolved taxes, including their collection and management.

Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates).

###### *Section A2A2 The currency*

- 16 Coinage, legal tender and bank notes.

###### *Section A3A3 Financial services*

- 17 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

###### *Section A4A4 Financial markets*

- 18 Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

###### *Section A5A5 Dormant accounts*

- 19 Distribution of money from dormant bank and building society accounts.

##### *Head B—Home Affairs*

###### *Section B1B1 Elections*

###### *(A) Elections for membership of the House of Commons and the European Parliament*

- 20 Elections for membership of the House of Commons and the European Parliament, including the subject-matter of existing elections Acts so far as they apply, or may be applied, in respect of such membership.

###### *(B) Elections for membership of the Assembly and local government elections in Wales*

- 21 The subject-matter of sections 3(1A) and 13A of this Act (coincidence of Assembly elections and reserved elections).
- 22 The subject-matter of section 37ZA(2) of the Representation of the People Act 1983 (coincidence of local government elections and Assembly elections).
- 23 The combination of—
- (a) polls at elections or referendums that are outside the legislative competence of the Assembly with polls at—

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- (i) elections of Assembly members,
  - (ii) local government elections in Wales, or
  - (iii) referendums held under Part 2 of the Local Government Act 2000 (arrangements in respect of executives etc), and
  - (b) polls at ordinary general elections of Assembly members with polls at ordinary local government elections in Wales.
- 24 Any digital service provided by a Minister of the Crown for the registration of electors.
- 25 The subject-matter of the following provisions of the Political Parties, Elections and Referendums Act 2000 in relation to elections of Assembly members and local government elections in Wales—
- in Part 1 (Electoral Commission)—
- (a) section 1, except in relation to—
    - (i) financing the Commission,
    - (ii) preparation, laying and publication by it of reports about the performance of its functions, and
    - (iii) provision by it of copies of regulations made by it or notice of the alteration or revocation of such regulations;
  - (b) sections 2 to 4 and 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs);
  - (c) sections 12 and 21;
- Parts 2 to 4A (registration of parties, accounting, donations, loans etc);
- section 140A (gifts received by unincorporated associations);
- in Part 10 (miscellaneous and general)—
- (a) section 149, except in relation to the register kept under section 89;
  - (b) sections 155 and 156 except in relation to Parts 5 and 6;
  - (c) sections 157 and 159 to 163.
- 26 The subject-matter of Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) where a limit applies to expenditure in relation to a period determined by reference to both—
- (a) the date of the poll for an election of Assembly members or a local government election in Wales, and
  - (b) the date of the poll at an election for membership of the House of Commons or the European Parliament.
- 27 The subject-matter of sections 145 to 148 and 150 to 154 of the Political Parties, Elections and Referendums Act 2000 (enforcement and offences) as they apply for the purposes of any provision, so far as the subject-matter of the provision is reserved by paragraph 25 or 26.

#### *Interpretation*

““Existing elections Acts”” means—

- (a) the Representation of the People Act 1983,
- (b) the Representation of the People Act 1985,
- (c) the Parliamentary Constituencies Act 1986,
- (d) the Representation of the People Act 2000,



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- (e) the Political Parties, Elections and Referendums Act 2000,
- (f) the European Parliamentary Elections Act 2002,
- (g) the Electoral Administration Act 2006, and
- (h) the Electoral Registration and Administration Act 2013.

““Local government elections in Wales”” includes mayoral elections in Wales.

Section B2B2 *Nationality and immigration*

- 28 Nationality.
- 29 Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens.
- 30 Free movement of persons within the European Economic Area.
- 31 Travel documents.

Section B3B3 *National security and official secrets*

- 32 National security.
- 33 Special powers, and other special provisions, for dealing with terrorism.
- 34 The subject-matter of the Official Secrets Acts 1911 to 1989.

Section B4B4 *Interception of communications, communications data and surveillance*

- 35 Interception of communications.
- 36 Communications data.
- 37 Covert surveillance by persons exercising public functions.
- 38 Use of surveillance systems.

*Interpretation*

““Covert surveillance”” includes the use of covert human intelligence sources.

Section B5B5 *Crime, public order and policing*

- 39 The prevention, detection and investigation of crime.
- 40 The maintenance of public order.
- 41 Policing.
- 42 Police and crime commissioners.

*Exception*

Powers of entry, search and seizure relating to the detection or investigation of an offence of a kind provision for the creation of which is within the Assembly's legislative competence.

Section B6B6 *Anti-social behaviour*

- 43 The subject-matter of Parts 1 to 4 and 6 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 44 Dangerous dogs and dogs dangerously out of control.

Section B7B7 *Modern Slavery*

- 45 The subject-matter of the Modern Slavery Act 2015.

Section B8B8 *Prostitution*

- 46 Prostitution.

Section B9B9 *Emergency powers*

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47 Emergency powers.

Section B10*B10 Extradition*

48 Extradition.

Section B11*B11 Rehabilitation of offenders*

49 The subject-matter of the Rehabilitation of Offenders Act 1974.

Section B12*B12 Criminal records*

50 Criminal records, including disclosure and barring.

Section B13*B13 Dangerous items*

51 The subject-matter of the Firearms Acts 1968 to 1997.

52 The subject-matter of the Poisons Act 1972.

53 Knives.

#### *Interpretation*

““Knives”” includes—

- (a) knife blades and razor blades;
- (b) axes;
- (c) swords.

Section B14*B14 Misuse of and dealing in drugs or psychoactive substances*

54 Misuse of and dealing in drugs or psychoactive substances.

#### *Interpretation*

““Psychoactive substances”” has the meaning given in section 2 of the Psychoactive Substances Act 2015.

Section B15*B15 Private security*

55 Private security.

Section B16*B16 Entertainment and late night refreshment.*

56 Classification of films and video recordings (including video games).

57 Licensing of—

- (a) the provision of entertainment, and
- (b) late night refreshment.

Section B17*B17 Alcohol*

58 The sale and supply of alcohol.

Section B18*B18 Betting, gaming and lotteries*

59 Betting, gaming and lotteries.

#### *Exception*

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).

Section B19*B19 Hunting*

60 Hunting with dogs.

Section B20*B20 Scientific and educational procedures on live animals*

61 Procedures on live animals for scientific or educational purposes.

Section B21*B21 Lieutenancies*

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62 Lieutenancies.  
Section B22B22 *Charities and fund-raising*

63 Charities.

64 Raising funds for charitable, benevolent or philanthropic purposes.

*Interpretation*

“Funds” includes property other than money.

*Head C—Trade and Industry*

Section C1C1 *Business associations and business names*

65 The creation, operation, regulation and dissolution of types of business association.

66 The regulation of the name under which an individual or business association carries on business.

*Exception*

The creation, operation, regulation and dissolution of particular public bodies, or public bodies of a particular type, established by or under any enactment.

*Interpretation*

“Business association” means any entity, whether or not a legal person, that is not an individual (including a body corporate, partnership or other unincorporated association) and is established for the purpose of carrying on any kind of business, whether or not for profit.

“Business” includes the provision of benefits to the members of an association.

Section C2C2 *Insolvency and winding up*

67 Insolvency.

68 Winding up solvent business associations.

*Interpretation*

“Business association” has the same meaning as in Section C1.

Section C3C3 *Competition*

69 Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

Section C4C4 *Intellectual property*

70 Intellectual property.

*Exception*

Plant varieties and seeds.

Section C5C5 *Import and export control*

71 Prohibition and regulation of imports and exports

*Exceptions*

Prohibition and regulation of movement into and out of Wales of food, plants, animals and related things for the purposes of—

- (a) protecting human, animal or plant health, animal welfare or the environment, or
- (b) observing or implementing obligations under the Common Agricultural Policy.

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Prohibition and regulation of movement into and out of Wales of animal feeding stuffs, fertilisers or pesticides (or things treated by virtue of an enactment as pesticides) for the purposes of protecting human, animal or plant health or the environment.

But prohibition and regulation for the purposes of protecting endangered species of plants and animals is not excepted.

### *Interpretation*

““Food”” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

““Plants”” includes plant parts and derivatives and goods appearing to contain plant parts or derivatives (and the reference to endangered species of plants includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

““Animals”” includes animal parts and derivatives and goods appearing to contain animal parts or derivatives (and the reference to endangered species of animals includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

### Section C6C6 *Consumer protection*

- 72 Regulation of—
- (a) the sale and supply of goods and services to consumers,
  - (b) guarantees in relation to such goods and services,
  - (c) hire-purchase, including the subject-matter of Part 3 of the Hire-Purchase Act 1964 (title to motor vehicles on hire-purchase or conditional sale),
  - (d) trade descriptions,
  - (e) advertising and price indications,
  - (f) auctions and mock auctions of goods and services, and
  - (g) hallmarking and gun barrel proofing.
- 73 Safety of, and liability for, services supplied to consumers.
- 74 The regulation of—
- (a) estate agents,
  - (b) timeshares, and
  - (c) <sup>F350</sup>linked travel arrangements within the meaning of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634) and package holidays.

#### **Textual Amendments**

**F350** Words in Sch. 7A para. 74(c) substituted (1.7.2018) by [The Package Travel and Linked Travel Arrangements Regulations 2018 \(S.I. 2018/634\)](#), regs. 1(3), **38(4)** (with regs. 3, 38(15))

- 75 The regulation of—
- (a) unsolicited goods and services, and
  - (b) trading schemes.
- 76 The subject-matter of Part 8 of the Enterprise Act 2002 (enforcement of certain consumer legislation).

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### *Exceptions*

Food, food products and food contact materials.

Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

### *Interpretation*

““Food”” has the same meaning as in Section C5.

““Food contact materials”” means materials and articles to which Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC applies.

““Food products”” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

### *Section C7C7 Product standards, safety and liability*

- 77 Technical standards and requirements in relation to products in pursuance of an obligation under EU law.
- 78 The national accreditation body and the accreditation of bodies that certify or assess conformity to technical standards in relation to products or environmental management systems.
- 79 Product safety and liability.
- 80 Product labelling.

### *Exceptions*

Food, food products and food contact materials.

Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

### *Interpretation*

““Food”” has the same meaning as in Section C5.

““Food contact materials”” and ““food products”” have the same meaning as in Section C6.

““National accreditation body”” means the body appointed for the purposes of Article 4(1) of Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93.

### *Section C8C8 Weights and measures*

- 81 Units and standards of weight and measurement.
- 82 Regulation of trade so far as involving weighing, measuring and quantities.

### *Section C9C9 Telecommunications and wireless telegraphy*

- 83 Telecommunications and wireless telegraphy (including electromagnetic disturbance).
- 84 Internet services.
- 85 Electronic encryption.

### *Section C10C10 Post*

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86 Postal services, post offices, the original holding company and any Post Office company.

*Exception*

Financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices.

*Interpretation*

““The original holding company”” and ““Post Office company”” have the same meaning as in Part 1 of the Postal Services Act 2011.

Section C11C11 <sup>F351</sup>United Kingdom Research and Innovation and] Research Councils

**Textual Amendments**

**F351** Words in Sch. 7A Section C11 heading inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(2\)](#); S.I. 2018/241, reg. 2(t)

87 <sup>F352</sup>United Kingdom Research and Innovation (“UKRI”), and] Research Councils within the meaning of the Science and Technology Act 1965, and the subject-matter of section 5 of that Act (funding of scientific research) so far as relating to <sup>F353</sup>UKRI and] those Councils.

**Textual Amendments**

**F352** Words in Sch. 7A Section C11 para. 87 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(3\)\(a\)](#); S.I. 2018/241, reg. 2(t)

**F353** Words in Sch. 7A Section C11 para. 87 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(3\)\(b\)](#); S.I. 2018/241, reg. 2(t)

88 The <sup>F354</sup>... subject-matter of section 10 of <sup>F355</sup>the Higher Education Act 2004] (research in arts and humanities) so far as relating to <sup>F356</sup>UKRI].

**Textual Amendments**

**F354** Words in Sch. 7A Section C11 para. 88 omitted (31.10.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(4\)\(a\)](#); S.I. 2018/1054, reg. 2(d)(ix)

**F355** Words in Sch. 7A Section C11 para. 88 substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(4\)\(b\)](#); S.I. 2018/241, reg. 2(t)

**F356** Word in Sch. 7A Section C11 para. 88 substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 12 para. 24\(4\)\(c\)](#); S.I. 2018/241, reg. 2(t)

Section C12C12 *Industrial development*

89 The subject-matter of—

- (a) section 1 of the Industrial Development Act 1982 (assisted areas),
- (b) section 8(5) and (7) of that Act (limits on financial assistance to industry), and
- (c) section 13A of that Act (grants for improvement of electronic communications networks and services etc),

and the Industrial Development Advisory Board.

Section C13C13 *Protection of trading and economic interests*

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- 90 The subject-matter of—
- (a) Part 2 of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and
  - (b) the Protection of Trading Interests Act 1980.
- Section C14C14 *Assistance in connection with exports of goods and services etc*

91 The Export Credits Guarantee Department.  
Section C15C15 *Water and sewerage*

- 92 Appointment and regulation of a water or sewerage undertaker whose area is not wholly or mainly in Wales.
- 93 Licensing and regulation of a water supply or sewerage licensee.

*Exceptions*

Regulation of a water supply licensee in relation to licensed activities that use the supply system of a water undertaker whose area is wholly or mainly in Wales.

Regulation of a sewerage licensee in relation to licensed activities that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.

*Interpretation*

““Sewerage licensee”” and ““water supply licensee”” have the same meaning as in the Water Industry Act 1991.

““Supply system of a water undertaker”” has the meaning given in section 17B of that Act.

““Sewerage system of a sewerage undertaker”” has the meaning given in section 17BA of that Act.

Section C16C16 *Pubs Code Adjudicator and the Pubs Code*

- 94 The subject-matter of Part 4 of the Small Business, Enterprise and Employment Act 2015.

Section C17C17 *Sunday trading*

- 95 Sunday trading.

*Head D—Energy*

Section D1D1 *Electricity*

- 96 Generation, transmission, distribution and supply of electricity.

Section D2D2 *Oil and gas*

- 97 Oil and gas, including—
- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas,
  - (b) pipelines and offshore installations,
  - (c) marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to oil and gas exploration and exploitation,
  - (d) restrictions on navigation, fishing and other activities to ensure safe operation of offshore activities,
  - (e) liquefaction and regasification of gas,
  - (f) the manufacture or production of gas, and
  - (g) the conveyance, shipping and supply of gas.

*Exceptions*

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The granting and regulation of licences to search and bore for and get petroleum that, at the time of the grant of the licence, is within the Welsh onshore area, except for any consideration payable for such licences.

Access to land for the purpose of searching or boring for or getting petroleum under such a licence.

Marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to searching or boring for or getting petroleum under such a licence.

#### *Interpretation*

““Petroleum”” means petroleum within the meaning given by section 1 of the Petroleum Act 1998 in its natural state in strata.

““Welsh onshore area”” means the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

#### *Section D3D3 Coal*

- 98 Coal, including—
- (a) the ownership and exploitation of coal,
  - (b) deep and opencast coal mining,
  - (c) subsidence relating to coal mining, and
  - (d) water discharge from coal mines.

#### *Exception*

Land restoration.

#### *Section D4D4 Nuclear energy*

- 99 Nuclear energy and nuclear installations, including—
- (a) nuclear safety, security and safeguards, and
  - (b) liability for nuclear occurrences.

100 The Office for Nuclear Regulation.

#### *Section D5D5 Heat and cooling*

101 Production, distribution and supply of heat and cooling.

#### *Exceptions*

Heat and cooling networks, but not the regulation of them.

Schemes providing incentives to generate or produce, or to facilitate the generation or production of, heat or cooling from sources of energy other than fossil fuel or nuclear fuel.

#### *Interpretation*

““Heat and cooling network”” means a system or network by which steam, hot water or chilled liquid is distributed from a central source for supplying heat or cooling to various consumers or premises.

#### *Section D6D6 Energy conservation*

102 Energy conservation.

#### *Exception*

The encouragement of energy efficiency otherwise than by prohibition or regulation.



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## *Head E—Transport*

### *Section E1E1 Road transport*

- 103 Road freight transport services in the United Kingdom (including goods vehicles operator licensing).
- 104 Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads.
- 105 Road traffic offences.
- 106 Driver licensing (including training, testing and certification).
- 107 Driving instruction.
- 108 Drivers' hours.
- 109 Traffic regulation on special roads, other than regulation relating to speed limits or traffic signs.
- 110 Exemptions from speed limits.
- 111 The application of traffic signs or pedestrian crossings to vehicles being used for a purpose that gives rise to an exemption from speed limits in Wales.
- 112 International road transport services for passengers or goods.
- 113 Public service vehicle operator licensing.
- 114 Documents relating to vehicles and drivers for the purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.
- 115 Vehicle insurance and vehicle registration.
- 116 The subject-matter of Parts 2 and 3 of the Severn Bridges Act 1992 so far as relating to the second Severn crossing.

### *Exceptions*

The subject-matter of Part 6 of the Traffic Management Act 2004 (civil enforcement of traffic contraventions).

Regulation relating to trunk road charging schemes.

Regulation relating to the descriptions of motor vehicles and trailers that may be used under arrangements for persons to travel to and from the places where they receive education or training, unless the regulation is the setting of technical standards for construction or equipment of motor vehicles or trailers which differ from the standards that would or might otherwise apply to them.

Regulation of the carriage of animals in motor vehicles or trailers for the purposes of protecting human, animal or plant health, animal welfare or the environment.

Licensing of taxis, taxi drivers, private hire vehicles, private hire vehicle drivers and private hire vehicle operators (but not enforcement by means of penalty points).

### *Interpretation*

““Second Severn crossing”” means the bridge referred to as the new bridge in the Severn Bridges Act 1992.

““Trunk road charging schemes”” means schemes for imposing charges in respect of the use or keeping of vehicles on trunk roads in Wales (other than schemes in relation to the second Severn crossing).

### *Section E2E2 Rail transport*

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- 117 Railway services.
- 118 The subject-matter of the Channel Tunnel Act 1987.

#### *Exception*

Financial assistance so far as relating to railway services; but this exception does not apply in relation to—

- (a) financial assistance relating to the carriage of goods,
- (b) financial assistance made in connection with a railway administration order, or
- (c) financial assistance made in connection with Regulation (EC) No. 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road.

#### *Interpretation*

“Railway services” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “railway” given by section 81(2) of that Act).

Section E3E3 *Marine and waterway transport etc*

- 119 Navigational rights and freedoms.
- 120 Shipping and technical and safety standards of vessels that are not ships (whether or not capable of navigation), including the subject-matter of—
- (a) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
  - (b) the Dangerous Vessels Act 1985, and
  - (c) the Merchant Shipping Act 1995.
- 121 Reserved trust ports and harbours not wholly in Wales.
- 122 Pilotage other than devolved pilotage.
- 123 Coastguard services and maritime search and rescue.
- 124 Hovercraft.

#### *Exceptions*

The reference to navigational rights and freedoms does not reserve the regulation of works that may obstruct or endanger navigation apart from works in relation to, or for constructing, reserved trust ports or harbours not wholly in Wales.

The reference to maritime search and rescue does not reserve participation by Welsh fire and rescue authorities in maritime search and rescue responses.

Financial assistance for shipping services to, from or within Wales.

Regulation of the carriage of animals on vessels for the purposes of protecting human, animal or plant health, animal welfare or the environment.

#### *Interpretation*

“Devolved pilotage” means pilotage that —

- (a) relates to a harbour wholly in Wales that is not a reserved trust port, and
- (b) is provided in a pilotage jurisdiction that does not extend beyond Wales.

“Pilotage jurisdiction” means an area in relation to which the duty of a competent harbour authority under section 2(1) of the Pilotage Act 1987 is exercisable.

“Reserved trust port” has the meaning given by section 32 of the Wales Act 2017.

Section E4E4 *Air transport*

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125 Aviation, air transport, airports and aerodromes.

*Exceptions*

Financial assistance to providers or proposed providers of air transport services or airport facilities or services.

Strategies by the Welsh Ministers or local or other public authorities about provision of air services.

Regulation of the carriage of animals on aircraft for the purposes of protecting human, animal or plant health, animal welfare or the environment.

Section E5E5 *Transport security*

126 Transport security.

*Exception*

Regulation of transport security relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training.

Section E6E6 *Other matters*

127 Technical specifications for public passenger transport for disabled persons, including the subject-matter of—

- (a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State's guidance and consultation with the Disabled Persons Transport Advisory Committee), and
- (b) Part 12 of the Equality Act 2010 (disabled persons: transport).

128 Technical specifications for fuel or other energy sources or processes for use in road, rail, marine, waterway or air transport.

129 Carriage of dangerous goods (including transport of radioactive material).

*Interpretation*

““Radioactive material”” means any material having a specific activity in excess of—

- (a) 0.1 kilobecquerels per kilogram, or
- (b) such other specific activity (not exceeding 70 kilobecquerels per kilogram) as may be specified in regulations made by the Secretary of State.

*Head F—Social Security, Child Support, Pensions and Compensation*

Section F1F1 *Social security schemes*

130 Social security schemes supported from public funds.

131 Requiring persons—

- (a) to establish and administer, or make payments to or in respect of, social security schemes, and
- (b) to keep records and supply information in connection with social security schemes.

*Exceptions*

The provision by a local authority of financial assistance to or in respect of an individual in respect of costs of meeting his or her needs for care or support that the authority would otherwise meet in some other way (for example, by providing accommodation, facilities or services).

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The deferral of payment due to a local authority from an individual in respect of costs of, or financial assistance for, meeting that or another individual's needs for care or support.

#### *Interpretation*

““Social security schemes”” means schemes providing financial assistance for social security purposes to or in respect of individuals, including, in particular, providing such assistance to or in respect of individuals—

- (a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,
- (b) who qualify by reason of low income, or
- (c) in relation to their housing costs.

““Payments to or in respect of social security schemes”” includes national insurance contributions.

#### *Section F2F2 Child Support*

132 Child support maintenance.

133 Collection and enforcement of—

- (a) periodical payments, other than child support maintenance, that are payable for the benefit of a child (““other maintenance””), and
- (b) periodical payments, other than child support maintenance or other maintenance, that are—
  - (i) payable to or for the benefit of any person, and
  - (ii) collected or enforced where child support maintenance or other maintenance is also collected.

#### *Section F3F3 Occupational and Personal Pensions*

134 Occupational and personal pensions.

#### *Exception*

Occupational and personal pension schemes for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and
- (b) members of local authorities,

but pensions regulation in relation to such schemes is not excepted.

#### *Interpretation*

““Local authority”” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

““Occupational and personal pensions”” includes pension protection.

““Pension”” includes gratuities and allowances.

““Pensions regulation”” means the regulation of occupational and personal pensions, including regulation in respect of members, employers, trustees or managers.

#### *Section F4F4 Public sector compensation*

135 Compensation for or in respect of public sector workers in respect of—

- (a) incapacity or death as a result of injury or illness,
- (b) loss of office or employment, or
- (c) loss or diminution of emoluments.

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- 136 Regulation of amounts payable, or paid, to or in respect of public sector workers in consequence of leaving office or employment (including requirements that such amounts be repaid).

*Exception*

Schemes for the payment of compensation, and regulation of amounts as mentioned in paragraph 136, for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and  
(b) members of local authorities.

*Interpretation*

““Compensation”” includes pensions, grants, allowances, supplements and gratuities.

““Local authority”” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

““Public sector worker”” means a person holding office or employed in the public sector.

*Section F5F5 Armed forces compensation etc*

- 137 Compensation for or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in respect of—  
(a) injury, illness or death in consequence of or whilst in service,  
(b) ceasing to be a member of the forces, or  
(c) loss or diminution of emoluments.
- 138 Regulation of amounts payable, or paid, to or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in consequence of ceasing to be a member of the forces (including requirements that such amounts be repaid).
- 139 The subject-matter of any scheme under the Personal Injuries (Emergency Provisions) Act 1939, sections 3 to 5 and 7 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or section 1 of the Polish Resettlement Act 1947.

*Interpretation*

““Compensation”” includes pensions, grants, allowances, supplements and gratuities.

*Head G—Professions*

*Section G1G1 Architects, auditors, health professionals and veterinary surgeons*

- 140 Regulation of—  
(a) the profession of architect,  
(b) the profession of auditor,  
(c) health professions, and  
(d) the profession of veterinary surgeon.

*Exceptions*

Regulation of the social care profession.  
Regulation of the social work profession.

*Interpretation*

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““Health professions”” means—

- (a) the professions regulated by the following—
- the Medical Act 1983;
  - the Dentists Act 1984;
  - the Opticians Act 1989;
  - the Osteopaths Act 1993;
  - the Chiropractors Act 1994;
  - the Nursing and Midwifery Order 2001 (S.I. 2002/253);
  - the Health and Social Work Professions Order 2001 (S.I. 2002/254);
  - the Pharmacy Order 2010 (S.I. 2010/231);
- (b) any other profession concerned with the physical or mental health of individuals.

#### *Head H—Employment*

##### *Section H1H1 Employment and industrial relations*

- 141 Employment rights and duties and industrial relations, including the subject-matter of—
- (a) the Employers' Liability (Compulsory Insurance) Act 1969,
  - (b) the Employment Agencies Act 1973,
  - (c) the Pneumoconiosis etc (Workers' Compensation) Act 1979,
  - (d) the Trade Union and Labour Relations (Consolidation) Act 1992,
  - (e) the Employment Tribunals Act 1996,
  - (f) the Employment Rights Act 1996,
  - (g) the National Minimum Wage Act 1998,
  - (h) the Working Time Regulations 1998 (S.I. 1998/1833),
  - (i) the Employment Relations Act 1999,
  - (j) the Transnational Information and Consultation of Employees Regulations 1999 (S.I. 1999/3323),
  - (k) the Employment Act 2002,
  - (l) the Gangmasters (Licensing) Act 2004,
  - (m) the Employment Relations Act 2004,
  - (n) the Work and Families Act 2006,
  - (o) the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),
  - (p) the Agency Workers Regulations 2010 (S.I. 2010/93), and
  - (q) Part 2 of the Enterprise and Regulatory Reform Act 2013.

#### *Exception*

The subject-matter of the Agricultural Sector (Wales) Act 2014.

##### *Section H2H2 Industrial training boards*

- 142 The following boards—
- (a) the Construction Industry Training Board;
  - (b) the Engineering Construction Industry Training Board;
  - (c) the Film Industry Training Board for England and Wales.

##### *Section H3H3 Job search and support*

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143 Arrangements for assisting persons to select, train for, obtain and retain employment, and to obtain suitable employees.

*Exceptions*

Education.  
Vocational, social and physical training.  
Careers services.

*Interpretation*

““Employment”” includes—

- (a) work on a person's own account, and
- (b) employment of a disabled person (including work on the disabled person's own account) under special conditions;

and ““disabled person”” here has the same meaning as it has in the Equality Act 2010 as at the principal appointed day.

““Employees”” includes partners and other business associates.

*Head J—Health, Safety and Medicines*

*Section J1J1 Abortion*

144 Abortion.

*Section J2J2 Xenotransplantation*

145 Xenotransplantation.

*Section J3J3 Embryology, surrogacy and genetics*

146 Human genetics, human fertilisation, human embryology and surrogacy arrangements.

*Section J4J4 Medicines, medical supplies, biological substances etc*

147 Medicinal products, including manufacture, authorisations for use and regulation of prices.

148 Regulation of prices of other medical supplies.

149 Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).

150 Veterinary medicinal products, including manufacture, authorisations for use and regulation of prices.

151 Specified feed additives.

152 Animal feeding stuffs, in relation to—

- (a) the incorporation in them of veterinary medicinal products or specified feed additives;
- (b) matters arising in consequence of such incorporation.

153 Vaccine damage payments.

*Interpretation*

““Medical supplies”” has the same meaning as in section 260 of the National Health Service Act 2006.

““Medicinal products”” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916).

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““Specified feed additives”” has the same meaning as in Schedule 5 to the Veterinary Medicines Regulations 2013 (S.I. 2013/2033).

““Veterinary medicinal products”” has the same meaning as in those Regulations.

Section J5J5 *Welfare foods*

154 Schemes established by regulations under section 13 of the Social Security Act 1988 (benefits under schemes for improving nutrition: pregnant women, mothers and children).

Section J6J6 *Health and safety*

155 The subject-matter of Part 1 of the Health and Safety at Work etc. Act 1974.

156 The Health and Safety Executive and the Employment Medical Advisory Service.

157 Protection of the public from radiation.

*Interpretation*

For the purposes of the reservation of the subject-matter of Part I of the Health and Safety at Work etc. Act 1974—

(a) ““work”” and ““at work”” in that Part are to be taken to have the meaning they have on the principal appointed day;

(b) that subject-matter includes—

(i) process fire precautions,

(ii) fire precautions in relation to petroleum and petroleum spirit, and

(iii) fire safety on ships and hovercraft, in mines and on offshore installations,

but does not include any other aspect of fire safety.

*Head K—Media, Culture and Sport*

Section K1K1 *Media*

158 Broadcasting and other media.

159 The British Broadcasting Corporation.

Section K2K2 *Public lending right*

160 Public lending right.

Section K3K3 *Government Indemnity Scheme*

161 Government indemnities for objects on loan.

Section K4K4 *Property accepted in satisfaction of tax*

162 Payments to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax and the disposal of such property.

Section K5K5 *Sports grounds*

163 Safety of sports grounds.

*Head L—Justice*

Section L1L1 *The legal profession, legal services and claims management services*

164 The legal profession and legal services.

165 Claims management services.

Section L2L2 *Legal aid*

166 Legal aid.



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### Section L3L3 Coroners

167 The subject-matter of Part 1 of the Coroners and Justice Act 2009.

### Section L4L4 Arbitration

168 Arbitration.

### Section L5L5 Mental capacity

169 The subject-matter of the Mental Capacity Act 2005.

### Section L6L6 Personal data

170 Protection of personal data.

### Section L7L7 Information rights

171 Public access to information held by a public authority.

#### *Exception*

Public access to information held by—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Government, or
- (d) any Welsh public authority,

unless supplied by a Minister of the Crown or government department and held in confidence.

#### *Interpretation*

““Public authority”” and ““held by a public authority””—

- (a) in relation to environmental information, have the same meaning as in the Environmental Information Regulations 2004 (S.I. 2004/3391);
- (b) otherwise, have the meaning given by section 3 of the Freedom of Information Act 2000.

““Welsh public authority”” has the meaning given by section 83 of that Act, but does not include a reserved authority within the meaning given by paragraph 8 of Schedule 7B to this Act.

### Section L8L8 Public sector information

172 The subject-matter of—

- (a) the INSPIRE Regulations 2009 (S.I. 2009/3157);
- (b) the Re-use of Public Sector Information Regulations 2015 (S.I. 2015/1415).

### Section L9L9 Public records

173 The subject-matter of the Public Records Act 1958.

### Section L10L10 Compensation for persons affected by crime and miscarriages of justice

174 Compensation for—

- (a) persons affected by crime;
- (b) miscarriages of justice.

### Section L11Section L11 Prisons and offender management

175 (1) Prisons and other institutions for the detention of persons charged with or convicted of offences (““relevant institutions””).

(2) The management of—

- (a) persons charged with or convicted of offences (whether or not detained in a relevant institution);
- (b) other persons required to be detained in a relevant institution.

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- (3) This reservation includes probation, escort functions, transfers of persons between relevant institutions and the subject-matter of—
- (a) sections 47 to 49 of the Mental Health Act 1983 (transfer to hospital of prisoners) and the provisions of that Act relating to persons who are restricted patients within the meaning given by section 79 of that Act;
  - (b) sections 37 to 42 of the Crime and Disorder Act 1998 (youth justice).

#### *Exceptions*

Accommodation provided by or on behalf of a local authority for the purpose of restricting the liberty of children or young persons.

The provision of health care, social care, education, training or libraries.

#### *Interpretation*

The reference to conviction in sub-paragraph (2) includes a finding in criminal proceedings that a person has committed an offence or done the act or made the omission charged.

““Escort functions”” includes functions of the kind mentioned in section 80(1) of the Criminal Justice Act 1991.

““Probation”” includes matters of the kind mentioned in section 1(1)(a) to (f) of the Offender Management Act 2007.

#### Section L12L12 *Family relationships and children*

- 176 Marriage, civil partnership and cohabitation.
- 177 Parenthood, parental responsibility, child arrangements and adoption.
- 178 Proceedings and orders under Part 4 or 5 of the Children Act 1989 or otherwise relating to the care or supervision of children.
- 179 Civil remedies in respect of domestic violence, domestic abuse and female genital mutilation.

#### *Exceptions*

Services and facilities relating to adoption, adoption agencies and their functions, other than functions of the Central Authority under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Parental discipline.

#### *Interpretation*

““Child arrangements”” includes the subject-matter of Part 2 of the Children Act 1989.

#### Section L13L13 *Gender recognition*

- 180 Gender recognition.

#### Section L14L14 *Registration of births, deaths and places of worship*

- 181 Registration of births and deaths and of places of worship.

### *Head M—Land and Agricultural Assets*

#### Section M1M1 *Registration of land*

- 182 Registration of—
- (a) estates, interests and charges in or over land, and
  - (b) associated actions, proceedings, writs and orders.

#### *Exception*

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Fees for the registration of local land charges.

Section M2M2 *Registration of agricultural charges and debentures*

183 The subject-matter of sections 9 and 14 of, and the Schedule to, the Agricultural Credits Act 1928.

Section M3M3 *Development and buildings*

184 Planning (including the subject-matter of Parts 2 to 8 of the Planning Act 2008) but only in relation to—

- (a) relevant nationally significant infrastructure projects,
- (b) overhead electric lines other than devolved associated lines, and
- (c) railways other than railways that start, end and remain in Wales,

except this does not affect the reservation of the subject-matter of sections 14 and 16 of the Harbours Act 1964 by paragraph 121.

185 Compensation in respect of—

- (a) the interference with rights in land by exercise of a statutory power;
- (b) depreciation in the value of land as a result of works or land provided or used in the exercise of a statutory power.

186 The regulation of—

- (a) the design and construction of buildings,
- (b) the demolition of buildings, and
- (c) services, fittings and equipment provided in or in connection with buildings,

but only in relation to specified Crown land and specified undertaker land.

*Interpretation*

““Devolved associated line”” means an overhead line that—

(a) is associated with a generating station that is or (when constructed or extended) is expected to be—

- (i) in Wales or the Welsh zone, but
- (ii) not within section 15(3A) or (3B) of the Planning Act 2008, and

(b) has or will (when installed) have a nominal voltage no greater than 132 kilovolts.

““Railway”” has the meaning given by section 67(1) of the Transport and Works Act 1992.

““Relevant nationally significant infrastructure project”” means a project falling within paragraph (a), (c), (g) or (j) of section 14(1) of the Planning Act 2008.

““Specified Crown land”” means land—

- (a) belonging to Her Majesty in right of the Crown;
- (b) belonging to Her Majesty in right of the Duchy of Lancaster;
- (c) belonging to the Duchy of Cornwall;
- (d) held or used by a Minister of the Crown or a government department.

““Specified undertaker land”” means land held or used by a statutory undertaker in the exercise of a statutory power that relates to a matter in paragraph 96, 97(f) and (g), 99, 117, 121 or 125.

*Head N—Miscellaneous*

Section N1N1 *Equal opportunities*

187 Equal opportunities.

*Status: Point in time view as at 23/01/2020.*

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### *Exceptions*

The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.

Imposing duties on any devolved Welsh authority to make arrangements with a view to securing that its functions are carried out with due regard to the need to meet the equal opportunity requirements.

Equal opportunities so far as relating to the inclusion of persons with particular protected characteristics in non-executive posts on boards of devolved Welsh authorities.

Equal opportunities in relation to the functions of any devolved Welsh authority, other than a function that relates to the inclusion of persons in non-executive posts on boards of devolved Welsh authorities. The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include—

- (a) provision that supplements or is otherwise additional to provision made by that Act;
- (b) in particular, provision imposing a requirement to take action which that Act does not prohibit;
- (c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.

### *Interpretation*

“Board” includes any other equivalent management body.

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions, but not including language.

“Equal opportunity requirements” means the requirements of the law for the time being relating to equal opportunities.

“Non-executive post”, in relation to an authority, means any position the holder of which is not an employee of the authority.

“Protected characteristic” has the same meaning as in the Equality Act 2010.

The references to the Equality Act 2010 and any subordinate legislation made under that Act are to be read as references to those enactments, as at the principal appointed day, but treating any provision of them that is not yet in force on that day as if it were in force.

#### *Section N2N2 Control of weapons*

188 Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

#### *Section N3N3 Ordnance Survey*

189 Ordnance Survey.

#### *Section N4N4 Time*

190 Timescales, time zones, the subject-matter of the Summer Time Act 1972, units of time, the calendar, bank holidays and the date of Easter.

### *Exception*

The computation of periods of time.

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Section N5N5 *Outer space*

191 Activities connected with outer space.

Section N6N6 *Antarctica*

192 Activities connected with Antarctica.

*Interpretation*

““Antarctica”” has the meaning given in section 1 of the Antarctic Act 1994.

Section N7N7 *Deep sea bed mining*

193 Activities for the purposes of deep sea bed mining operations.

*Interpretation*

““Deep sea bed mining operations”” has the meaning given in section 17 of the Deep Sea Mining Act 1981.

### PART 3

#### GENERAL PROVISIONS

##### *Devolved Welsh authorities etc*

- 194 (1) This Schedule does not reserve—
- (a) the constitution of an authority that has reserved functions,
  - (b) conferring or imposing (or giving power to confer or impose) accounting or public procurement functions on such an authority,
  - (c) modifying or removing (or giving power to modify or remove) any accounting or public procurement functions of such an authority, or
  - (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to such an authority,
- if the authority is a devolved Welsh authority.
- (2) For the purposes of this paragraph—
- (a) ““authority”” means a body, office or holder of an office that has functions of a public nature (but does not include a court);
  - (b) ““reserved functions”” are functions that relate to reserved matters;
  - (c) the constitution of an authority includes the authority's establishment and dissolution, its assets and liabilities and its funding and receipts;
  - (d) a function specifically exercisable in relation to an authority does not include a function specifically exercisable in relation to a particular reserved function of the authority.
- (3) Where the question whether an authority is a devolved Welsh authority is relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for deciding the question is the time when the Act is passed.
- 195 (1) Paragraph 1 of this Schedule does not reserve an authority if—
- (a) its functions are exercisable only in relation to Wales, or

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- (b) it is a devolved Welsh authority (whether or not its functions are exercisable only in relation to Wales),  
and it has no reserved functions.
- (2) In this paragraph ““authority”” and ““reserved functions”” have the same meaning as in paragraph 194.
- (3) In determining for the purposes of this paragraph whether functions of an authority are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in sub-paragraph (1) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- 196 Paragraph 194 applies in relation to a devolved tribunal (within the meaning of paragraph 9(2)) as it applies in relation to a devolved Welsh authority.

*Particular authorities*

- 197 (1) The reservation of an authority to which this paragraph applies has effect to reserve—
- (a) its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts;
  - (b) conferring or imposing (or giving power to confer or impose) functions on it;
  - (c) modifying or removing (or giving power to modify or remove) any of its functions;
  - (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to it.
- (2) This paragraph applies to—
- (a) a body reserved by name by Part 2 of this Schedule;
  - (b) any of the companies reserved by Section C10 of that Part;
  - (c) each of the councils reserved by Section C11 of that Part;
  - (d) a police and crime commissioner;
  - (e) the Commission for Equality and Human Rights.
- (3) This paragraph is subject to paragraphs 198 and 199.

*Welsh language functions*

- 198 (1) This Schedule does not reserve—
- (a) conferring or imposing (or giving power to confer or impose) a Welsh language function on a person other than a court;
  - (b) modifying or removing (or giving power to modify or remove) any Welsh language function of a person other than a court.
- (2) ““Welsh language function”” means a function in relation to the Welsh language.

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### *Council tax precepts*

- 199 This Schedule does not reserve council tax precepts.

### *Interpretation of Schedule*

- 200 (1) References in this Schedule to the subject-matter of any enactment are to be read as references to the subject-matter of that enactment as it has effect on the principal appointed day or, if it ceased to have effect at any time within the period ending with that day and beginning with the passing of the Wales Act 2017, as it had effect immediately before that time.
- (2) For the purposes of sub-paragraph (1), any provision of an enactment that is not yet in force on the principal appointed day is treated as if it were in force on that day.
- (3) In this Schedule “the principal appointed day” has the same meaning as in section 71 of the Wales Act 2017.]

## [<sup>F357</sup>SCHEDULE 7B

Section 108A

### GENERAL RESTRICTIONS

#### **Textual Amendments**

**F357** Schs. 7A, 7B substituted for Sch. 7 (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(3\)](#), [Sch. 2](#) (with [Sch. 7 paras. 1, 2, 6](#)); [S.I. 2017/1179, reg. 2](#)

## PART 1

### GENERAL RESTRICTIONS

#### *The law on reserved matters*

- 1 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law on reserved matters.
- (2) “The law on reserved matters” means—
- (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of Parliament or subordinate legislation under an Act of Parliament, and
  - (b) any rule of law which is not contained in an enactment and the subject-matter of which is a reserved matter,
- and in this sub-paragraph “Act of Parliament” does not include this Act.
- 2 (1) Paragraph 1 does not apply to a modification that—
- (a) is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters, and
  - (b) has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision.

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- (2) In determining what is necessary for the purposes of this paragraph, any power to make laws other than the power of the Assembly is disregarded.

*Private law*

- 3 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the private law.
- (2) ““The private law”” means the law of contract, agency, bailment, tort, unjust enrichment and restitution, property, trusts and succession.
- (3) In sub-paragraph (2) the reference to the law of property does not include intellectual property rights relating to plant varieties or seeds but does include the compulsory acquisition of property.
- (4) Sub-paragraph (1) does not apply to a modification that has a purpose (other than modification of the private law) which does not relate to a reserved matter.

*Criminal law*

- 4 (1) A provision of an Act of the Assembly cannot—
- (a) make modifications of, or confer power by subordinate legislation to make modifications of, an offence in a listed category;
  - (b) create, or confer power by subordinate legislation to create, an offence in a listed category.
- (2) The listed categories of offences are—
- (a) treason and related offences;
  - (b) homicide offences (including offences relating to suicide) and other offences against the person (including offences involving violence or threats of violence) that are triable only on indictment;
  - (c) sexual offences (including offences relating to indecent or pornographic images);
  - (d) offences of a kind dealt with by the Perjury Act 1911.
- (3) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law about—
- (a) criminal responsibility and capacity,
  - (b) the meaning of intention, recklessness, dishonesty and other mental elements of offences,
  - (c) inchoate and secondary criminal liability, or
  - (d) sentences and other orders and disposals in respect of defendants in criminal proceedings, or otherwise in respect of criminal conduct, and their effect and operation.
- (4) For the purposes of this paragraph, a modification of the law relating to defences to an offence is a modification of the offence.
- (5) This paragraph does not affect the reservation, by virtue of Schedule 7A, of the creation or modification of offences in relation to reserved matters.

(See also paragraph 8 of that Schedule (single legal jurisdiction of England and Wales).)



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*Enactments other than this Act*

- 5 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the table below—

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972	The whole Act.
Government of Wales Act 1998	Section 144(7).
Human Rights Act 1998	The whole Act.
Civil Contingencies Act 2004	The whole Act.
Energy Act 2008	Section 100 and regulations under that section.
[ <sup>F358</sup> The European Union (Withdrawal) Act 2018]	[ <sup>F358</sup> The whole Act][ <sup>F359</sup> other than any excluded provision].

[ For the purposes of the entry in the table in sub-paragraph (1) for the European Union <sup>F360</sup>(1A) (Withdrawal) Act 2018, the following are excluded provisions of that Act—

- (a) section 1B(3) and (4),
- (b) sections 8A to 8C,
- (c) section 10(3) and (4),
- (d) sections 13A and 13B,
- (e) sections 15A to 15C,
- (f) Parts 1A to 1C of Schedule 2, and
- (g) paragraphs 8A to 8G of Schedule 7.]

- (2) A provision of an Act of the Assembly cannot, unless it is an oversight provision, make modifications of—

- (a) section 146A(1) of the Government of Wales Act 1998, or
- (b) sections 2(1) to (3), 3(2) to (4) or 6(2) and (3) of the Public Audit (Wales) Act 2013 (anaw 3),

or confer power by subordinate legislation to do so.

- (3) A provision of an Act of the Assembly cannot, unless it is an oversight provision and also a non-governmental committee provision—

- (a) make modifications of section 8(1) of the Public Audit (Wales) Act 2013 so far as that section relates to the Auditor General's exercise of functions free from the direction or control of the Assembly or Welsh Government, or
- (b) confer power by subordinate legislation to do so.

- (4) An ““oversight provision”” is a provision of an Act of the Assembly that—

- (a) relates to the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions, or
- (b) is ancillary to a provision falling within paragraph (a).

- (5) A ““non-governmental committee provision”” is a provision conferring functions on a committee of the Assembly that—

- (a) does not consist of or include members of the Welsh Government, and

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- (b) is not chaired by an Assembly member who is a member of a political group with an executive role,  
or a provision conferring power by subordinate legislation to do so.
- (6) A person designated under section 46(5) to exercise the functions of the First Minister is treated as a member of the Welsh Government for the purposes of sub-paragraph (5)(a).

#### Textual Amendments

- F358** Sch. 7B para. 5(1) table entry inserted (26.6.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(b), [Sch. 3 para. 48\(b\)](#) (with s. 19, [Sch. 8 para. 37](#))
- F359** Words in Sch. 7B para. 5(1) table inserted (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(vi), [Sch. 5 para. 31\(2\)](#) (with s. 38(3))
- F360** Sch. 7B para. 5(1A) inserted (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(vi), [Sch. 5 para. 31\(3\)](#) (with s. 38(3))

- 6 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.

#### *This Act*

- 7 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- (2) Sub-paragraph (1) does not apply to—
- (a) the following provisions in Part 1 (the Assembly)—
- (i) in section 1(1), the words from ““the National Assembly for Wales”” to the end;
  - (ii) section 1(2) to (5);
  - (iii) section 2;
  - (iv) section 3(1), (1B) and (2) to (4);
  - (v) sections 4 to 20;
  - (vi) section 22;
  - (vii) section 23(2), (6) and (7);
  - (viii) section 24;
  - (ix) section 25(1)(b) and (2) to (15);
  - (x) section 26(2) to (4);
  - (xi) in section 27(1), the words from ““the National Assembly for Wales Commission”” to the end;
  - (xii) section 27(2) to (4), (6) and (7);
  - (xiii) section 28;
  - (xiv) section 30;
  - (xv) section 34(1) and (2);
  - (xvi) sections 35 and 36;
  - (xvii) sections 38 to 43;
  - (xviii) section 51;

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- (xix) paragraphs 1, 2, 3(1), (2) and (4) to (7), 4 and 7 to 11 of Schedule 2;
  - (b) the following provisions in Part 2 (the Welsh Government)—
    - (i) sections 53 and 54;
    - (ii) sections 60 and 61;
    - (iii) sections 72 to 75;
    - (iv) sections 77 to 79;
    - (v) section 91;
  - (c) the following provisions in Part 4 (Acts of the Assembly)—
    - (i) in section 107(1), the words from ““Acts of the National Assembly for Wales”” to the end;
    - (ii) section 110;
    - (iii) section 111(1)(a) and (b), (2), (3) and (5);
  - (d) the following provisions in Part 5 (finance)—
    - (i) section 120(2);
    - (ii) sections 125 to 130;
    - (iii) sections 131 to 135;
    - (iv) sections 137 to 143;
    - (v) any provision of Schedule 8;
  - (e) the following provisions in Part 6 (miscellaneous and supplementary)—
    - (i) sections 146 to 148;
    - <sup>F361</sup>(ii) .....
- (3) Sub-paragraph (1) does not apply to any provision—
- (a) making modifications of so much of any enactment as is modified by this Act, or
  - (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Act of the Assembly.
- (4) Sub-paragraph (1) does not apply to any provision that is consequential on or incidental to provision made by virtue of—
- (a) sub-paragraph (2)(a)(i) (change of name of the Assembly),
  - (b) sub-paragraph (2)(a)(xi) (change of name of the Assembly Commission), or
  - (c) sub-paragraph (2)(c)(i) (change of name of Acts of the Assembly).
- (5) Sub-paragraph (1), so far as it applies in relation to a provision of Part 5 not listed in sub-paragraph (2)(d), or section 159, does not apply to a provision of an Act of the Assembly if the provision is incidental to, or consequential on, a provision of an Act of the Assembly relating to budgetary procedures or devolved taxes.
- (6) In sub-paragraph (5) ““budgetary procedures”” are procedures for a financial year relating to—
- (a) the authorisation of the amount of resources that may be used or retained in that year by relevant persons or pursuant to a relevant enactment,
  - (b) the authorisation of the amount that may be paid out of the Welsh Consolidated Fund in that year to relevant persons or for use pursuant to a relevant enactment, or
  - (c) the scrutiny of the use of the amounts so authorised under paragraph (a) or (b) or of the exercise of borrowing powers by the Welsh Ministers.

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- (7) In sub-paragraph (6)—
- (a) the reference to the use of resources is a reference to their expenditure, consumption or reduction in value;
  - (b) ““relevant persons”” means—
    - (i) the Welsh Ministers,
    - (ii) the First Minister,
    - (iii) the Counsel General,
    - (iv) the Assembly Commission,
    - (v) the Wales Audit Office, and
    - (vi) the Public Service Ombudsman for Wales;
  - (c) ““relevant enactment”” means an enactment that provides for payment out of the Welsh Consolidated Fund.
- (8) Sub-paragraph (1) does not apply in relation to a provision to which paragraph 5(3) applies.

#### Textual Amendments

**F361** Sch. 7B para. 7(2)(e)(ii) omitted (11.9.2019) by virtue of [Legislation \(Wales\) Act 2019 \(anaw 4\), s. 44\(1\)\(e\)](#), [Sch. 2 para. 2\(3\)](#)

#### *Ministers of the Crown, government departments and other reserved authorities*

- 8 (1) A provision of an Act of the Assembly cannot—
- (a) confer or impose, or confer power by subordinate legislation to confer or impose, any function on a reserved authority,
  - (b) make modifications of, or confer power by subordinate legislation to make modifications of, the constitution of a reserved authority, including modifications relating to its assets and liabilities and its funding and receipts, or
  - (c) confer, impose, modify or remove, or confer power by subordinate legislation to confer, impose, modify or remove, functions specifically exercisable in relation to a reserved authority,
- unless the appropriate Minister consents to the provision.
- (2) Sub-paragraph (1) is subject to the exceptions in paragraph 9.
- (3) In this paragraph ““reserved authority”” means—
- (a) a Minister of the Crown or government department;
  - (b) any other public authority apart from a devolved Welsh authority.
- (4) In this paragraph ““public authority”” means a body, office or holder of an office that has functions of a public nature.
- (5) In this paragraph the ““appropriate Minister”” means—
- (a) where the authority in question is Her Majesty's Revenue and Customs, the Treasury;
  - (b) otherwise, the Secretary of State.
- 9 (1) This paragraph contains exceptions to paragraph 8.

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- (2) Paragraph 8(1)(a) does not apply in relation to—
- (a) the Electoral Commission;
  - (b) the Food Standards Agency;
  - (c) the Water Services Regulation Authority;
  - (d) the Joint Committee on Vaccination and Immunisation;
  - (e) the Human Tissue Authority;
  - (f) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (g) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG;
  - (h) the Open University.
- (3) Paragraph 8(1)(a) does not apply to the conferral or imposition on the traffic commissioners of a function relating to—
- (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) Paragraph 8(1)(a) does not apply to—
- (a) the conferral or imposition on a court of a devolved function (within the meaning of paragraph 6 of Schedule 7A);
  - (b) the conferral or imposition on a tribunal of a function involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) Paragraph 8(1)(c) does not apply to a provision to which paragraph 8(1)(a) applies or would apply but for sub-paragraph (2) of this paragraph.
- (6) Paragraph 8(1) does not apply in relation to—
- (a) a water or sewerage undertaker;
  - (b) the Consumer Council for Water;
  - (c) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality);
  - <sup>F362</sup>(d) [ an electoral registration officer (within the meaning of section 8 of the Representation of the People Act 1983).]
- (7) Paragraph 8(1) does not apply in relation to the funding of police and crime commissioners through council tax precepts.

#### Textual Amendments

**F362** Sch. 7B para. 9(6)(d) inserted (18.12.2019) by [The Government of Wales Act 2006 \(Amendment\) Order 2019 \(S.I. 2019/1506\)](#), arts. 1(2), 2(2)

- 10 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a public authority other than a devolved Welsh authority, unless the appropriate Minister consents to the provision.
- (2) This paragraph does not apply in relation to—
- (a) a Minister of the Crown (as to which, see paragraph 11);
  - (b) the Electoral Commission;

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- (c) the Food Standards Agency;
  - (d) the Water Services Regulation Authority;
  - (e) a water or sewerage undertaker;
  - (f) the Consumer Council for Water;
  - (g) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality);
  - (h) the Joint Committee on Vaccination and Immunisation;
  - (i) the Human Tissue Authority;
  - (j) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (k) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG;
  - (l) the Open University;
  - <sup>F363</sup>(m) [ an electoral registration officer (within the meaning of section 8 of the Representation of the People Act 1983).]
- (3) This paragraph does not apply to the removal or modification of a function of the traffic commissioners relating to—
- (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) This paragraph does not apply to—
- (a) the removal or modification of a devolved function (within the meaning of paragraph 6 of Schedule 7A) of a court;
  - (b) the removal or modification of a function of a tribunal involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) This paragraph does not apply in relation to the funding of police and crime commissioners through council tax precepts.
- (6) In this paragraph “public authority” and “appropriate Minister” have the same meaning as in paragraph 8.

#### Textual Amendments

**F363** Sch. 7B para. 10(2)(m) inserted (18.12.2019) by [The Government of Wales Act 2006 \(Amendment\) Order 2019 \(S.I. 2019/1506\)](#), arts. 1(2), 2(3)

- 11 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify—
- (a) any function of a Minister of the Crown that relates to a qualified devolved function,
  - (b) any function of a Minister of the Crown exercisable in relation to the Welsh language,
  - (c) any function of a Minister of the Crown exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection,

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- (d) any function of a Minister of the Crown under Chapter 1 of Part 3, or section 58, of the Marine and Coastal Access Act 2009,
  - (e) any power of the Secretary of State under section 6 of the Railways Act 2005 (financial assistance relating to railway services etc), or
  - (f) any function of the Treasury under section 138(2) or 141(4),
- unless the appropriate Minister consents to the provision.
- (2) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown not falling within sub-paragraph (1) unless the Welsh Ministers have consulted the appropriate Minister about the provision.
- (3) In this paragraph “qualified devolved function” means a function that—
- (a) is conferred or imposed on or transferred to the Welsh Ministers, the First Minister or the Counsel General by any Act (whenever passed) or by an instrument made under any Act (whenever made), and
  - (b) is to any extent exercisable—
    - (i) concurrently or jointly with a Minister of the Crown, or
    - (ii) only with the consent or agreement of, or after consultation with, a Minister of the Crown.
- (4) For the purposes of sub-paragraph (1)(a)—
- (a) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(i) are the qualified devolved functions so far as exercisable by the Minister;
  - (b) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(ii) are those concerning consent or agreement to, or consultation about, the exercise of the qualified devolved functions.
- (5) In this paragraph “appropriate Minister” has the same meaning as in paragraph 8.
- 12 (1) In any enactment (whenever passed or made) not contained in this Act —
- (a) a reference to provision within the legislative competence of the Assembly does not include provision that could be made in an Act of the Assembly only with the consent of a Minister of the Crown (under paragraph 8, 10 or 11 or otherwise);
  - (b) a reference to provision outside that competence includes provision that could be made in an Act of the Assembly only with such consent.
- (2) But paragraph 11(2) is to be ignored for the purposes of any such references.

## PART 2

### GENERAL EXCEPTIONS FROM PART 1

#### *Restatement*

- 13 (1) Part 1 does not prevent an Act of the Assembly—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
  - (b) repealing or revoking any spent enactment,

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or conferring power by subordinate legislation to do so.

- (2) For the purposes of paragraph 1, the law on reserved matters includes any restatement in an Act of the Assembly or an Assembly Measure, or subordinate legislation under such an Act or Measure, of the law on reserved matters if the subject-matter of the restatement is a reserved matter.

*Subordinate legislation*

- 14 Part 1 does not prevent an Act of the Assembly making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
  - (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised;
  - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject;
  - (c) applying any enactment comprised in or made under an Act of the Assembly relating to the documents by which such powers may be exercised.]

SCHEDULE 8

Section 145

AUDITOR GENERAL FOR WALES

*Appointment*

F364<sup>1</sup> .....

**Textual Amendments**

**F364** Sch. 8 para. 1 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 79(2) (with Sch. 3 paras. 3, 13); [S.I. 2013/1466](#), art. 3(1)

*Tenure*

F365<sup>2</sup> .....

**Textual Amendments**

**F365** Sch. 8 para. 2 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 79(2) (with Sch. 3 paras. 3, 13); [S.I. 2013/1466](#), art. 3(1)

*Independence and status*

F366<sup>3</sup> .....



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**Textual Amendments**

**F366** Sch. 8 para. 3 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 79(2)** (with Sch. 3 paras. 3, 13); S.I. 2013/1466, art. 3(1)

*Corporation sole*

F367<sup>4</sup> .....

**Textual Amendments**

**F367** Sch. 8 para. 4 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 79(2)** (with Sch. 3 paras. 3, 13); S.I. 2013/1466, art. 3(1)

*Documents*

F368<sup>5</sup> .....

**Textual Amendments**

**F368** Sch. 8 para. 5 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 79(2)** (with Sch. 3 paras. 3, 13); S.I. 2013/1466, art. 3(1)

*Remuneration*

F369<sup>6</sup> .....

**Textual Amendments**

**F369** Sch. 8 para. 6 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 79(2)** (with Sch. 3 paras. 3, 13); S.I. 2013/1466, art. 3(1)

*Staff*

F370<sup>7</sup> .....

**Textual Amendments**

**F370** Sch. 8 para. 7 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 79(2)** (with Sch. 3 paras. 3, 13); S.I. 2013/1466, art. 3(1)

*Exercise of functions by staff etc.*

F371<sup>8</sup> .....

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**Textual Amendments**

**F371** Sch. 8 para. 8 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Special finance provisions*

**F372**9 .....

**Textual Amendments**

**F372** Sch. 8 para. 9 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Borrowing*

**F373**10 .....

**Textual Amendments**

**F373** Sch. 8 para. 10 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Fees*

**F374**11 .....

**Textual Amendments**

**F374** Sch. 8 para. 11 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Estimates*

**F375**12 .....

**Textual Amendments**

**F375** Sch. 8 para. 12 omitted (4.7.2013) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 2(x)

*Accounts*

**F376**13 .....

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**Textual Amendments**

**F376** Sch. 8 para. 13 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Auditor*

**F377** 14 .....

**Textual Amendments**

**F377** Sch. 8 para. 14 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Audit of accounts*

**F378** 15 .....

**Textual Amendments**

**F378** Sch. 8 para. 15 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Accounting officer*

**F379** 16 .....

**Textual Amendments**

**F379** Sch. 8 para. 16 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(2\)](#) (with [Sch. 3 paras. 3, 13](#)); S.I. 2013/1466, art. 3(1)

*Access to documents*

- 17 (1) The Auditor General has a right of access at all reasonable times to every document relating to a relevant person which appears to the Auditor General necessary—
- (a) for the purposes of the Auditor General's examination of any auditable accounts,
  - (b) for the purposes of undertaking studies under section 145A (studies for improving economy etc. in services provided by relevant bodies) or 145C (studies relating to registered social landlords) of the Government of Wales Act 1998 (c. 38), or
  - (c) for the purposes of carrying out, in accordance with any provision made by or by virtue of this or any other [<sup>F380</sup>enactment], other examinations or studies into the economy, efficiency and effectiveness with which a person has used resources in discharging the person's functions.

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- (2) The documents relating to a relevant person to which the right conferred by sub-paragraph (1) applies include (in particular)—
- (a) a document which is in the possession, or under the control, of a person who has received financial assistance from the relevant person by means of a grant, loan or guarantee or as a result of the taking of an interest in any property or body corporate,
  - (b) a document which is in the possession, or under the control, of a person who has supplied goods or services to the relevant person in pursuance of a contract to which the relevant person was party or has supplied goods or services in pursuance of a relevant sub-contract, and
  - (c) a document of a description specified in an order made by the Welsh Ministers.
- (3) The Auditor General may require a person whom the Auditor General thinks has information of the kind mentioned in sub-paragraph (4)—
- (a) to give the Auditor General any assistance, information and explanation which the Auditor General thinks necessary for any of the purposes mentioned in sub-paragraph (1),
  - (b) to attend before the Auditor General in person to give the assistance, information or explanation, or to produce any document which is in the possession, or under the control, of the person and to which the right conferred by that sub-paragraph applies, or
  - (c) to provide any facility which the Auditor General may reasonably require for any of the purposes mentioned in that sub-paragraph.
- (4) The information referred to in sub-paragraph (3) is information which relates to—
- (a) a relevant person,
  - (b) a document to which the right conferred by sub-paragraph (1) applies, or
  - (c) a person who possesses or controls such a document.
- (5) The Auditor General may, for the purposes of an examination of any auditable accounts, require a relevant person to provide the Auditor General, at times specified by the Auditor General, with accounts of such of the person's transactions as the Auditor General may specify.
- (6) For the purposes of sub-paragraph (2)(b), a contract is a relevant sub-contract if its performance fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the relevant person in another contract.
- (7) In this paragraph “auditable accounts” means any accounts or statement of accounts falling to be examined by the Auditor General in accordance with any provision made by or by virtue of this or any other <sup>F381</sup>enactment<sup>F382</sup>, apart from accounts that fall to be examined under Part 2 of the Public Audit (Wales) Act 2004].
- (8) In this paragraph “relevant person” means—
- (a) in a case within paragraph (a) of sub-paragraph (1) relating to any accounts which the Welsh Ministers are directed to prepare under section 131, the Welsh Ministers, the Counsel General and any person to whose financial affairs and transactions the accounts are to relate by virtue of subsection (3) of that section,
  - (b) in a case within that paragraph relating to any accounts which the Assembly Commission is directed to prepare under section 137, the Assembly

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- Commission and any person to whose financial affairs and transactions the accounts are to relate by virtue of subsection (2) of that section,
- [<sup>F383</sup>(ba) in a case within that paragraph relating to any accounts which the Public Services Ombudsman for Wales is directed to prepare under paragraph 16 of Schedule 1 to [<sup>F384</sup>the Public Services Ombudsman (Wales) Act 2019], the Ombudsman and any person to whose financial affairs and transactions the accounts are to relate by virtue of sub-paragraph (1A) of that paragraph,]
- (c) in a case within that paragraph relating to any other auditable accounts, the person by whom the accounts are prepared, and
- (d) in any other case, a person to whom the study or examination relates.
- (9) No order may be made under sub-paragraph (2)(c) unless the Welsh Ministers have consulted—
- (a) the Treasury, and
- (b) the Auditor General.
- (10) A statutory instrument containing an order under sub-paragraph (2)(c) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

- F380** Word in Sch. 8 para. 17(1)(c) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 79\(3\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F381** Word in Sch. 8 para. 17(7) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 79\(4\)\(a\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F382** Words in Sch. 8 para. 17(7) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 79\(4\)\(b\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F383** Sch. 8 para. 17(8)(ba) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 44\(6\), 52\(2\)](#); S.I. 2010/2703, art. 2(c)
- F384** Words in Sch. 8 para. 17(8)(ba) substituted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\), s. 77\(1\), Sch. 5 para. 24](#); S.I. 2019/1096, reg. 2

#### Commencement Information

- I158** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Other powers*

- 18 (1) Where—
- (a) the Welsh Ministers are entitled to appoint the auditor of the accounts of any person (other than the Auditor General), and
- (b) the Auditor General would not otherwise be eligible to be appointed as auditor of those accounts,
- the Welsh Ministers may [<sup>F385</sup>, having first consulted the Wales Audit Office,] appoint the Auditor General to be auditor of those accounts.
- (2) If in such a case the auditor is to be appointed annually, the Welsh Ministers may appoint the Auditor General—
- (a) for a year,
- (b) for two or more years, or
- (c) indefinitely until further exercise of the power of appointment.

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- (3) The Auditor General may—
- (a) examine, certify or report on a person's accounts, or
  - (b) carry out examinations into the economy, efficiency and effectiveness with which a person has used resources in discharging the person's functions,
- if provision is made for the Auditor General to do so by an agreement entered into by the person with either the Welsh Ministers or a Minister of the Crown.

[<sup>F386</sup>(3A) But before entering into an agreement under sub-paragraph (3), the Welsh Ministers or a Minister of the Crown (as the case may be) must consult the Wales Audit Office.]

- (4) In determining how to exercise functions under paragraph (b) of sub-paragraph (3) the Auditor General must take into account the Audit Committee's views as to the examinations which the Auditor General should carry out under that paragraph.

- (5) If an Order in Council under section 58 transfers a function of preparing accounts to the Welsh Ministers, the Secretary of State may by order provide for the transfer to the Auditor General of any function of the Comptroller and Auditor General in relation to those accounts.

- (6) An order under sub-paragraph (5) may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as the Secretary of State considers appropriate in connection with the provision made by the order.

- (7) An Order in Council under section 58 may include any provision that may be included in an order under sub-paragraph (5).

- (8) If the Treasury designate the Welsh Ministers in respect of a financial year for the purposes of section 10 of the Government Resources and Accounts Act 2000 (c. 20) (whole of government accounts), the Auditor General must carry out the audit required by subsection (2)(c) of that section.

- (9) Where the Treasury make arrangements with the Welsh Ministers under subsection (8) of that section, the Auditor General must carry out the audit required by paragraph (c) of that subsection.

- (10) No order under sub-paragraph (5) which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

- (11) A statutory instrument containing an order under sub-paragraph (5) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F385** Words in Sch. 8 para. 18(1) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 79\(5\)\(a\)](#) (with [Sch. 3 para. 3](#)); [S.I. 2013/1466, art. 3\(1\)](#)

**F386** Sch. 8 para. 18(3A) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 79\(5\)\(b\)](#) (with [Sch. 3 para. 3](#)); [S.I. 2013/1466, art. 3\(1\)](#)

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#### **Commencement Information**

**1159** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Reports in public interest*

- 19 (1) If the Auditor General thinks that it would be in the public interest to bring to the public's attention a matter coming to the Auditor General's notice in the course of an examination or study to which sub-paragraph (2) applies, the Auditor General may prepare a report on that matter.
- (2) This sub-paragraph applies to—
- (a) an examination of auditable accounts (other than accounts falling to be examined under paragraph 18(3)(a)), and
  - (b) an examination or study under section 135 or 140 of this Act, section 145 of the Government of Wales Act 1998 (c. 38) (examinations into use of resources by body specified in Schedule 17 to that Act) or section 145A of that Act (studies for improving economy etc. in services provided by relevant bodies), except one undertaken at the request of the body or bodies to which it relates.
- (3) The Auditor General must, as soon as practicable after preparing a report under sub-paragraph (1), lay the report before the Assembly.
- (4) In this paragraph “auditable accounts” has the same meaning as in paragraph 17.

#### **Commencement Information**

**1160** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Certification of claims, returns etc.*

- 20 (1) The Auditor General must, if so required by a relevant body, make arrangements for—
- (a) certifying any claim or return in respect of a grant made or subsidy paid to that body by the Welsh Ministers, any Minister of the Crown or any public authority,
  - (b) certifying any account submitted by that body to the Welsh Ministers, any Minister of the Crown or any public authority with a view to obtaining payment under a contract between that body and the Welsh Ministers, the Minister of the Crown or the public authority,
  - (c) certifying that body's calculation under paragraph 5(6)(a) of Schedule 8 to the Local Government Finance Act 1988 (c. 41) of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated, or
  - (d) certifying any return by that body which, by or under any enactment, is required or authorised to be certified by the body's auditor or under arrangements made by the Auditor General.
- (2) In this paragraph—
- “public authority” means a body established by or under [F98EU] Treaties or any enactment, and

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“relevant body” means at any time—

- (a) a body whose accounts, or statements of accounts, are auditable accounts within the meaning of paragraph 17(7), or
- (b) a body which at that time is a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004 (c. 23)).

#### Textual Amendments

**F98** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6

#### Commencement Information

**I161** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Ancillary powers*

**F387** 21 .....

#### Textual Amendments

**F387** Sch. 8 para. 21 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 79\(6\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

## SCHEDULE 9

Section 149

### DEVOLUTION ISSUES

#### PART 1

##### PRELIMINARY

- 1 (1) In this Schedule “devolution issue” means—
- (a) a question whether an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, is within the Assembly's legislative competence,
  - (b) a question whether any function (being a function which any person has purported, or is proposing, to exercise) is exercisable by the Welsh Ministers, the First Minister or the Counsel General,
  - (c) a question whether the purported or proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General is, or would be, within the powers of the Welsh Ministers, the First Minister or the Counsel General (including a question whether a purported or proposed exercise of a function is, or would be, outside those powers by virtue of section 80(8) or 81(1)),



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- (d) a question whether there has been any failure to comply with a duty imposed on the Welsh Ministers, the First Minister or the Counsel General (including any obligation imposed by virtue of section 80(1) or (7)), or
- (e) a question of whether a failure to act by the Welsh Ministers, the First Minister or the Counsel General is incompatible with any of the Convention rights.

(2) In this Schedule “civil proceedings” means proceedings other than criminal proceedings.

**Commencement Information**

**I162** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 A devolution issue is not to 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.

**Commencement Information**

**I163** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## PART 2

### PROCEEDINGS IN ENGLAND AND WALES

#### *Application of Part 2*

- 3 This Part applies in relation to devolution issues in proceedings in England and Wales.

**Commencement Information**

**I164** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Institution of proceedings*

- 4 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General or the Counsel General.
- (2) The Counsel General may defend any such proceedings instituted by the Attorney General.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

**Commencement Information**

**I165** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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*Notice of devolution issue*

- 5 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Counsel General (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.

**Commencement Information**

**I166** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*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.

**Commencement Information**

**I167** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

**Commencement Information**

**I168** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

**Commencement Information**

**I169** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 9 A court, other than the Court of Appeal or the Supreme Court, 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.

**Commencement Information**

**I170** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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 Court of Appeal to Supreme Court*

- 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 Supreme Court.

**Commencement Information**

**I171** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Appeals from superior courts to Supreme Court*

- 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 lies to the Supreme Court but only—
- (a) with permission of the court from which the appeal lies, or
  - (b) failing such permission, with permission of the Supreme Court.

**Commencement Information**

**I172** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 3**

PROCEEDINGS IN SCOTLAND

*Application of Part 3*

- 12 This Part applies in relation to devolution issues in proceedings in Scotland.

**Commencement Information**

**I173** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Institution of proceedings*

- 13 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Scotland.
- (2) The Counsel General may defend any such proceedings instituted by the Advocate General for Scotland.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

**Commencement Information**

**I174** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

*Intimation of devolution issue*

- 14 (1) A court or tribunal must order intimation of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Scotland and the Counsel General (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.

**Commencement Information**

**I175** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*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 Supreme Court, may refer any devolution issue which arises in civil proceedings before it to the Inner House of the Court of Session.

**Commencement Information**

**I176** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 16 A tribunal from which there is no appeal must 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.

**Commencement Information**

**I177** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 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.

**Commencement Information**

**I178** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References from superior courts to Supreme Court*

- 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 Supreme Court.

**Commencement Information**

**I179** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

- 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 Supreme Court.

**Commencement Information**

**I180** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Appeals from superior courts to Supreme Court*

- 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 lies to the Supreme Court.

**Commencement Information**

**I181** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 21 An appeal against a determination of a devolution issue by—
- (a) a court consisting 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 consisting of three or more judges of the Court of Session from which there is no appeal to the Supreme Court apart from this paragraph,
- lies to the Supreme Court, but only with permission of the court from which the appeal lies or, failing such permission, with permission of the Supreme Court.

**Commencement Information**

**I182** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 4**

PROCEEDINGS IN NORTHERN IRELAND

*Application of Part 4*

- 22 This Part applies in relation to devolution issues in proceedings in Northern Ireland.

**Commencement Information**

**I183** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Institution of proceedings*

- 23 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Northern Ireland.
- (2) The Counsel General may defend any such proceedings instituted by the Advocate General for Northern Ireland.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

**Commencement Information**

**I184** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Notice of devolution issue*

- 24 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Northern Ireland and the Counsel General (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.

**Commencement Information**

**I185** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Reference of devolution issue to Court of Appeal*

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

**Commencement Information**

**I186** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 26 A tribunal from which there is no appeal must 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.

**Commencement Information**

**I187** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References from Court of Appeal to Supreme Court*

- 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 Supreme Court.

**Commencement Information**

**I188** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

*Appeals from Court of Appeal to Supreme Court*

- 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 lies to the Supreme Court but only—
- (a) with permission of the Court of Appeal in Northern Ireland, or
  - (b) failing such permission, with permission of the Supreme Court.

**Commencement Information**

**I189** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 5**

GENERAL

*Direct references to Supreme Court*

- 29 (1) The relevant officer may require any court or tribunal to refer to the Supreme Court any devolution issue which has arisen in any proceedings before it to which that person is a party.
- (2) In sub-paragraph (1) "the relevant officer" means—
- (a) in relation to proceedings in England and Wales, the Attorney General or the Counsel General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.

**Commencement Information**

**I190** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 30 (1) The Attorney General or the Counsel General may refer to the Supreme Court 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 Welsh Ministers, the First Minister or the Counsel General—
- (a) the Attorney General must notify the Counsel General of that fact, and
  - (b) the function must not be exercised by the Welsh Ministers, the First Minister or the Counsel General 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.

**Commencement Information**

**I191** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

### *Costs*

- 31 (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.

#### **Commencement Information**

**I192** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Procedure of courts and tribunals*

- 32 Any power to make provision for regulating the procedure before any court or tribunal includes 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
  - (c) for determining the manner in which and the time within which any notice or intimation is to be given.

#### **Commencement Information**

**I193** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *References to be for decision*

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

#### **Commencement Information**

**I194** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

## <sup>F388</sup>SCHEDULE 9A

Section 157A

### DEVOLVED WELSH AUTHORITIES

#### Textual Amendments

**F388** Sch. 9A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 3](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(o\)](#)

The Adjudication Panel for Wales or Panel Dyfarnu Cymru.

An admission appeal panel, constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998, for schools in Wales.

The advisory committee for Wales established under section 5 of the Food Standards Act 1999.

The Advisory Panel on Substance Misuse or Panel Cynghori ar Gamddefnyddio Sylweddau.

The Advisory Panel to the Welsh Language Commissioner or Panel Cynghori Comisiynydd y Gymraeg.

The Agricultural Advisory Panel for Wales or Panel Cynghori ar Amaethyddiaeth Cymru.

The Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru.

The All-Wales Medicines Strategy Group or Grŵp Strategaeth Meddyginiaethau Cymru Gyfan.

The Arts Council for Wales or Cyngor Celfyddydau Cymru.

The Assembly Commission or Comisiwn y Cynulliad.

The Auditor General for Wales or Archwilydd Cyffredinol Cymru.

The Board of Community Health Councils in Wales or Bwrdd Cynghorau Iechyd Cymuned Cymru.

The Children's Commissioner for Wales or Comisiynydd Plant Cymru.

The Commissioner for Older People in Wales or Comisiynydd Pobl Hyn Cymru.

A Community Health Council in Wales.

The Counsel General or Cwnsler Cyffredinol.

A county council, county borough council or community council in Wales.

The Education Workforce Council or Cyngor y Gweithlu Addysg.

An exclusion appeal panel, constituted in accordance with regulations under section 52 of the Education Act 2002, for schools in Wales.

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.

The First Minister or Prif Weinidog.

The Flood and Coastal Erosion Committee or Pwyllgor Llifogydd ac Erydu Arfordirol.

The Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau'r Dyfodol Cymru.

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

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*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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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The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru.

Hybu Cig Cymru or Meat Promotion Wales.

The Independent Groundwater Complaints Administrator.

The Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol.

A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.

The Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

The Mental Health Review Tribunal for Wales.

The National Assembly for Wales Commissioner for Standards or Comisiynydd Safonau ar gyfer Cynulliad Cenedlaethol Cymru.

The National Assembly for Wales Remuneration Board or Bwrdd Taliadau Cynulliad Cenedlaethol Cymru.

The National Independent Safeguarding Board or Bwrdd Diogelu Annibynnol Cenedlaethol.

The National Library of Wales or Llyfrgell Genedlaethol Cymru.

The National Museum of Wales or Amgueddfa Genedlaethol Cymru.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.

The Natural Resources Body for Wales or Corff Adnoddau Naturiol Cymru.

An NHS Trust established under section 18 of the National Health Service (Wales) Act 2006.

A panel constituted under regulation 9 of the Independent Review of Determinations (Adoption) (Wales) Regulations 2006.

A panel established under regulation 21 of the Social Services Complaints Procedure (Wales) Regulations 2005.

The person appointed by the Welsh Ministers under section 3 of the Local Government and Housing Act 1989.

The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

Qualifications Wales or Cymwysterau Cymru.

A regulated institution within the meaning of the Higher Education (Wales) Act 2015 (ignoring section 26 of that Act) other than an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).

A rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal).

The Royal Commission on the Ancient and Historical Monuments of Wales or Comisiwn Brenhinol Henebion Cymru.

Social Care Wales or Gofal Cymdeithasol Cymru.

The Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru.

The Sports Council for Wales or Cyngor Chwaraeon Cymru.

A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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 tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27).  
The Valuation Tribunal for Wales or Tribiwnlys Priso Cymru.  
The Wales Audit Office or Swyddfa Archwilio Cymru.  
The Welsh Dental Committee or Pwyllgor Deintyddol Cymru.  
The Welsh Language Commissioner or Comisiynydd y Gymraeg.  
The Welsh Language Partnership Council or Gyngor Partneriaeth y Gymraeg.  
The Welsh Language Tribunal or Tribiwnlys y Gymraeg.  
The Welsh Medical Committee or Pwyllgor Meddygol Cymru.  
The Welsh Ministers or Gweinidogion Cymru.  
The Welsh Nursing and Midwifery Committee or Pwyllgor Nyrsio a Bydwreigiaeth Cymru.  
The Welsh Optometric Committee or Pwyllgor Optegol Cymru.  
The Welsh Pharmaceutical Committee or Pwyllgor Fferyllol Cymru.  
The Welsh Revenue Authority or Awdurdod Cyllid Cymru.  
The Welsh Scientific Advisory Committee or Pwyllgor Ymgynghorol Gwyddonol Cymru.  
The Welsh Therapies Advisory Committee or Pwyllgor Cynghorol Therapiau Cymru.]

## SCHEDULE 10

Section 160

### MINOR AND CONSEQUENTIAL AMENDMENTS

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

1 The Statutory Instruments Act 1946 is amended as follows.

#### **Commencement Information**

**I195** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

2 In section 1 (definition of "statutory instrument"), for subsection (1A) substitute—

“(1A) Where by any Act power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on the Welsh Ministers and the power is expressed to be exercisable by statutory instrument, any document by which that power is exercised shall be known as a “statutory instrument” and the provisions of this Act shall apply to it accordingly.”

#### **Commencement Information**

**I196** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

3 After section 11 insert—

*Status: Point in time view as at 23/01/2020.*

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### “11A Application in relation to Wales

- (1) References in this Act to any Act include references to any Measure or Act of the National Assembly for Wales.
- (2) Sections 4 to 7 and 8(1)(b) apply as if the references in them to—
  - (a) Parliament,
  - (b) either or each House of Parliament, or
  - (c) both Houses of Parliament,include references to the National Assembly for Wales.
- (3) In the application of subsection (1) of section 4 by virtue of subsection (2), the reference to the Speaker of the House of Commons and the Speaker of the House of Lords is to the Presiding Officer of the National Assembly for Wales.
- (4) Where—
  - (a) by any Act it is provided that any statutory instrument shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales, and
  - (b) a copy of the instrument is not laid before that Assembly at least 21 days before the instrument comes into operation,notification shall be sent to the Presiding Officer of that Assembly when a copy of the instrument is laid before that Assembly drawing attention to the fact that a copy of it has not been laid before that Assembly at least 21 days before it comes into operation and explaining why.
- (5) In the application of section 5 by virtue of subsection (2)—
  - (a) the reference in subsection (1) of that section to a resolution that an Address be presented praying that the instrument be annulled is to a resolution that the instrument be annulled,
  - (b) in a case where the instrument was made by the Welsh Ministers alone, the power in that subsection of Her Majesty to revoke the instrument by Order in Council is a power of the Welsh Ministers to revoke it by order made by statutory instrument which is to be laid before the National Assembly for Wales after being made, and
  - (c) the reference in subsection (2) of that section to an Act containing provisions of the kind mentioned in that subsection is to an Act which contains a power in relation to which such provisions apply by virtue of the Government of Wales Act 2006.
- (6) In the application of section 6 by virtue of subsection (2) the reference in subsection (2) of that section to an Act which contains provisions of the kind mentioned in that subsection is to an Act which contains a power in relation to which such provisions apply by virtue of the Government of Wales Act 2006.
- (7) In the application of section 7 by virtue of subsection (2) the reference in subsection (1) of that section to any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days is to any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

- (8) References in this Act to the Welsh Ministers, other than the second reference in subsection (5)(b), include the First Minister for Wales and the Counsel General to the Welsh<sup>F74</sup> ... Government.”

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I197** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Laying of Documents before Parliament (Interpretation) Act 1948 (c. 59)*

- 4 In section 1 of the Laying of Documents before Parliament (Interpretation) Act 1948 (meaning of references to laying before Parliament), after subsection (1) insert—

“(1A) A reference in any enactment to laying any document before the National Assembly for Wales is (unless the contrary intention appears) to be construed as a reference to the taking, during any time when that Assembly is not dissolved, of such action as is specified in the standing orders of that Assembly as constituting the laying of a document before that Assembly, even if the action so specified consists (wholly or partly) of action capable of being taken when that Assembly is in recess.”

**Commencement Information**

**I198** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Defamation Act 1952 (c. 66)*

- 5 In section 10 of the Defamation Act 1952 (limitation on privilege at elections), after “local government authority” insert “, to the National Assembly for Wales,”.

**Commencement Information**

**I199** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Defamation Act (Northern Ireland) 1955 (c. 11 (N.I.))*

- 6 In section 10(1) of the Defamation Act (Northern Ireland) 1955 (limitation on privilege at elections), after “Scottish Parliament” insert “ or to the National Assembly for Wales ”.

**Commencement Information**

**I200** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

*Public Records Act 1958 (c. 51)*

- 7 In the First Schedule to the Public Records Act 1958 (definition of “public records”), in the following provisions, for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”
- (a) paragraph 2(2)(e),
  - (b) paragraph 5,
  - (c) paragraph 6, and
  - (d) paragraph 7(1).

**Commencement Information**

**I201** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Parliamentary Commissioner Act 1967 (c. 13)*

- 8 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), in the Note relating to the Environment Agency and the Note relating to the Forestry Commission, for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”.

**Commencement Information**

**I202** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

- 9 In Part 2 of Schedule 2 to the Pensions (Increase) Act 1971 (official pensions), in paragraph 38B, for “section 18(2)(b) of the Government of Wales Act 1998” substitute “ section 20(4)(b) or section 53(4)(b) of the Government of Wales Act 2006 ”.

**Commencement Information**

**I203** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Local Government Act 1974 (c. 7)*

- 10 In section 27(1) of the Local Government Act 1974 (provisions relating to complaints)—
- (a) in paragraph (a), after “including” insert “ the Welsh Ministers, the National Assembly for Wales Commission or the ”, and
  - (b) in paragraph (b), for “National Assembly for Wales” (in both places) substitute “ Welsh Ministers ”.

**Commencement Information**

**I204** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

*Interpretation Act 1978 (c. 30)*

F389 11 .....

**Textual Amendments**

**F389** Sch. 10 para. 11 omitted (11.9.2019) by virtue of [Legislation \(Wales\) Act 2019 \(anaw 4\)](#), s. 44(1)(e), [Sch. 2 para. 2\(4\)](#)

**Commencement Information**

**I205** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Local Government, Planning and Land Act 1980 (c. 65)*

12 In paragraph 5 of Schedule 31 to the Local Government, Planning and Land Act 1980 (financial provisions relating to urban development corporations: guarantees), for sub-paragraph (3) substitute—

- “(3) Any sums required for fulfilling a guarantee under this paragraph shall be charged on and issued out of—
- (a) the Consolidated Fund, if required by the Treasury, or
  - (b) the Welsh Consolidated Fund, if required by the Welsh Ministers.”

*Mental Health Act 1983 (c. 20)*

F390 13 .....

**Textual Amendments**

**F390** Sch. 10 para. 13 omitted (28.4.2013) by virtue of [Mental Health \(Discrimination\) Act 2013 \(c. 8\)](#), s. 4(1), [Sch. para. 5\(2\)](#)

*National Audit Act 1983 (c. 44)*

F391 14 .....

**Textual Amendments**

**F391** Sch. 10 para. 14 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 14](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(q)

F392 15 .....

**Textual Amendments**

**F392** Sch. 10 para. 15 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 14](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(q)

F393 16 .....

*Status: Point in time view as at 23/01/2020.*

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#### Textual Amendments

**F393** Sch. 10 para. 16 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 14](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(q)

**F394** 17 .....

#### Textual Amendments

**F394** Sch. 10 para. 17 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 14](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(q)

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

**F395** 18 .....

#### Textual Amendments

**F395** Sch. 10 para. 18 and cross-heading omitted (15.1.2020 with effect for the purposes of a Assembly election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 35\(2\)](#), [42\(1\)\(c\)](#)

#### *Public Order Act 1986 (c. 64)*

19 In section 26(1) of the Public Order Act 1986 (saving for reports of parliamentary proceedings), after “Scottish Parliament” insert “ or in the National Assembly for Wales ”.

#### Commencement Information

**I206** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

20 In section 55(1)(c) of the Finance Act 1987 (exemption from stamp duty for the National Assembly for Wales), for “National Assembly for Wales” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh <sup>F74</sup>... Government or the National Assembly for Wales Commission ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with s. 4(3))

#### Commencement Information

**I207** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

*Local Government Finance Act 1988 (c. 41)*

- 21 In Schedule 8 to the Local Government Finance Act 1988 (non-domestic rating: pooling), after paragraph 15 insert—

*“Source of payments by Welsh Ministers*

- 16 Sums required for the making of payments by the Welsh Ministers under this Part of this Schedule are to be charged on the Welsh Consolidated Fund.”

**Commencement Information**

**I208** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

- 22 The Copyright, Designs and Patents Act 1988 is amended as follows.

**Commencement Information**

**I209** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 23 In section 12(9) (duration of copyright in literary, dramatic, musical or artistic works), for “166B” substitute “ 166D ”.

**Commencement Information**

**I210** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 24 In section 49 (public records), for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”.

**Commencement Information**

**I211** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 25 In section 153(2) (qualification for copyright protection), for “166B” substitute “ 166D ”.

**Commencement Information**

**I212** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 26 (1) Section 163 (Crown copyright) is amended as follows.  
(2) Omit subsection (1A).  
(3) In subsection (6), for “166B” substitute “ 166D ”.

*Status: Point in time view as at 23/01/2020.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 27 April 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)*

#### Commencement Information

**I213** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 27 (1) Section 164 (copyright in Acts and Measures) is amended as follows.
- (2) In subsection (1), after “Scottish Parliament,” insert “ Measure of the National Assembly for Wales, Act of the National Assembly for Wales, ”.
- (3) In subsection (2), for the words after “subsists” substitute—
- “(a) in the case of an Act or a Measure of the General Synod of the Church of England, until the end of the period of 50 years from the end of the calendar year in which Royal Assent was given, and
  - (b) in the case of a Measure of the National Assembly for Wales, until the end of the period of 50 years from the end of the calendar year in which the Measure was approved by Her Majesty in Council.”

#### Commencement Information

**I214** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 28 After section 166B insert—

#### “166C Copyright in proposed Measures of the National Assembly for Wales

- (1) Copyright in every proposed Assembly Measure introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.
- (2) Copyright under this section subsists from the time when the text of the proposed Assembly Measure is handed in to the Assembly for introduction—
  - (a) until the proposed Assembly Measure is approved by Her Majesty in Council, or
  - (b) if the proposed Assembly Measure is not approved by Her Majesty in Council, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.
- (3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.
- (4) No other copyright, or right in the nature of copyright, subsists in a proposed Assembly Measure after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a proposed Assembly Measure which, not having been approved by Her Majesty in Council, is later reintroduced into the Assembly.

#### 166D Copyright in Bills of the National Assembly for Wales

- (1) Copyright in every Bill introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.

*Status: Point in time view as at 23/01/2020.*

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- (2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—
  - (a) until the Bill receives Royal Assent, or
  - (b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.
- (3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.
- (4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly.”

#### Commencement Information

**I215** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 29 (1) Section 178 (minor definitions) is amended as follows.
  - (2) In the definition of “the Crown”, after “the Scottish Administration” insert “, of the Welsh<sup>F74</sup>... Government”.
  - (3) In the definition of “parliamentary proceedings”, after “European Parliament” insert “ and Assembly proceedings within the meaning of section 1(5) of the Government of Wales Act 2006 ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I216** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 30 In section 179 (index of defined expressions), in column 2 of the entry for “Parliamentary copyright”, for “and 166B(3)” substitute “ 166B(3) 166C(3) and 166D(3) ”.

#### Commencement Information

**I217** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 31 (1) Section 263(1) (Part 3: minor definitions) is amended as follows.
  - (2) In the definition of “the Crown”, insert at the end “ and the Crown in right of the Welsh<sup>F74</sup>... Government”.
  - (3) In the definition of “government department”, insert at the end “ and any part of the Welsh<sup>F74</sup>... Government”.

*Status: Point in time view as at 23/01/2020.*

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**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

**Commencement Information**

**I218** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 32 In paragraph 10(1) of Schedule 2 (public records), for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”.

**Commencement Information**

**I219** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Housing Act 1988 (c. 50)*

- 33 In paragraph 5 of Schedule 8 to the Housing Act 1988 (financial provisions relating to housing action trusts: guarantees), for sub-paragraph (3) substitute—

“(3) Any sums required for fulfilling a guarantee under this paragraph shall be charged on and issued out of—

- (a) the Consolidated Fund, if required by the Treasury, or
- (b) the Welsh Consolidated Fund, if required by the Welsh Ministers.”

*Official Secrets Act 1989 (c. 6)*

- 34 In section 12 of the Official Secrets Act 1989 (meaning of “Crown servant” and “government contractor”)—

- (a) in subsection (1), after paragraph (aa) insert—
  - “(ab) the First Minister for Wales, a Welsh Minister appointed under section 48 of the Government of Wales Act 2006, the Counsel General to the Welsh <sup>F74</sup>... Government or a Deputy Welsh Minister;”, and
- (b) in subsection (2), in paragraph (a), after “(a)” insert “ , (ab) ” and omit paragraph (aa).

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

**Commencement Information**

**I220** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Town and Country Planning Act 1990 (c. 8)*

- 35 In section 321B of the Town and Country Planning Act 1990 (planning inquiries relating to Wales: national security)—

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- (a) in subsection (2), for “National Assembly for Wales” substitute “ Welsh<sup>F74</sup> ... Government ”, and
- (b) omit subsection (5).

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I221** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

- 36 In paragraph 8 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990 (local inquiries relating to Wales: national security)—
- (a) in sub-paragraph (2), for “National Assembly for Wales” substitute “ Welsh<sup>F74</sup> ... Government ”, and
  - (b) omit sub-paragraph (5).

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I222** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 37 In paragraph 8 of the Schedule to the Planning (Hazardous Substances) Act 1990 (local inquiries relating to Wales: national security)—
- (a) in sub-paragraph (2), for “National Assembly for Wales” substitute “ Welsh<sup>F74</sup> ... Government ”, and
  - (b) omit sub-paragraph (5).

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I223** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

- 38 In section 16(1) of the Tribunals and Inquiries Act 1992 (interpretation), in the definition of “Minister”, for “National Assembly for Wales” substitute “ Welsh Ministers ”.

*Status: Point in time view as at 23/01/2020.*

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**Commencement Information**

**I224** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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

- 39 In section 41(6) of the Value Added Tax Act 1994 (meaning of “Government department”), for “National Assembly for Wales” substitute “ Welsh <sup>F74</sup>... Government ”.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **s. 4(2)(a)** (with s. 4(3))

**Commencement Information**

**I225** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Defamation Act 1996 (c. 31)*

- 40 In paragraph 11(1)(c) of Schedule 1 to the Defamation Act 1996 (qualified privilege: accurate reports of proceedings of inquiries etc.), after “Scottish Executive” insert “ , the Welsh Ministers or the Counsel General to the Welsh <sup>F74</sup>... Government ”.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **s. 4(2)(a)** (with s. 4(3))

**Commencement Information**

**I226** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Government of Wales Act 1998 (c. 38)*

- 41 The Government of Wales Act 1998 is amended as follows.

**Commencement Information**

**I227** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 42 (1) Section 28 (reform of other Welsh public bodies) is amended as follows.
- (2) For “Assembly” (in each place) substitute “ Welsh Ministers ”.
- (3) In subsection (2), for “considers” substitute “ consider ”.
- (4) After subsection (7) insert—
- “(7A) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the Assembly.”

*Status: Point in time view as at 23/01/2020.*

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**Commencement Information**

**I228** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 43 (1) Section 104 (Her Majesty's Chief Inspector of Education and Training in Wales) is amended as follows.
- (2) For "Assembly" (in each place) substitute "Welsh Ministers".
- (3) In subsection (2)—
- (a) for "it", in the first place, substitute "they", and
- (b) for "it considers" substitute "they consider".
- (4) In subsection (3), for "it considers" (in both places) substitute "they consider".
- (5) In subsection (4), for "it is" substitute "they are".
- (6) In subsection (4A)—
- (a) for "it", in the first and third places, substitute "them", and
- (b) for "it is" substitute "they are".
- (7) In subsection (4B), for "it gives its" substitute "they give their".
- (8) Omit subsection (5).

**Commencement Information**

**I229** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 44 (1) Section 105 (Forestry Commissioners) is amended as follows.
- (2) For "Assembly" (in each place) substitute "Welsh Ministers".
- (3) In subsection (2)—
- (a) for "it", in the first place, substitute "they", and
- (b) for "considers" substitute "consider".
- (4) In subsection (3), for "it considers" (in both places) substitute "they consider".
- (5) In subsection (4), for "it is" substitute "they are".

**Commencement Information**

**I230** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 45 (1) Section 144 (power of Secretary of State by order to make provision about accounts etc. of bodies specified in Schedule 17) is amended as follows.
- (2) In subsection (1), for "Secretary of State" substitute "Welsh Ministers".
- (3) In subsection (3)—
- (a) for paragraph (a) substitute—

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- “(a) the Permanent Secretary to the Welsh <sup>F74</sup>... Government to designate accounting officers and to specify their responsibilities,” and
- (b) in paragraph (d), for “Assembly (or, before the first ordinary election, by the Secretary of State)” substitute “Welsh Ministers”.
- (4) For subsection (4) substitute—
- “(4) The Welsh Ministers may by order make provision for the Permanent Secretary to the Welsh <sup>F74</sup>... Government to designate accounting officers of any body specified in Part 3 of Schedule 17 and to specify their responsibilities.
- (4A) An order under subsection (1) or (4) may not remove or restrict any function of the Comptroller and Auditor General.”
- (5) After subsection (5) insert—
- “(5A) A statutory instrument containing an order under subsection (1) or (4), other than an order to which subsection (5B) applies, is subject to annulment in pursuance of a resolution of the Assembly.
- (5B) No order to which this subsection applies may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.
- (5C) Subsection (5B) applies to an order under subsection (1) or (4) which contains provisions in the form of amendments or repeals of enactments contained in an Act of Parliament, Assembly Measure or Act of the Assembly.”
- (6) Omit subsection (6).
- (7) In subsection (8)—
- (a) for “Secretary of State” substitute “Welsh Ministers”, and
- (b) in paragraph (a), after “other than” insert “the National Assembly for Wales Commission,”.
- (8) After that subsection insert—
- “(8ZA) No order under subsection (8) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”
- (9) Omit subsection (8A).
- (10) In subsection (9), before the word “and” at the end of paragraph (b) insert—
- “(ba) “Permanent Secretary to the Welsh <sup>F74</sup>... Government” means the person appointed in accordance with section 52 of the Government of Wales Act 2006 to be the head of the staff of the Welsh <sup>F74</sup>... Government (whether or not that person is known by the title of Permanent Secretary to the Welsh <sup>F74</sup>... Government),”.



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#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

#### Commencement Information

**I231** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 46 (1) Section 145 (examinations by Auditor General into discharge of functions by bodies and offices specified in Schedule 17) is amended as follows.
- (2) In subsection (3), omit “(or, before the first ordinary election, the views of the Secretary of State)”.
- (3) In subsection (7), for “section 96(3)(b)” substitute “ paragraph 18(3)(b) of Schedule 8 to the Government of Wales Act 2006 (agreement between a person and the Welsh Ministers etc. to permit the Auditor General to carry out an examination into the discharge of functions by that person) ”.

#### Commencement Information

**I232** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 47 In section 145A(5) (studies by Auditor General into discharge of functions by relevant bodies: meaning of “relevant body”), for paragraph (a) substitute—
- “(a) a person who prepares accounts or statements of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or under this or any other Act;”.

#### Commencement Information

**I233** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 48 (1) Section 145C (studies by Auditor General into discharge of functions by registered social landlords) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (4) In subsection (6), for “section 95(3)(a) or (b)” substitute “ paragraph 17(3)(a) or (b) of Schedule 8 to the Government of Wales Act 2006 (requirement to give assistance, information or explanation to the Auditor General for Wales) ”.
- (5) In subsection (8), for “Assembly” substitute “ Welsh Ministers ”.

#### Commencement Information

**I234** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 49 In section 146(4) (power of Secretary of State by order to transfer etc. functions from the Comptroller and Auditor General to the Auditor General), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.

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**Commencement Information**

**I235** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 50 (1) Section 146A (transfer etc. of supervisory functions from the Assembly to the Auditor General) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “its” (in both places) substitute “ their ”.
- (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (4) After subsection (5) insert—
- “(6) No order under subsection (1) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by resolution of, the Assembly.”
- (5) In the heading, for “Assembly” substitute “ Welsh Ministers ”.

**Commencement Information**

**I236** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 51 (1) Section 147 (power of Secretary of State by order to make provision about Environment Agency's Welsh functions) is amended as follows.
- (2) In subsection (1)(a), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (3), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.
- (4) In subsection (4), for “Assembly” (in each place) substitute “ Welsh Ministers ”.

**Commencement Information**

**I237** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 52 In section 151(2) (power to make consequential amendments), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.

**Commencement Information**

**I238** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 53 (1) Section 154 (orders and directions) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (3)—
- (a) omit paragraph (a), and
- (b) in paragraph (b)—
- (i) omit “96(5), 117,”, and

*Status: Point in time view as at 23/01/2020.*

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(ii) omit “144(1) or (4).”.

(4) Omit subsection (4).

(5) In subsection (6)—

(a) in paragraph (a)—

(i) omit from “3” to “118(1)(f).”,

(ii) omit “144(1) or (4).”, and

(iii) omit “or paragraph 17(9) of Schedule 9”, and

(b) omit paragraph (b).

(6) Omit subsection (7).

#### Commencement Information

**I239** Sch. 10 paras. 42-55 in force immediately after the end of “the initial period” by s. 161(4)(d)

54 (1) Section 155 (interpretation) is amended as follows.

(2) In subsection (1), insert the following definitions in the appropriate places—

““the Assembly” means the National Assembly for Wales.”,

““Audit Committee” has the meaning given by section 30 of the Government of Wales Act 2006.”,

““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) In that subsection, omit the definitions of “Community law” and “delegate”.

(4) In that subsection, for the definition of “Wales” substitute—

““Wales” has the same meaning as in the Government of Wales Act 2006.”.

(5) Omit subsection (2).

(6) In subsection (3), omit the words from “; and the” to the end.

#### Commencement Information

**I240** Sch. 10 paras. 42-55 in force immediately after the end of “the initial period” by s. 161(4)(d)

55 (1) Schedule 7 (Forestry Commissioners) is amended as follows.

(2) In paragraph 2 (functions of making subordinate legislation), for sub-paragraphs (2) to (8) substitute—

“(2) No provision—

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- (a) requiring the statutory instrument, or a draft of the statutory instrument, to be laid before Parliament or either House of Parliament,
  - (b) for the annulment or approval of the statutory instrument, or a draft of the statutory instrument, by or in pursuance of a resolution of either House of Parliament or of both Houses, or
  - (c) prohibiting the making of the statutory instrument without such approval,
- has effect in relation to the function.
- (3) But the subordinate legislation may not be made without the consent of the Welsh Ministers.”
- (3) In paragraph 4(3) (receipts)—
- (a) for “The Assembly” substitute “ The Welsh Ministers ”, and
  - (b) for “the Assembly” substitute “ them ”.
- (4) In paragraph 10(1) (reports), for “Assembly directs” (in both places) substitute “ Welsh Ministers direct ”.

#### Commencement Information

**I241** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

#### *Human Rights Act 1998 (c. 42)*

- 56 (1) Section 21(1) of the Human Rights Act 1998 (interpretation) is amended as follows.
- (2) In the definition of “primary legislation”, for “National Assembly for Wales” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh<sup>F74</sup>... Government, ”.
- (3) In the definition of “subordinate legislation”, after paragraph (b) insert—
- “(ba) Measure of the National Assembly for Wales;
  - (bb) Act of the National Assembly for Wales;”.
- (4) In paragraph (h) of that definition, after “Executive” insert “ , Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh<sup>F74</sup>... Government, ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I242** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Government Resources and Accounts Act 2000 (c. 20)*

- 57 In section 10 of the Government Resources and Accounts Act 2000 (designation of body by Treasury for purposes of preparing whole of government accounts), in—
- (a) subsection (7) (duty to consult with Assembly), and

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(b) subsection (8) (power to make arrangements with Assembly),  
for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I243** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Political Parties, Elections and Referendums Act 2000 (c. 41)*

58 The Political Parties, Elections and Referendums Act 2000 is amended as follows.

**Commencement Information**

**I244** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

59 In section 8(3)(b) (functions exercisable only on recommendation of Electoral Commission), for “11 of the Government of Wales Act 1998” substitute “ 13 of the Government of Wales Act 2006 ”.

**Commencement Information**

**I245** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

60 In section 10(6) (bodies to which Electoral Commission may give advice and assistance), after paragraph (c) insert—  
“(ca) the National Assembly for Wales Commission;”.

**Commencement Information**

**I246** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

61 In section 13 (power of Electoral Commission to promote public awareness of electoral and democratic systems), after subsection (11) insert—  
“(12) Subsection (6) shall not apply to the expenditure incurred by the Commission to the extent that it is, or is to be, met under paragraph 6 of Schedule 2 to the Government of Wales Act 2006.”

*Finance Act 2003 (c. 14)*

62 The Finance Act 2003 is amended as follows.

**Commencement Information**

**I247** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

63 In section 61(3) (stamp duty land tax: compliance with planning obligations), for the entry relating to the National Assembly for Wales substitute— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh<sup>F74</sup>... Government ”.

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#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I248** This provision in force immediately after "the 2007 election" by [s. 161\(1\)](#) (subject to [s. 161\(4\)\(5\)](#))

- 64 In section 66(4) (stamp duty land tax: transfers involving public bodies)—
- (a) for the entry relating to the National Assembly for Wales substitute— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh <sup>F74</sup>... Government ”, and
  - (b) after the entry relating to the Northern Ireland Assembly Commission insert — “ The National Assembly for Wales Commission ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I249** This provision in force immediately after "the 2007 election" by [s. 161\(1\)](#) (subject to [s. 161\(4\)\(5\)](#))

- 65 In section 107(2) (stamp duty land tax: Crown application)—
- (a) after the entry relating to a Northern Ireland department insert— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh <sup>F74</sup>... Government ”, and
  - (b) for the entry relating to the National Assembly for Wales substitute— “ The National Assembly for Wales Commission ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I250** This provision in force immediately after "the 2007 election" by [s. 161\(1\)](#) (subject to [s. 161\(4\)\(5\)](#))

### *<sup>F396</sup>Planning and Compulsory Purchase Act 2004 (c. 5)*

#### Textual Amendments

**F396** Sch. 10 para. 66 and crossheading omitted (E.W.) (6.9.2015 for specified purposes) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [s. 58\(2\)\(b\)\(4\)\(b\)](#), [Sch. 2 para. 29](#)

- 66<sup>F396</sup>(1) Section 60 of the Planning and Compulsory Purchase Act 2004 (Wales Spatial Plan) is amended as follows.
- (2) In subsection (2)—
    - (a) for “National Assembly for Wales” substitute “ Welsh Ministers ”, and
    - (b) for “it thinks” substitute “ they think ”.

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- (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (4) In subsection (4), for the words from “Assembly” to “appropriate” substitute “ Welsh Ministers revise the Plan, they must publish (as they consider appropriate) ”.
- (5) In subsection (5)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “it considers” substitute “ they consider ”.
- (6) For subsection (6) substitute—
- “(6) The Welsh Ministers may not publish the Plan as revised or the revised parts of the Plan unless the Plan or the revised parts have been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (7) Omit subsection (7).]

**Commencement Information**

**I251** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

67 The Public Services Ombudsman (Wales) Act 2005 is amended as follows.

**Commencement Information**

**I252** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

68 In section 7(3)(b) (relevant action: Welsh health service bodies), for “Assembly” substitute “ Welsh Ministers ”.

**Commencement Information**

**I253** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

69 In section 8(2) (exclusion from investigation for matters not relating to Wales: exception for Assembly), for “Assembly” substitute “ Welsh<sup>F74</sup>... Government ”.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of Wales Act 2014 (c. 29), s. 4(2)(a) (with s. 4(3))

**Commencement Information**

**I254** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

70 In section 9(1)(b) (exclusion from investigation of matters: right of appeal to Assembly), for “or the Assembly” substitute “ , the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh<sup>F74</sup>... Government ”.

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**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I255** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 71 (1) Section 10 (other excluded matters) is amended as follows.
- (2) For “Assembly” (in both places) substitute “ Welsh Ministers ”.
- (3) After subsection (3) insert—
- “(3A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

**Commencement Information**

**I256** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 72 In section 12 (decisions not to investigate etc.), omit subsection (9).

**Commencement Information**

**I257** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 73 (1) Section 16 (reports of investigations) is amended as follows.
- (2) In subsection (2)(f)—
- (a) for “Assembly First Secretary” substitute “ First Minister for Wales ”, and
- (b) for “Assembly” substitute “ Welsh <sup>F74</sup>... Government ”.
- (3) Omit subsection (9).

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

**Commencement Information**

**I258** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 74 In section 21 (reports: alternative procedure), omit subsection (11).

**Commencement Information**

**I259** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 75 In section 23 (special reports: supplementary), omit subsection (6).



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#### Commencement Information

**I260** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 76 (1) Section 24 (special reports relating to the Assembly) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh <sup>F74</sup>... Government or the National Assembly for Wales Commission ”.
- (3) In subsection (2)—
- (a) for “Assembly First Secretary” substitute “ relevant person ”, and
- (b) omit paragraph (b).
- (4) After that subsection insert—
- “(2A) In subsection (2) “the relevant person” means—
- (a) if the complaint was made in respect of the Welsh <sup>F74</sup>... Government, the First Minister for Wales, and
- (b) if the complaint was made in respect of the National Assembly for Wales Commission, a member of that Commission.”
- (5) Omit subsection (3).
- (6) In the side-note, for “Assembly” substitute “ Welsh <sup>F74</sup>... Government etc. ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I261** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 77 (1) Section 25 (consultation and co-operation with other ombudsmen) is amended as follows.
- (2) In subsections (8) and (9), for “Assembly” substitute “ Welsh Ministers ”.
- (3) After subsection (9) insert—
- “(10) No order is to be made under subsection (8) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

#### Commencement Information

**I262** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 78 (1) Section 28 (listed authorities) is amended as follows.
- (2) In subsections (2) and (4), for “Assembly” substitute “ Welsh Ministers ”.
- (3) After subsection (4) insert—

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“(4A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

#### Commencement Information

**I263** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 79 (1) Section 29 (restrictions on power to amend Schedule 3) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh <sup>F74</sup>... Government or the National Assembly for Wales Commission ”.
- (3) In subsection (2)(b), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh <sup>F74</sup>... Government has, ”.
- (4) In subsection (3)—
- (a) in paragraphs (a) and (b), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh <sup>F74</sup>... Government ”, and
- (b) in paragraph (c), for “directly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities ”.
- (5) In subsection (5)—
- (a) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ”, and
- (b) in paragraph (b), for “directly or indirectly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities ”.

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I264** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 80 (1) Section 30 (provisions in orders adding persons to Schedule 3) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly proposes” substitute “ Welsh Ministers propose ”, and
- (b) for “it must” substitute “ they must ”.
- (3) In subsection (2), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh <sup>F74</sup>... Government has, ”.
- (4) In subsection (3)—
- (a) in paragraph (a), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh <sup>F74</sup>... Government has, ”, and
- (b) in paragraph (b), for “Assembly” substitute “ Welsh Ministers ”.

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#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

#### Commencement Information

**I265** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

81 In section 40 (commencement), for “Assembly” substitute “ Welsh Ministers ”.

#### Commencement Information

**I266** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 82 (1) Section 41 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “Assembly Cabinet”,
  - (b) in the definition of “relevant tribunal”, for “Assembly” substitute “ Welsh Ministers ”,
  - (c) in the definition of “social landlord in Wales”—
    - (i) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
    - (ii) in paragraph (b), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”, and
  - (d) in the definition of “Welsh health service body”, for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (2), for “Assembly” (in both places) substitute “ Welsh Ministers ”.
- (4) After that subsection insert—
- “(2A) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Assembly.”
- (5) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (6) In subsection (4)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
  - (b) for “it thinks” substitute “ they think ”.
- (7) After that subsection insert—
- “(4A) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

#### Commencement Information

**I267** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

83 (1) Section 42 (former health care providers and social landlords) is amended as follows.

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- (2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (4)(a)—
- (a) in sub-paragraph (i), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
  - (b) in sub-paragraph (ii), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”.
- (4) After subsection (5) insert—
- “(6) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.”

#### Commencement Information

**I268** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 84 (1) Section 43 (consequential and transitional provision) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
  - (b) for “it thinks” substitute “ they think ”.
- (3) After subsection (3) insert—
- “(4) No order is to be made under subsection (1) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

#### Commencement Information

**I269** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 85 (1) Section 44 (orders, regulations and directions) is amended as follows.
- (2) In subsections (1) and (2), for “Assembly” substitute “ Welsh Ministers ”.
- (3) Omit subsection (3).

#### Commencement Information

**I270** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 86 (1) Schedule 1 (Public Service Ombudsman for Wales: appointment etc.) is amended as follows.
- (2) For paragraph 1 (appointment) substitute—
- “1 The Ombudsman is to be appointed by Her Majesty on the nomination of the Assembly.”
- (3) In paragraph 3 (term of office)—

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- (a) in sub-paragraph (3), for paragraph (b) substitute—
  - “(b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office.”,
- (b) in sub-paragraph (4), for the words following “Ombudsman” substitute “ on the making of a recommendation, on the ground of the person's misbehaviour, that Her Majesty should do so. ”, and
- (c) for sub-paragraph (5) substitute—
  - “(5) A recommendation for the removal of a person from office as the Ombudsman may not be made unless—
    - (a) the Assembly has resolved that the recommendation should be made, and
    - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.”
- (4) In paragraph 4 (acting Public Service Ombudsman for Wales), for sub-paragraphs (1) and (2) substitute—
  - “(1) If the office of the Ombudsman becomes vacant, Her Majesty may, on the nomination of the Assembly, appoint a person to act as the Ombudsman.”
- (5) In paragraph 5(1)(d) (disqualification from being Ombudsman or acting Ombudsman), for “section 12(1)(ca) of the Government of Wales Act 1998 (c. 38)” substitute “ section 16(1)(d) of the Government of Wales Act 2006 ”.
- (6) In paragraph 7(3) (exceptions from disqualifications applying to former Ombudsman or acting Ombudsman)—
  - (a) in paragraph (a), after “Assembly” insert “ or the National Assembly for Wales Commission ”, and
  - (b) in paragraph (b), for “Assembly First Secretary or Assembly Secretary” substitute “ First Minister for Wales, Welsh Minister appointed under section 48 of the Government of Wales Act 2006, Counsel General to the Welsh <sup>F74</sup>... Government or Deputy Welsh Minister ”.
- (7) In paragraph 9 (remuneration etc.), after sub-paragraph (5) insert—
  - “(6) Sums required for the making of payments under sub-paragraphs (1), (2) and (5) are to be charged on the Welsh Consolidated Fund.”
- (8) For paragraph 10 (expenses) substitute—

*“ Special financial provisions*

- 10 (1) Any sums payable by the Ombudsman in consequence of a breach, in the performance of any of the Ombudsman's functions, of any contractual or other duty are to be charged on the Welsh Consolidated Fund.
- (2) And sub-paragraph (1) applies whether the breach occurs by reason of an act or omission of—
  - (a) the Ombudsman,
  - (b) a member of the Ombudsman's staff, or

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- (c) any other person acting on the Ombudsman's behalf or assisting the Ombudsman in the exercise of functions.
- (3) The Ombudsman may retain income derived from fees charged by virtue of sections 12(6), 16(6), 21(8) and 23(2) (rather than pay it into the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by this Act.”
- (9) In paragraph 11(5) (payments by Assembly to Minister for the Civil Service in respect of superannuation benefits for Ombudsman's staff)—
- (a) for “Assembly” substitute “ Ombudsman ”, and
  - (b) for “he” (in both places) substitute “ the Minister ”.
- (10) In paragraph 13 (delegation), for sub-paragraph (4) substitute—
- “(4) No arrangements may be made between the Ombudsman, on the one hand, and the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh <sup>F74</sup>... Government), on the other, for—
- (a) any functions of one of them to be exercised by the other,
  - (b) any functions of the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh <sup>F74</sup>... Government) to be exercised by members of staff of the Ombudsman,
  - (c) any functions of the Ombudsman to be exercised by members of the staff of the Welsh <sup>F74</sup>... Government, or
  - (d) the provision of administrative, professional or technical services by one of them for the other.”
- (11) In paragraph 14(3) (duty to send copy of extraordinary report to listed authorities other than the Assembly)—
- (a) after “time” insert “ send a copy to the Welsh <sup>F74</sup>... Government and ”, and
  - (b) for “than the Assembly” substitute “ than the Welsh <sup>F74</sup>... Government ”.
- (12) In paragraph 15 (estimates)—
- (a) in sub-paragraph (2), for the words following “estimate” substitute “ at least five months before the beginning of the financial year to which it relates to the committee or committees of the Assembly specified in the standing orders of the Assembly. ”,
  - (b) in sub-paragraph (3)—
    - (i) for “Assembly Cabinet” substitute “ committee or committees ”,
    - (ii) omit “to it”, and
    - (iii) for “it thinks” substitute “ thought ”, and
  - (c) for sub-paragraph (4) substitute—
 

“(4) Before laying before the Assembly with modifications an estimate submitted in accordance with sub-paragraph (2), the committee or committees must—

    - (a) consult the Ombudsman, and
    - (b) take into account any representations which the Ombudsman may make.”
- (13) In paragraph 18 (accounting officer)—
- (a) for “Treasury” (in each place) substitute “ Audit Committee ”, and

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- (b) in sub-paragraph (6)(a), for “Assembly Cabinet” substitute “ Welsh Ministers ”.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

**Commencement Information**

**I271** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 87 In paragraph 1 of Schedule 2 (excluded matters), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh <sup>F74</sup>... Government ”.

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

**Commencement Information**

**I272** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 88 In Schedule 3 (listed authorities), under the heading “Government of Wales”, for the entry relating to the Assembly substitute—

“The Welsh <sup>F74</sup>... Government.

The National Assembly for Wales Commission.”

**Textual Amendments**

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

**Commencement Information**

**I273** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Inquiries Act 2005 (c. 12)*

- 89 The Inquiries Act 2005 is amended as follows.

**Commencement Information**

**I274** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 90 In section 1(2) (“Ministers” who may cause inquiries to be held), after paragraph (b) insert—

“(ba) the Welsh Ministers;”, and omit the words following paragraph (c).

**Commencement Information**

**I275** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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- 91 (1) Section 27 (United Kingdom inquiries) is amended as follows.
- (2) In subsection (3)(b), for “National Assembly for Wales” substitute “ Welsh Ministers ”.
- (3) In subsection (7), in the definitions of “the relevant administration” and “Welsh matter”, for “National Assembly for Wales has” substitute “ Welsh Ministers have ”.

**Commencement Information**

**I276** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 92 In section 28(4) (Scottish inquiries), for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I277** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 93 (1) Section 29 (Welsh inquiries) is amended as follows.
- (2) In subsection (1), for “National Assembly for Wales is” substitute “ Welsh Ministers are ”.
- (3) In subsection (5), for “National Assembly for Wales has” substitute “ Welsh Ministers have ”.

**Commencement Information**

**I278** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 94 In section 30(5) (Northern Ireland inquiries), for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I279** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 95 (1) Section 41 (rules) is amended as follows.
- (2) In subsection (3)(c)—
- (a) for “National Assembly for Wales” substitute “ Welsh Ministers ”, and
- (b) for “that Assembly is” substitute “ they are ”.
- (3) In subsection (4)(a), for “National Assembly for Wales” substitute “ Welsh Ministers ”.
- (4) In subsection (5), after paragraph (a) insert—
- “(aa) if made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales;”.



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**Commencement Information**

**I280** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

96 In section 43(1) (interpretation), in the definition of “the relevant Parliament or Assembly”, for “National Assembly for Wales is responsible, that Assembly” substitute “ Welsh Ministers are responsible, the National Assembly for Wales ”.

**Commencement Information**

**I281** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

97 In section 51(2) (commencement), for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I282** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

SCHEDULE 11

Section 162

TRANSITIONAL PROVISIONS

*Alteration of Assembly electoral regions*

F397<sup>1</sup> .....

**Textual Amendments**

**F397** Sch. 11 para. 1 repealed (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. 13(2)(c), 19(1), [Schs. 12](#)

*2007 election to be election to Assembly constituted by this Act*

2 The 2007 election is an election to the Assembly constituted by this Act (and not that constituted by the Government of Wales Act 1998 (c. 38)).

*First meeting after 2007 election*

3 The first meeting of the Assembly constituted by this Act after the 2007 election is to be held on the day specified by or in accordance with an order made by statutory instrument by the Assembly constituted by the Government of Wales Act 1998 (c. 38); and that day must be within the period of seven days beginning immediately after the day of the poll at the 2007 election.

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#### *Date of 2011 election*

- 4 Until the first ordinary general election (or any extraordinary general election the poll for which is held as mentioned in section 5(5)), section 3(1) has effect as if the reference to the previous ordinary general election were to the 2007 election.

#### *No dual constituency and regional candidacy*

- 5 (1) Section 5 of the Government of Wales Act 1998 (ordinary elections: party lists of candidates, and individual candidates, to be Assembly members for Assembly electoral regions) is amended as follows.
- (2) In subsection (5) (those who may not be included on party list), for paragraphs (c) and (d) (candidate to be Assembly member for Assembly constituency outside electoral region and candidate of different party to be Assembly member for Assembly constituency within electoral region) substitute “or
- (c) who is a candidate to be the Assembly member for an Assembly constituency.”
- (3) In subsection (6) (those who may not be an individual candidate), for paragraphs (c) and (d) (candidate to be Assembly member for Assembly constituency outside electoral region and candidate of registered political party to be Assembly member for Assembly constituency within electoral region) substitute “or
- (c) a candidate to be the Assembly member for an Assembly constituency.”
- 6 (1) Section 7 of that Act (return of electoral region members) is amended as follows.
- (2) In subsection (6)(party to be disregarded once party list exhausted by return of all persons on it as constituency or electoral region members), omit “for Assembly constituencies or”.
- (3) Omit subsection (10) (person on party list returned as Assembly member to be treated as ceasing to be on list for purposes of drawing on list at ordinary election or in case of vacancy in electoral region seat).

#### *Electoral region vacancies before first general election etc.*

- 7 Section 11 has effect until the first general election as if—
- (a) the references in subsections (2) and (8) to section 9 were to section 7 of the Government of Wales Act 1998, and
- (b) the references to the last general election were to the 2007 election.

#### *Election orders*

- 8 An order under section 11 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if made under section 13 of this Act.

#### *Term of office of Assembly members*

- 9 Section 14 has effect until the first general election as if the reference in paragraph (a) to being declared to be returned included being declared to be returned at the 2007 election.

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### *Disqualification Orders*

- 10 An Order in Council under section 12(1)(b) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time as if made under section 16(1)(b) of this Act.

### *Disqualification of Lords of Appeal in Ordinary*

- 11 A Lord of Appeal in Ordinary is disqualified from being a member of the Assembly constituted by the Government of Wales Act 1998 or this Act.

### *Remuneration of Assembly members etc.*

- 12 (1) This paragraph has effect in relation to a determination under section 16 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act.
- (2) So far as relating to the Assembly First Secretary elected under that Act and the Assembly Secretaries appointed under that Act, the determination has effect after that time as if made under section 53, and applies—
- (a) in relation to the First Minister as it applied before that time in relation to the Assembly First Secretary elected under that Act, and
  - (b) in relation to the Welsh Ministers appointed under section 48 of this Act as it applied before that time in relation to the Assembly Secretaries appointed under that Act.
- (3) Otherwise, the determination has effect after that time as if made under section 20, and applies—
- (a) in relation to the Presiding Officer as it applied before that time in relation to the presiding officer elected under the Government of Wales Act 1998,
  - (b) in relation to the Deputy Presiding Officer as it applied before that time in relation to the deputy presiding officer elected under that Act,
  - (c) in relation to the leader of the largest political group without an executive role as it applied before that time in relation to the leader of the largest political party not represented on the executive committee constituted by that Act, and
  - (d) in relation to any other Assembly member as it applied before that time in relation to members of the Assembly constituted by that Act.
- (4) For the purposes of sub-paragraph (3)(c) a political group is the largest political group without an executive role if—
- (a) it is not a political group with an executive role, and
  - (b) more Assembly members belong to it than to each other political group which is not a political group with an executive role.
- (5) This paragraph has effect in relation to determinations under section 18 of the Government of Wales Act 1998 (c. 38) as it has effect in relation to determinations under section 16 of that Act, but as if references in this paragraph to members of, or office-holders in connection with, the Assembly (as constituted by the Government of Wales Act 1998 or this Act) were references to persons who have ceased to be such members or office-holders.

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- 13 An order under section 17 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if made under section 21.

*Publication of information about remuneration of Assembly members*

- 14 (1) Section 22(2) does not apply in relation to the financial year ending with 31st March 2007.
- (2) The Assembly constituted by this Act has the same duty in relation to that financial year as the Assembly constituted by the Government of Wales Act 1998 would have by virtue of section 19 of that Act but for this Act.
- (3) In relation to the financial year ending with 31st March 2008 the references in section 22(2) to salaries and allowances of the kind mentioned in section 20 include sums paid under sections 16 and 18 of the Government of Wales Act 1998.

*Assistance to groups of Assembly members*

- 15 (1) A determination under section 34A of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if it were made in accordance with section 24.
- (2) In relation to the financial year ending with 31st March 2008 the reference in subsection (6)(b) of section 24 to sums paid under that section includes sums paid under section 34A of the Government of Wales Act 1998.

*First Presiding Officer*

- 16 The reference in subsection (1) of section 25 to the first meeting of the Assembly following a general election includes a reference to the first meeting of the Assembly following the 2007 election.

*First Clerk*

- 17 The member of the staff of the Assembly constituted by the Government of Wales Act 1998 who, immediately before the day of the poll at the 2007 election, holds the post referred to in the standing orders made under that Act as the Clerk to the Assembly is to be taken to be appointed under section 26(1) at the beginning of that day.

*Promotion of awareness of election system and devolved government*

- 18 Paragraphs 5 and 6 of Schedule 2 have effect until the end of the initial period as if for the references to the Assembly Commission there were substituted references to the Assembly constituted by the Government of Wales Act 1998 (c. 38).

*Crown status of Assembly Commission*

- 19 Sub-paragraph (4) of paragraph 12 of Schedule 2 has effect until the end of the initial period with the omission of paragraph (b) (and the word “or” before it).

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### *Standing orders*

- 20 (1) The Secretary of State must, no later than 31st March 2007, make the standing orders which are to have effect in relation to the proceedings of the Assembly following the 2007 election.
- (2) The standing orders made under this paragraph—
- (a) must include provision as to the matters which this Act requires to be covered by the standing orders, and
  - (b) may include provision as to the matters which this Act provides may be so covered.
- (3) In making standing orders made under this paragraph the Secretary of State must give effect to any relevant Assembly proposals (but subject to sub-paragraph (5)).
- (4) For this purpose proposals are relevant Assembly proposals if—
- (a) they are proposals for the inclusion in the standing orders made under this paragraph of provision relating to any matters which must or may be covered by them,
  - (b) they are made by the Assembly constituted by the Government of Wales Act 1998 by a resolution passed by that Assembly,
  - (c) where the motion for the resolution is passed on a vote, at least two-thirds of the members of the Assembly voting support it,
  - (d) the proposals are made in both English and Welsh, and
  - (e) a copy of the proposals are sent to the Secretary of State no later than 28th February 2007.
- (5) The Secretary of State may make modifications of any relevant Assembly proposals—
- (a) in order to give full effect to what appears to the Secretary of State to be the policy contained in the proposals, or
  - (b) in consequence of other provision to be included in the standing orders made under this paragraph.
- (6) The Secretary of State must publish the standing orders made under this paragraph as soon as reasonably practicable after they are made and must do so in both English and Welsh.
- (7) The standing orders made under this paragraph have effect (subject to any revisions made by the Assembly under section 31) unless and until they are remade by the Assembly under that section.

### *Witnesses and documents: penalties*

- 21 In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (c. 44) the references in section 39(4)(b) and 40(3)(b) to 51 weeks are to three months.

### *Exercise of functions before appointment of first First Minister*

- 22 (1) Nothing in this Act (including in particular the repeal of section 1 of the Government of Wales Act 1998 (c. 38)), or in that Act, is to be taken to dissolve the Assembly constituted by that Act until the end of the initial period.

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- (2) Despite this Act and section 2(5) of that Act, during the initial period the Assembly constituted by that Act is to be treated as consisting of the persons who—
- (a) immediately before the beginning of the initial period, hold office as the Assembly First Secretary, an Assembly Secretary or the presiding officer, and
  - (b) are candidates to be Assembly members at the 2007 election.
- (3) But a person ceases to be a member of that Assembly—
- (a) if not returned as an Assembly member at that election, when the Assembly members for the Assembly constituency or Assembly electoral region for which that person is a candidate are returned, or
  - (b) if disqualified from being an Assembly member, when that disqualification takes effect.
- (4) For so long as a person is a member of the Assembly constituted by the Government of Wales Act 1998 by virtue of this paragraph the person continues to be entitled to the same salary and allowances as the person was entitled to by virtue of section 16 of that Act immediately before the beginning of the initial period.
- 23 (1) This paragraph and paragraph 24 have effect during the initial period.
- (2) The functions of the Assembly constituted by the Government of Wales Act 1998, other than functions to which paragraph 24 applies, are exercisable—
- (a) by the person who immediately before the beginning of the initial period held office as the Assembly First Secretary, if that person is a member of that Assembly, or
  - (b) by such of the persons who at that time held office as an Assembly Secretary and are members of that Assembly as those persons may designate, if that person is not a member of that Assembly (or if the office of Assembly First Secretary was vacant at that time).
- (3) A person designated for the purposes of sub-paragraph (2)(b) must inform the Secretary of State of the designation as soon as is reasonably practicable.
- (4) Functions which are exercisable by virtue of sub-paragraph (2) may be delegated by the person by whom they are exercisable (to such extent as that person may determine) to any other member of the Assembly constituted by the Government of Wales Act 1998 who immediately before the beginning of the initial period held office as an Assembly Secretary.
- (5) Functions which—
- (a) are exercisable by virtue of sub-paragraph (2), or
  - (b) are delegated under sub-paragraph (4),
- may be delegated by the person by whom they are exercisable or to whom they have been delegated (to such extent as that person may determine) to members of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38).
- (6) Where a function is delegated under sub-paragraph (5), arrangements for the exercise of the function are to be made by the person who, immediately before the beginning of the initial period, was the Permanent Secretary to the Assembly for the purposes of section 63(2) of the Government of Wales Act 1998.
- (7) The delegation of any function under this paragraph does not prevent the exercise of the function by the person by whom the delegation is made.

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- (8) The exercise of any function in accordance with this paragraph is subject to any condition, limitation or restriction which applied to the exercise of that function immediately before the beginning of the initial period.
- 24 (1) This paragraph applies to functions of the Assembly constituted by the Government of Wales Act 1998 which, immediately before the beginning of the initial period, were delegated under section 62 of that Act to the committee of the Assembly referred to in the standing orders made under that Act as the House Committee.
- (2) Functions to which this paragraph applies are exercisable—
- (a) by the person who, immediately before the beginning of the initial period, held office as the presiding officer of the Assembly constituted by the Government of Wales Act 1998, if that person is a member of that Assembly, or
- (b) by the person who, at that time, held the post referred to in the standing orders made under that Act as the Clerk to the Assembly, if the person mentioned in paragraph (a) is not a member of that Assembly (or if the office of presiding officer was vacant at that time).
- (3) Functions which are exercisable by virtue of sub-paragraph (2) may be delegated by the person by whom they are exercisable (to such extent as that person may determine) to members of the staff of the Assembly constituted by the Government of Wales Act 1998.
- (4) Where a function is delegated under sub-paragraph (3), arrangements for the exercise of the function are to be made by the person who, immediately before the beginning of the initial period, held the post referred to in the standing orders made under the Government of Wales Act 1998 as the Clerk to the Assembly.
- (5) The delegation of any function under sub-paragraph (3) does not prevent the exercise of the function by the person by whom the delegation is made.
- (6) The exercise of any function in accordance with this paragraph is subject to any condition, limitation or restriction which applied to the exercise of that function immediately before the beginning of the initial period.
- 25 (1) Where a function of making, confirming or approving subordinate legislation is exercised during the initial period in accordance with paragraph 23, it is to be made, confirmed or approved by being signed by the person by whom the function is exercised.
- (2) Despite sub-paragraph (8) of paragraph 23, nothing contained in the following provisions of the Government of Wales Act 1998 (c. 38), or included in the standing orders of the Assembly constituted by that Act by virtue of the following provisions of that Act, applies to subordinate legislation made in accordance with that paragraph—
- (a) section 65 (regulatory appraisals),
- (b) sections 66 and 67 (procedure), and
- (c) section 68 (financial initiative).
- (3) But as soon as is reasonably practicable after the end of the initial period the Clerk must lay before the Assembly every statutory instrument containing subordinate legislation made, confirmed or approved in accordance with paragraph 23.

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*Saving for existing instruments conferring or imposing functions*

- 26 (1) Any provision of an Order in Council under section 22 of the Government of Wales Act 1998 (whether included by virtue of that section or any other enactment apart from section 155(2) of that Act) which is in force immediately before the commencement of the repeal of that section by this Act continues to have effect after the commencement of that repeal as if it were a provision of an Order in Council under section 58.
- (2) Accordingly—
- (a) the reference in paragraph 7(2) of Schedule 3 to an Order in Council under section 58 of this Act which includes provision transferring a function to the Welsh Ministers, the First Minister or the Counsel General includes a reference to an Order in Council under section 22 of the Government of Wales Act 1998 which includes provision having that effect by virtue of this Schedule, and
- (b) the reference in paragraph 18(5) of Schedule 8 to an Order in Council under section 58 transferring a function of preparing accounts to the Welsh Ministers includes a reference to an Order in Council under section 22 of the Government of Wales Act 1998 which makes provision having that effect by virtue of this Schedule.
- (3) Any provision which—
- (a) is included in an Order in Council under section 22 of the Government of Wales Act 1998 by virtue of section 155(2) of that Act (meaning of “Wales”), and
- (b) is in force at the time when this Act is passed,
- is to be treated after that time as if it were also contained in an order under subsection (3) of section 158 of this Act (having effect for the purposes of the definition of “Wales” in subsection (1) of that section).
- 27 Orders under section 27 of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that section by this Act continue to have effect despite the commencement of that repeal.
- 28 (1) Designations made under section 2(2) of the European Communities Act 1972 (c. 68) by virtue of subsection (1) of section 29 of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that subsection by this Act continue to have effect after the commencement of that repeal as if made by virtue of subsection (1) of section 59 of this Act.
- (2) Regulations made under section 56 of the Finance Act 1973 (c. 51) by virtue of subsection (4) of that section which are in force immediately before the commencement of the repeal of that subsection by this Act continue to have effect after the commencement of that repeal as if made by virtue of subsection (5) of section 59 of this Act.

*First nomination of First Minister*

- 29 The reference in section 47(2)(a) to the holding of a poll at a general election includes a reference to the holding of the poll at the 2007 election.



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*Transfer of Assembly functions*

- 30 (1) Subject to paragraph 31, the relevant Assembly functions are transferred to the Welsh Ministers immediately after the end of the initial period.
- (2) “The relevant Assembly functions” means functions exercisable by the Assembly constituted by the Government of Wales Act 1998 (c. 38)—
- (a) immediately before the end of the initial period, by virtue of an Order in Council under section 22 of the Government of Wales Act 1998,
  - (b) immediately before the end of that period, as a result of a designation made under section 2(2) of the European Communities Act 1972 (c. 68) by virtue of subsection (1) of section 29 of the Government of Wales Act 1998,
  - (c) immediately before the end of that period, as a result of having been conferred or imposed on it by an enactment contained in an Act, other than an enactment contained in the Government of Wales Act 1998, or by a prerogative instrument, or
  - (d) immediately before the end of that period, as a result of having been conferred or imposed on it by subordinate legislation (including subordinate legislation made under the Government of Wales Act 1998).
- (3) For the purposes of this paragraph a function is “exercisable” at any time even if the enactment transferring, conferring or imposing it has not come into force at that time.
- 31 (1) Her Majesty may by Order in Council provide for—
- (a) the transfer of any of the relevant Assembly functions to—
    - (i) the First Minister, or
    - (ii) the Counsel General,
  - (b) the transfer of any of the relevant Assembly functions, other than functions of making, confirming or approving subordinate legislation, to the Assembly Commission, or
  - (c) any of the relevant Assembly functions, other than functions of making, confirming or approving subordinate legislation, to be functions of the Assembly.
- (2) Her Majesty may by Order in Council provide for any relevant Assembly function that is a function of making, confirming or approving subordinate legislation in relation to any matter not to be transferred to the Welsh Ministers and, unless the Assembly already has power to pass Assembly Measures in relation to that matter, amend Part 1 of Schedule 5 to enable the Assembly to have instead power to pass Assembly Measures in relation to that matter—
- (a) in the same terms as the relevant Assembly function, or
  - (b) in terms differing from those terms to such extent as appears appropriate.
- (3) Her Majesty may by Order in Council—
- (a) direct that any function transferred by paragraph 30 is to be exercisable by any one or more of the First Minister, the Counsel General, the Assembly Commission and the Assembly concurrently with the Welsh Ministers,
  - (b) direct that any function in relation to which provision is made by virtue of sub-paragraph (1) for it to be transferred to, or continue to be a function of, any person or body is to be exercisable by any other person or body specified in that sub-paragraph concurrently with that person or body, or
  - (c) direct that any function transferred by paragraph 30, or transferred to the First Minister or the Counsel General by virtue of sub-paragraph (1), is to

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be exercisable by the Welsh Ministers, the First Minister or the Counsel General only with the agreement of, or after consultation with, the Assembly Commission.

- (4) An Order in Council under sub-paragraph (1), (2) or (3) may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (1) or (3) in relation to a function which has already been transferred to the Welsh Ministers, the First Minister or the Counsel General without the consent of those persons or that person to the recommendation.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (2) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly constituted by the Government of Wales Act 1998 (c. 38); and a statutory instrument containing an Order in Council under that sub-paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (1) or (3) 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.
- (8) But sub-paragraph (7) does not apply if the Assembly constituted by the Government of Wales Act 1998 or the Assembly constituted by this Act has resolved that a recommendation should be made to Her Majesty in Council to make the Order in Council.
- 32 (1) This paragraph applies so far as may be necessary for the purpose or in consequence of the exercise of any functions of—
- (a) the Welsh Ministers,
  - (b) the First Minister,
  - (c) the Counsel General,
  - (d) the Assembly Commission, or
  - (e) the Assembly constituted by this Act,
- which are made exercisable by them by or by virtue of paragraph 30 or 31.
- (2) Any relevant reference to the Assembly constituted by the Government of Wales Act 1998 (c. 38) is to be construed as being or including a reference to—
- (a) the Welsh Ministers,
  - (b) the First Minister,
  - (c) the Counsel General,
  - (d) the Assembly Commission, or
  - (e) the Assembly constituted by this Act,
- (according to by whom the function in question is, or is to be, exercised).

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- (3) In sub-paragraph (2) “relevant reference to the Assembly constituted by the Government of Wales Act 1998” means—
- (a) a reference in any enactment, prerogative instrument or other document to that Assembly, or
  - (b) a reference in any enactment or other document which, immediately before the commencement of the repeal by this Act of section 43 of the Government of Wales Act 1998, had effect as a reference to that Assembly.

**Modifications etc. (not altering text)**

**C30** Sch. 11 para. 32 excluded (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, Sch. 2 para. 2

*Functions transferred by Order in Council under section 22 of the Government of Wales Act 1998: Parliamentary and Assembly procedure*

- 33 (1) This paragraph applies where—
- (a) a function to make subordinate legislation was transferred to, or made exercisable by, the Assembly constituted by the Government of Wales Act 1998 by an Order in Council under section 22 of that Act, and
  - (b) the function has been transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31.
- (2) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of any of the descriptions specified in sub-paragraph (3) applied to its exercise by a Minister of the Crown—
- (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) applies, but
  - (b) (whether or not the case is one to which that sub-paragraph applies) that provision has effect in relation to its exercise by the Welsh Ministers, the First Minister or the Counsel General as if any reference in it to Parliament or either House of Parliament were (or, if it is such a case, included) a reference to the Assembly.
- (3) The descriptions of provision referred to in sub-paragraph (2) are—
- (a) provision requiring any instrument made in the exercise of the function, or a draft of any such instrument, to be laid before Parliament or either House of Parliament,
  - (b) provision for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either House of Parliament or of each House, and
  - (c) provision prohibiting the making of any such instrument without such approval.
- (4) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of either of the descriptions specified in sub-paragraph (5) applied to its exercise by a Minister of the Crown—

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- (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) or (7) applies, but
  - (b) (whether or not the case is one to which either of those sub-paragraphs applies) any instrument made in the exercise of the function by the Welsh Ministers, the First Minister or the Counsel General is (or, if it is such a case, is also) subject to the procedure in the Assembly specified by the standing orders.
- (5) The descriptions of provision referred to in sub-paragraph (4) are—
- (a) provision for any instrument made in the exercise of the function to be a provisional order (that is, an order which requires to be confirmed by Act of Parliament), and
  - (b) provision requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18)) made in the exercise of the function to be subject to special parliamentary procedure.
- (6) This sub-paragraph applies in any case if the instrument made in the exercise of the function or (if provision specified in sub-paragraph (3)(a) or (b) applied to a draft of an instrument made in the exercise of the function) a draft of an instrument to be so made—
- (a) contains subordinate legislation made or to be made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers, the First Minister or the Counsel General),
  - (b) contains (or confirms or approves) subordinate legislation relating to an English border area, or
  - (c) contains (or confirms or approves) subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (7) This sub-paragraph applies in any case if, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of the description specified in sub-paragraph (5)(b) applied to an instrument made in exercise of the function by a Minister of the Crown and the Order in Council provided that—
- (a) any order made by the Assembly constituted by the Government of Wales Act 1998 (c. 38) in the exercise of the function, or
  - (b) any order so made in circumstances including those of the case,
- is to be subject to special parliamentary procedure.
- (8) In this paragraph “make” includes confirm or approve and related expressions (except “made exercisable”) are to be construed accordingly; but an instrument (or draft) does not fall within sub-paragraph (6)(a) just because it contains subordinate legislation made (or to be made) by the Welsh Ministers, the First Minister or the Counsel General with the agreement of a Minister of the Crown or government department.

*Functions conferred or imposed by pre-commencement enactment: Parliamentary and Assembly procedure*

- 34 (1) This paragraph applies where—

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- (a) a function to make subordinate legislation was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 (c. 38) by a pre-commencement enactment (“the Welsh function”),
  - (b) the Welsh function has been transferred to the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31, and
  - (c) when the Welsh function was transferred, a Minister of the Crown had the same or substantially the same function exercisable in relation to England (“the corresponding function”).
- (2) If, immediately after the transfer of the Welsh function, a provision of any of the descriptions specified in sub-paragraph (4)—
- (a) applied to the exercise of the corresponding function by the Minister of the Crown, but
  - (b) did not apply to the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,
- the provision applies to any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General as if any reference in it to Parliament or either House of Parliament were a reference to the Assembly.
- (3) [<sup>F398</sup>Subject to sub-paragraphs (4A) and (4B),] If, immediately after the transfer of the Welsh function, a provision of any of the descriptions specified in sub-paragraph (4) applied to both—
- (a) the exercise of the corresponding function by the Minister of the Crown, and
  - (b) the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,
- the provision applies to any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General as if any reference in it to Parliament or either House of Parliament were a reference both to the Assembly and to Parliament or either House of Parliament.
- (4) The descriptions of provision referred to in sub-paragraphs (2) and (3) are—
- (a) provision requiring any instrument made in the exercise of the function, or a draft of any such instrument, to be laid before Parliament or either House of Parliament,
  - (b) provision for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either House of Parliament or of both Houses, and
  - (c) provision prohibiting the making of any such instrument without such approval.
- [<sup>F399</sup>(4A) Section 1(5) of the Travel Concessions (Eligibility) Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 1(4) of that Act (order changing minimum age for the purposes of eligibility for travel concessions) as if the reference to either House of Parliament were a reference to the Assembly.
- (4B) Section 268(13) of the Enterprise Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 268(1) of that Act (order in relation to disqualification from office) as if the reference to each House of Parliament were a reference to the Assembly.]
- (5) If, immediately after the transfer of the Welsh function, a provision of either of the descriptions specified in sub-paragraph (7)—

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- (a) applied to the exercise of the corresponding function by the Minister of the Crown, but
- (b) did not apply to the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

an instrument made in any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General is subject to the procedure in the Assembly specified by the standing orders.

- (6) If, immediately after the transfer of the Welsh function, a provision of either of the descriptions specified in sub-paragraph (7) applied to both—
- (a) the exercise of the corresponding function by the Minister of the Crown, and
  - (b) the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

the instrument made in any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General is subject to that provision and to the procedure in the Assembly specified by the standing orders.

- (7) The descriptions of provision referred to in sub-paragraphs (5) and (6) are—
- (a) provision for any instrument made in the exercise of the function to be a provisional order (that is, an order which requires to be confirmed by Act of Parliament), and
  - (b) provision requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18)) made in the exercise of the function to be subject to special parliamentary procedure.

- (8) In this paragraph—
- “make” includes confirm or approve and related expressions are to be construed accordingly, and
  - “pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.

- (9) This paragraph does not apply if the Welsh function was transferred as a result of the operation of paragraph 30(2)(b) (see paragraph 28 and section 59).

#### Textual Amendments

**F398** Words in Sch. 11 para. 34(3) inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 3(a)**

**F399** Sch. 11 para. 34(4A)(4B) inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 3(b)**

#### Modifications etc. (not altering text)

**C31** Sch. 11 para. 34 excluded (1.4.2008) [Mental Health Act 2007 \(c. 12\)](#), **ss. 50(10)(a)**, 56; S.I. 2008/745, **art. 4**

- 35 (1) This paragraph applies where—
- (a) a function to make subordinate legislation was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 (c. 38) by a pre-commencement enactment,
  - (b) the function has been transferred to the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31, and

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- (c) when the function was transferred, no Minister of the Crown had the same or substantially the same function exercisable in relation to England.
- (2) No procedure for scrutiny by the Assembly applies to any instrument made in the exercise of the function, or a draft of any such instrument, unless the function is specified in Table 1 or Table 2.
- (3) No subordinate legislation is to be made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of any function specified in Table 1 unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

TABLE 1

<i>Function</i>	<i>Description</i>
Section 45B(1) of the Environmental Protection Act 1990 (c. 43).	Power to apply section 45A to Welsh waste collection authorities.
Section 45D of the School Standards and Framework Act 1998 (c. 31).	Power to repeal school funding provisions.
Section 8(3) of the Care Standards Act 2000 (c. 14).	Power to confer functions in relation to Part 2 services in Wales.
Section 72B(2) of that Act.	Power to amend list of persons reviewable by Commissioner.
Section 73(5A) of that Act.	Power to amend list of arrangements reviewable by Commissioner.
Section 76(4) of that Act.	Power to confer further functions on Commissioner.
Section 78(1A) of that Act.	Power to provide that person aged 18 or over is a child for the purposes of Part 5.
Section 78(6) of that Act.	Power to make provision about persons to whom Part 5 applies.
Paragraph 2 of Schedule 2 to that Act.	Power to make provision about the appointment etc. of Commissioner.
Section 68(1) of the Local Government Act 2000 (c. 22), if exercised to amend or repeal any enactment contained in an Act.	Power to confer functions on Public Services Ombudsman for Wales.
Section 68(3) of that Act, if exercised to amend or repeal any enactment contained in an Act.	Power to make provision relating to Ombudsman's functions and expenses.
Section 70(1) of that Act.	Power to make provision about investigations by Ombudsman.
[ <sup>F400</sup> Section 20(1) of the Political Parties, Elections and Referendums Act 2000.]	Power to transfer functions of the Local Government Boundary Commission for Wales.]

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Section 3(4) of the Health (Wales) Act 2003 (c. 4).	Power to transfer functions of Wales Centre for Health to Welsh Minister.
Section 4(1) of that Act.	Power to establish Health Professions Wales (HPW).
Section 4(3) of that Act.	Power to provide for HPW to carry out Welsh Ministers' functions.
Section 5(8) of that Act.	Power to abolish HPW.
Section 83(2) of the Local Government Act 2003 (c. 26).	Power to make fire authorities in Wales major precepting authorities.
Section 92(2) of that Act.	Power to repeal section 24(3) of the Housing Act 1985 (c. 68).
Section 23(9) of the Anti-social Behaviour Act 2003 (c. 38).	Power to apply to Wales provisions about penalty notices in cases of truancy.
Section 75(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), if exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 96 of that Act, if exercised to amend or repeal any part of the text of an Act.	Power to confer additional functions in relation to Welsh local authority social services.
Section 101(1) of that Act, if exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
[ <sup>F401</sup> Section 33(3)(a)(ii) of the Higher Education Act 2004 (c. 8).]	[ <sup>F401</sup> Power to require institutions' plans to include provision relating to promotion of higher education.]
Section 12(2) of the Public Audit (Wales) Act 2004 (c. 23).	Power to add to definition of "local government body in Wales".
Section 39(1) of that Act, if exercised so as to include a declaration that a contravention is an offence.	Power to make provision about publication etc. of accounts.
Section 46(2) of that Act.	Power to apply sections 47 to 49 to other local government bodies.
Section 47(5) of that Act.	Power to shorten period within which body must publish information.
Section 62(1) of the Education Act 2005 (c. 18), if exercised to amend or repeal an enactment.	Power to change inspection framework for Wales.
Section 103(3) of that Act.	Power to repeal certain provisions in the Education Act 2002 (c. 32).
Section 124(1) of that Act, if exercised to amend or repeal an enactment.	Power to make consequential etc. provision.



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[ <sup>F402</sup> Section 5(1) of the Transport (Wales) Act 2006.	Power to establish a joint transport authority to discharge specified transport functions for specified areas.]
[ <sup>F403</sup> Section 4(1) of the Commissioner for Older People (Wales) Act 2006.	Power to amend Schedule 2 to that Act.]
[ <sup>F404</sup> Section 6(5) of that Act.	Power to confer power on the Commissioner to require prescribed persons to provide information for the purposes of his functions under section 5.]
[ <sup>F405</sup> Section 7(1) of that Act.	Power to amend Schedule 3 to that Act.]
[ <sup>F406</sup> Section 16(4) of that Act.	Power to apply the joint working provisions in section 16 to persons other than the Ombudsmen specified in that section.]
[ <sup>F407</sup> Section 17(8) of that Act.	Power to amend subsection 17(6), which specifies persons with whom the Commissioner may work collaboratively under section 17.]
[ <sup>F408</sup> Section 18(10) of that Act.	Power to amend the definition of “permitted person” in section 18(9).]
[ <sup>F409</sup> Section 27(2) of that Act.	Power to amend the definition of “family health service provider in Wales” and “independent provider in Wales”.]

- (4) A statutory instrument containing subordinate legislation made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of any function specified in Table 2 is (unless a draft of the statutory instrument has been laid before, and approved by a resolution of, the Assembly) subject to annulment in pursuance of a resolution of the Assembly.

TABLE 2

<i>Function</i>	<i>Description</i>
F410	F410
. . .	. . .
F411	F411
. . .	. . .
F412	F412
. . .	. . .
F413	F413
. . .	. . .
F414	F414

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F415	F415
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F416	F416
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F417	F417
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F418	F418
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F419	F419
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F420	F420
...	...
F421	F421
...	...
F422	F422
...	...
Section 79S(2) of the Children Act 1989 (c. 41).	Power to confer functions relating to child minding or day care.
Section 79T(2) of that Act.	Power to make provision about inspection of child minding and day care.
Section 16A(3) of the Environment Act 1995 (c. 25).	Power to alter composition of regional flood defence committees in Wales.
[ <sup>F423</sup> Section 97D of the School Standards and Framework Act 1998.	Power to make provision about the admission of children looked after by local authorities in Wales to maintained schools in Wales.]
Paragraph 5(2) of Schedule 7 to the School Standards and Framework Act 1998 (c. 31).	Power to prescribe content and form of publication of proposals.
Paragraph 12(2)(d) of Schedule 7 to that Act.	Power to prescribe period within which objections to proposals may be made.
Paragraph 17(2) of Schedule 7 to that Act.	Power to make transitional exemption order relating to proposal for school to cease to be single sex.
Paragraph 13B(1) of Schedule 26 to that Act.	Power to prescribe period within which nursery inspection report must be made.
Section 73(5) of the Care Standards Act 2000 (c. 14).	Power to confer power on the Commissioner to require information.
Section 74(1) of that Act.	Power to provide for examination by Commissioner of particular cases.

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Section 76(1) of that Act.	Power to confer power on Commissioner to assist children.
Paragraph 6(4) of Schedule 2 to that Act.	Power to specify the financial years of Commissioner.
Paragraph 8 of that Schedule.	Power to require Commissioner to make reports to Assembly.
Paragraph 17 of that Schedule.	Power to add Commissioner to the Superannuation Act 1972 (c. 11).
Section 77(4) of the Learning and Skills Act 2000 (c. 21).	Power to prescribe period within which report must be made.
Section 83(7) of that Act.	Power to make further provision about obligation to provide information.
Section 128(4)(b) and (c) of that Act.	Power about statement of proposed action.
Section 68(1) of the Local Government Act 2000 (c. 22), unless exercised to amend or repeal any enactment contained in an Act.	Power to confer functions on Public Services Ombudsman for Wales.
Section 68(3) of that Act, unless exercised to amend or repeal any enactment contained in an Act.	Power to make provision relating to Ombudsman's functions and expenses.
Section 109(6)(b) of the Transport Act 2000 (c. 38).	Power to specify date by which deemed local transport plan to be replaced.
[ <sup>F424</sup> Section 113A(1) of the Transport Act 2000.	Power to modify the application of sections 108 to 111 of that Act in relation to local transport authorities whose areas are in Wales.]
[ <sup>F425</sup> Section 20(6) of the Political Parties, Elections and Referendums Act 2000.	Power to direct that the Local Government Boundary Commission for Wales shall cease to exist.]
F426	F426
...	...
F427	F427
...	...
F428	F428
...	...
[ <sup>F429</sup> Section 139(1) of the Education Act 2002 (c. 32).]	Power to approve institutions to provide course of higher education etc.
Section 192 of that Act.	Power to prescribe content and manner of publication of proposals to secure regional provision.
Section 193 of that Act.	Power to make provision about proposals to secure regional provision.

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Section 197 of that Act.	Power relating to partnership agreements and statements.
Section 198 of that Act.	Power relating to transition from primary to secondary school.
Section 207(4) of that Act.	Power relating to adjustments between [ <sup>F430</sup> local authorities].
Section 3(3) of the Health (Wales) Act 2003 (c. 4).	Power to make provision about functions of Wales Centre for Health.
Section 4(4) of that Act.	Power to make provision for HPW to make arrangements about functions.
Section 4(7) of that Act.	Power to make provision about constitution of HPW.
Section 5(1) of that Act.	Power to permit HPW to charge for services.
Section 5(2) of that Act.	Power to transfer property etc. and personnel to HPW.
Section 5(7) of that Act.	Power to make provision about accounts and audit of HPW.
Section 5(9) of that Act.	Power to transfer property etc. and staff from HPW.
Paragraph 10 of Schedule 2 to that Act.	Power to make provision about Wales Centre for Health.
Paragraph 27 of Schedule 2 to that Act.	Power to make provision about accounts and audit of Centre.
Section 29(1) of the Waste and Emissions Trading Act 2003 (c. 33)	Power to require Welsh local authority to have waste management strategy.
Section 30(1) of that Act.	Power to require Welsh local authority to provide information about waste.
Section 75(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), unless exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 94(6) of that Act.	Power to require Welsh local authority to pay fee in relation to review of adoption and fostering functions.
Section 96 of that Act, unless exercised to amend or repeal any part of the text of an Act.	Power to confer additional functions in relation to Welsh local authority social services.
Section 101(1) of that Act, unless exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.

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[ <sup>F431</sup> Section 62(4) of the Planning and Compulsory Purchase Act 2004 (c. 5).]	[ <sup>F431</sup> Power to prescribe form and content of local development plan.]
[ <sup>F431</sup> Section 63(3)(a) of that Act.]	[ <sup>F431</sup> Power to prescribe persons to be included in community involvement scheme.]
[ <sup>F431</sup> Section 63(7) of that Act.]	[ <sup>F431</sup> Power to prescribe requirements in relation to that scheme and local development plan.]
[ <sup>F431</sup> Section 69(1) of that Act.]	[ <sup>F431</sup> Power to prescribe times for review of local development plan.]
[ <sup>F431</sup> Section 69(3) of that Act.]	[ <sup>F431</sup> Power to prescribe form of, and publication requirements for, review.]
[ <sup>F431</sup> Section 76(2) of that Act.]	[ <sup>F431</sup> Power to prescribe information to be contained in annual monitoring report.]
[ <sup>F431</sup> Section 76(3) of that Act.]	[ <sup>F431</sup> Power to prescribe timing, form and content of report.]
[ <sup>F431</sup> Section 77 of that Act.]	[ <sup>F431</sup> Power to make provision about functions conferred by Part 6.]
[ <sup>F432</sup> Section 30(1)(b) of the Higher Education Act 2004 (c. 8).]	[ <sup>F432</sup> Power to designate “relevant authority”.]
[ <sup>F432</sup> Section 38(2) of that Act.]	[ <sup>F432</sup> Power to prescribe maximum period during which relevant authority can refuse to approve institution's new plan.]
Section 18(2)(c) of the Public Audit (Wales) Act 2004 (c. 23).	Power to specify documents to which right of access applies.
Section 21(1) of that Act.	Power to replace scale of audit fees.
Section 39(1) of that Act, unless exercised so as to include a declaration that a contravention is an offence.	Power to make provision about publication etc. of accounts.
Section 52(2)(c) of that Act.	Power to specify documents to which right of access applies.
[ <sup>F433</sup> Section 26(2)(f) of the Children Act 2004 (c. 31).]	[ <sup>F433</sup> Power to make provision about implementation of children and young people's plans.]
[ <sup>F433</sup> Section 26(4) of that Act.]	[ <sup>F433</sup> Power to require approval of such plans.]
Section 22(1) of the Education Act 2005 (c. 18).	Power to establish panel to advise on Chief Inspector's functions.

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Section 25(2) of that Act.	Power to prescribe categories of persons who may be registered inspectors.
Section 25(3)(b) of that Act.	Power to prescribe fees for applications for registration.
Section 36(2) of that Act.	Power to make provision as to timing of inspections and reports.
Section 38(3)(e) and (4)(b) and (c) of that Act.	Power to make provision relating to destination of reports about maintained schools.
Section 39(2)(a), (3), (5) and (7)(b) of that Act.	Power to make provision relating to statement prepared by appropriate authority for school.
Section 40(3)(a) of that Act.	Power to make provision relating to statement prepared by [ <sup>F434</sup> local authority].
Section 41(4)(b) and (c) of that Act.	Power to make provision relating to destination of reports about non-maintained schools.
Section 42(2)(a), (3), (4) and (5)(b) of that Act.	Power to make provision relating to statement prepared by proprietor of school.
Section 52(5) of that Act.	Power to make provision about provision of inspection services by [ <sup>F435</sup> local authorities].
Section 55(4) of that Act.	Power to prescribe intervals at which careers services are inspected.
Section 56(3) of that Act.	Power to prescribe intervals at which related services are inspected.
Section 57(7)(a), (b) and (c) of that Act.	Power to require a person inspected to prepare written statement in response.
Section 57(9) of that Act.	Power to make provision about inspection reports.
Section 62(1) of that Act, unless exercised to amend or repeal an enactment.	Power to change inspection framework for Wales.
Section 85(3)(d) of that Act.	Power to designate institutions eligible for HEFCW funding.
Section 90(1) of that Act.	Power to confer functions on HEFCW.
Section 91(1) of that Act.	Power to give directions to HEFCW.
Section 92(4) of that Act.	Power to authorise joint exercise of HEFCW functions.

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Section 100(2) of that Act.	Power to make provision as to meaning of “governing body”.
Section 124(1) of that Act, unless exercised to amend or repeal an enactment.	Power to make consequential etc. provision.
Paragraph 2 of Schedule 3 to that Act.	Power to make provision about appeals to, and procedure of, tribunals.
Paragraph 3(2)(b) of Schedule 4 to that Act.	Power to prescribe persons who may not be members of inspection team.
Paragraph 4(3) of Schedule 4 to that Act.	Power to waive fees for applications to be on the list of inspection team members.
Paragraph 6(b) of Schedule 4 to that Act.	Power to make provisions about meetings between inspectors and pupils.
[ <sup>F436</sup> Section 8(1) of the Transport (Wales) Act 2006.	Power to establish the Public Transport Users` Committee for Wales or Pwyllgor Defnyddwyr Trafnidiaeth Gyhoeddus Cymru.]
[ <sup>F437</sup> Section 8(2) of that Act.	Power to change the name of a body established under section 8(1) of that Act.]
[ <sup>F438</sup> Section 8(6) of that Act	Power to make provision for the transfer of staff, property, rights and liabilities, from the Committee to any other person.]
[ <sup>F439</sup> Section 9(3) of that Act.	Power to change or transfer functions of the Public Transport Users` Committee for Wales.]
[ <sup>F440</sup> Section 8(1) of the Commissioner for Older People (Wales) Act 2006.	Power to confer power on the Commissioner to give assistance to certain persons to make complaints in respect of matters specified in section 8.]
[ <sup>F441</sup> Section 10(1) of that Act.	Power to make regulations allowing the Commissioner to examine cases of particular persons who are, or have been, older people in Wales.]
[ <sup>F442</sup> Section 14(1) of that Act.	Power to confer additional functions on the Commissioner.]
[ <sup>F443</sup> Section 15(1) of that Act.	Power to make regulations providing for the Commissioner to make reports following the discharge of any of his functions.]
[ <sup>F444</sup> Section 21(2) of that Act.	Power to prescribe certain functions for the purpose of preventing the Commissioner from being authorised

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	and required to exercise those functions.]
[ <sup>F445</sup> Paragraph 2 of Schedule 1 to that Act.	Power to make provision as to the appointment of the Commissioner and as to the terms of office of the Commissioner.]
[ <sup>F446</sup> Article 16(4) of the National Assembly for Wales (Representation of the People) Order 2007.	Power to specify the apportionment of the costs of combined polls at an Assembly general election and an ordinary local government election.]

(5) In this paragraph—

“make” includes confirm or approve and related expressions are to be construed accordingly, and

“pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.

(6) This paragraph does not apply if the function was transferred as a result of the operation of paragraph 30(2)(b) (see paragraph 28 and section 59).

#### Textual Amendments

- F400** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F401** Words in Sch. 11 para. 35(3) Table 1 omitted (E.W.) (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 23\(a\)](#); S.I. 2015/1327, art. 5(s)(v)
- F402** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F403** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F404** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F405** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F406** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F407** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F408** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F409** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)



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- F410** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F411** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F412** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F413** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F414** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F415** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F416** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F417** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F418** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F419** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F420** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F421** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F422** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F423** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F424** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F425** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F426** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(b)** (with Sch. 3 Pt. 1)
- F427** Sch. 11 para. 35(4) Table 2: entry omitted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(a)(b); S.I. 2009/3174, **art. 2(1)(r)**
- F428** Sch. 11 para. 35(4) Table 2: entry omitted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(a)(b); S.I. 2009/3174, **art. 2(1)(r)**
- F429** Sch. 11 para. 35(4) Table 2: entry substituted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(c); S.I. 2009/3174, **art. 2(1)**
- F430** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(3)(a)**
- F431** Words in Sch. 11 para. 35(4) omitted (E.W.) (6.9.2015) by virtue of Planning (Wales) Act 2015 (anaw 4), s. 58(2)(a), **Sch. 7 para. 2**
- F432** Words in Sch. 11 para. 35(4) Table 2 omitted (E.W.) (1.9.2015) by virtue of Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 23(b)**; S.I. 2015/1327, art. 5(s)(v)
- F433** Words in Sch. 11 para. 35(4) repealed (E.W.) (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 18**; S.I. 2016/86, art. 3

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- F434** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 59(3)(b)**
- F435** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 59(3)(c)**
- F436** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F437** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F438** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 4, **Sch. 2 para. 5**
- F439** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 4, **Sch. 2 para. 5**
- F440** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 4, **Sch. 2 para. 5**
- F441** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F442** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F443** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F444** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F445** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**
- F446** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, **Sch. 2 para. 5**

**Modifications etc. (not altering text)**

- C32** Sch. 11 para. 35 excluded (1.4.2008) [Mental Health Act 2007 \(c. 12\)](#), **ss. 50(10)(a)**, 56; S.I. 2008/745, **art. 4**

*[<sup>F447</sup>Instrument containing provisions under transferred power and provision under power in section 2(2) of the European Communities Act 1972: Assembly procedure*

**Textual Amendments**

- F447** Sch. 11 para. 35A and preceding cross-heading inserted by [The Government of Wales Act 2006 \(Transitional Provisions\) Order 2007 \(S.I. 2007/1270\)](#), **art. 2(2)**, the amending provision coming into

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force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see art. 1(2) of the amending Order and s. 161(5) of this Act

- 35A (1) —(1) Paragraph 2A of Schedule 2 to the ECA 1972 applies to a draft of a statutory instrument laid before the Assembly pursuant to section 59(3) of this Act as it applies to a draft of a statutory instrument laid before Parliament pursuant to paragraph 2(2) of Schedule 2 to the ECA 1972.
- (2) Paragraph 2B of Schedule 2 to the ECA 1972 applies to a statutory instrument laid before the Assembly pursuant to section 59(3) of this Act as it applies to a statutory instrument laid before Parliament pursuant to paragraph 2(2) of Schedule 2 to the ECA 1972.
- (3) Paragraph 2A, or paragraph 2B, is subject to the following modifications in its application by virtue of this paragraph—
- (a) references to Parliament and to each or either House of Parliament are to be read as references to the Assembly;
  - (b) the reference in paragraph 2A(1)(a), or in paragraph 2B(1)(a), to a power conferred by any other enactment is to be read as a reference to a power which—
    - (i) is transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31 of this Schedule, or
    - (ii) is conferred on the Welsh Ministers, the First Minister or the Counsel General by a provision of any Act in consequence of the amendment of that Act by or under this Act.
- (4) In this paragraph, ECA 1972 means the European Communities Act 1972.]

*Transfers of Assembly functions: laying of reports and statements*

- 36 (1) This paragraph applies where—
- (a) a function to make or receive a report or statement was transferred to, or made exercisable by, the Assembly constituted by the Government of Wales Act 1998 (c. 38) by an Order in Council under section 22 of that Act,
  - (b) the function has been transferred to, or made exercisable by, the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission by or by virtue of paragraph 30 or 31, and
  - (c) immediately before the transfer of the function to that Assembly, any enactment made provision (“provision for Parliamentary laying”) for a report or statement made or received in the exercise of the function to be laid before Parliament or either House of Parliament by the person making or receiving it.
- (2) The provision for Parliamentary laying applies to the exercise of the function by the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission as if it required the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) In this paragraph and paragraph 37 references to a report or statement include any other document (except one containing subordinate legislation).
- 37 (1) This paragraph applies where—

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- (a) a function to make or receive a report or statement was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 by a pre-commencement enactment,
  - (b) the function has been transferred to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission by or by virtue of paragraph 30 or 31, and
  - (c) immediately before the transfer, any enactment made provision for a report or statement made or received in the exercise of the function (or the matter contained in such a report or statement) to be published by that Assembly.
- (2) A copy of the report or statement must be laid before the Assembly after it has been made or received.
- (3) In this paragraph “pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.

*Transfers of Assembly functions: property, rights and liabilities*

- 38 (1) In paragraphs 39 and 40 “transferred function” means a function—
- (a) which is conferred or imposed on the Welsh Ministers, the First Minister or the Counsel General by a provision of this Act which re-enacts (with or without modifications) a provision of the Government of Wales Act 1998 (c. 38) which conferred or imposed the same or substantially the same function on the Assembly constituted by that Act,
  - (b) which is transferred to a person or body other than the Assembly by or by virtue of paragraph 30 or 31, or
  - (c) which is conferred or imposed on the Welsh Ministers, the First Minister or the Counsel General by a provision of any Act in consequence of the amendment of that Act by or under this Act.
- (2) In paragraphs 39 and 40 “the transferee”, in relation to a transferred function, means—
- (a) in the case of a function within paragraph (a) or (c) of sub-paragraph (1), the person or body on whom the function is conferred or imposed, and
  - (b) in the case of a function within paragraph (b) of that sub-paragraph, the person or body to whom the function is transferred.
- (3) In paragraph 39 “transfer time”, in relation to a transferred function, means the time when the function first becomes exercisable by the transferee of the transferred function.
- 39 (1) The property, rights and liabilities to which the Assembly constituted by the Government of Wales Act 1998 is entitled or subject in connection with any transferred function are transferred to and vest in the transferee of the function.
- (2) Anything (including legal proceedings) which relates to—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,
- and which is in the process of being done by or in relation to the Assembly constituted by the Government of Wales Act 1998 immediately before the transfer time may be continued by or in relation to the transferee of the transferred function.

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- (3) Anything which was done by or in relation to the Assembly constituted by the Government of Wales Act 1998 for the purpose of or in connection with—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,
- and which is in effect immediately before the transfer time has effect as if done by or in relation to the transferee of the transferred function.
- (4) In any instruments, contracts or legal proceedings which relate to—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,
- and which are made or commenced before the transfer time, the transferee of the transferred function is substituted for the Assembly constituted by the Government of Wales Act 1998.
- 40 (1) Her Majesty may by Order in Council provide that all or any of the provisions of paragraph 39—
- (a) do not apply in relation to particular transferred functions or to the property, rights and liabilities connected with the particular transferred functions or particular property, rights and liabilities so connected,
  - (b) are to apply only in relation to particular transferred functions or to particular property, rights or liabilities connected with transferred functions, or
  - (c) apply with modifications in relation to particular transferred functions or to the property, rights and liabilities connected with the particular transferred functions or particular property, rights and liabilities so connected.
- (2) Paragraph 39 does not apply in relation to rights and liabilities under a contract of employment of a member of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38).
- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this paragraph unless a draft of the statutory instrument containing the Order in Council has been laid before and approved by a resolution of—
- (a) each House of Parliament, and
  - (b) the Assembly constituted by the Government of Wales Act 1998 or the Assembly constituted by this Act.
- 41 (1) The Secretary of State may by order provide for the transfer to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission of—
- (a) any specified property, rights or liabilities, or
  - (b) property, rights or liabilities of any specified description,
- to which the Assembly constituted by the Government of Wales Act 1998 is entitled or subject or to which that Assembly was entitled or subject immediately before the end of the initial period.
- (2) An order under sub-paragraph (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under sub-paragraph (1) may provide—

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- (a) for the creation in favour of the Assembly Commission of interests in, or rights over, property transferred to the Welsh Ministers, the First Minister or the Counsel General,
  - (b) for the creation in favour of the Welsh Ministers, the First Minister or the Counsel General of interests in, or rights over, property transferred to the Assembly Commission, or
  - (c) for the creation of new rights and liabilities between the Welsh Ministers, the First Minister or the Counsel General on the one hand and the Assembly Commission on the other.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Welsh Ministers, the First Minister, the Counsel General, or the Assembly Commission of—
- (a) any specified thing, or
  - (b) anything of a specified description,
- commenced by or in relation to the Assembly constituted by the Government of Wales Act 1998 (c. 38).
- (5) The Secretary of State may by order make provision for—
- (a) any specified thing, or
  - (b) anything of a specified description,
- done by or in relation to the Assembly constituted by the Government of Wales Act 1998 to have effect as if done by or in relation to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission.
- (6) The Secretary of State may by order make provision for the substitution of the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission for the Assembly constituted by the Government of Wales Act 1998 in—
- (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this paragraph may be made in consequence of provision made by this Act or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) An order under this paragraph may not provide for the transfer of rights and liabilities under a contract of employment of a member of the staff of the Assembly constituted by the Government of Wales Act 1998.
- (9) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- 42 (1) A certificate issued by the Secretary of State that any property has been transferred by—
- (a) paragraph 39, or
  - (b) an order under paragraph 41,
- is conclusive evidence of the transfer.
- (2) Paragraph 39, and orders under paragraph 41, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.

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- (3) A right of pre-emption, right of return or other similar right does not operate or become exercisable as a result of any transfer of property or rights by virtue of paragraph 39 or an order under paragraph 41.
- (4) Any such right has effect in the case of any such transfer as if the transferee were the same person in law as the transferor and no transfer of the property or rights had taken place.
- (5) Such compensation as is just is to be paid to any person in respect of any such right which would, apart from sub-paragraph (3), have operated in favour of or become exercisable by that person but which, in consequence of the operation of that sub-paragraph, cannot subsequently operate in favour of or become exercisable by that person.
- (6) Any compensation payable by virtue of sub-paragraph (5) is to be paid by the transferor or by the transferee or by both.
- (7) The Secretary of State may by order make provision for the determination of disputes as to—
  - (a) whether compensation is payable under sub-paragraph (5),
  - (b) how much compensation is payable, and
  - (c) the person to whom or by whom it is to be paid.
- (8) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Sub-paragraphs (2) to (8) apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property; and references to the transferor and transferee are to be read accordingly.
- (10) In this paragraph “right of return” means any right under a provision for the return or reversion of property in specified circumstances.

### *<sup>F448</sup> Criminal Liability of the Assembly*

#### **Textual Amendments**

**F448** Sch. 11 para. 42A and preceding cross-heading inserted by [The Government of Wales Act 2006 \(Transitional Provisions\) Order 2007 \(S.I. 2007/1270\)](#), [art. 2\(3\)](#), the amending provision coming into force immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see art. 1(2) of the amending Order and s. 161(5) of this Act

- 42A (1) —(1) In this paragraph, “criminal liability of the Assembly” means criminal liability incurred by the Assembly constituted by the Government of Wales Act 1998.
- (2) To the extent that any criminal liability of the Assembly is connected with property, rights and other liabilities transferred to the Assembly Commission by the National Assembly for Wales (Transfer of Property, Rights and Liabilities) Order 2007, that criminal liability is transferred to the Assembly Commission.
  - (3) Subject to sub-paragraph (2), the criminal liability of the Assembly is transferred to the Welsh <sup>F74</sup>... Government.

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- (4) Paragraph 39(2) to (4) applies in relation to criminal liability transferred by this paragraph as it applies to a liability transferred by paragraph 39; and in that application of paragraph 39(2) to (4)—
- “transfer time” means the time immediately after the end of the initial period;
- “transferee of the transferred function” means the Assembly Commission or, as the case may be, the Welsh <sup>F74</sup>... Government. ]

#### Textual Amendments

**F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

#### *Staff of the Assembly*

- 43 (1) Subject as follows, at the end of the initial period the members of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38) (“relevant employees”) are to be taken to have been appointed as members of the staff of the Welsh <sup>F74</sup>... Government.
- (2) But the Secretary of State may by order make a scheme (“a transfer scheme”) for the transfer to the Assembly Commission of [<sup>F449</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] listed relevant employees under [<sup>F450</sup>or in connection with] their contracts of employment at the end of the initial period.
- (3) A relevant employee is a listed relevant employee if the relevant employee is named in, or is of a description of relevant employees specified in, a list produced by the Secretary of State; and the Secretary of State—
- may at any time amend the list, and
  - must make the list (and any amendments of it) available to such persons, and in such manner, as appear appropriate.
- (4) The transfer by a transfer scheme of [<sup>F451</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] a relevant employee under [<sup>F452</sup>or in connection with] the relevant employee's contract of employment does not break the continuity of the relevant employee's employment and accordingly—
- the relevant employee is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) (redundancy) as having been dismissed by virtue of the transfer, and
  - the relevant employee's period of employment with the Assembly constituted by the Government of Wales Act 1998 counts as a period of employment with the Assembly Commission for the purposes of the Employment Rights Act 1996.
- (5) A transfer scheme transferring [<sup>F453</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] a relevant employee under [<sup>F454</sup>or in connection with] the relevant employee's contract of employment must provide for the terms and conditions of the relevant employee's employment with the Assembly Commission (taken as a whole) to be no less



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favourable to the relevant employee than the terms and conditions on which the relevant employee is employed immediately before the transfer.

- (6) A transfer scheme must provide that, if a listed relevant employee informs the Assembly constituted by the Government of Wales Act 1998 or the Assembly Commission that the relevant employee objects to becoming employed by the Assembly Commission—
- (a) the transfer scheme does not operate to transfer [<sup>F455</sup>any rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of][<sup>F456</sup>or in connection with] the relevant employee's contract of employment, and
  - (b) the relevant employee's contract of employment is terminated [<sup>F457</sup>immediately before the end of] the initial period, but
  - (c) the relevant employee is not, by virtue of that termination, to be treated for any purpose as having been dismissed.
- (7) Anything (including legal proceedings) which relates to [<sup>F458</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme which is in the process of being done by or in relation to the Assembly constituted by the Government of Wales Act 1998 (c. 38) immediately before they are transferred may be continued by or in relation to the Assembly Commission.
- (8) Anything which was done by or in relation to the Assembly constituted by the Government of Wales Act 1998 for the purpose of or in connection with [<sup>F459</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme which is in effect immediately before they are transferred has effect as if done by or in relation to the Assembly Commission.
- (9) In any instruments, contracts or legal proceedings which relate to [<sup>F460</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme and which are made or commenced immediately before they are transferred, the Assembly Commission is substituted for the Assembly constituted by the Government of Wales Act 1998.
- (10) Before making an order under sub-paragraph (2) the Secretary of State must consult the Assembly constituted by the Government of Wales Act 1998.
- (11) A statutory instrument containing an order under sub-paragraph (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))
- F449** Words in Sch. 11 para. 43(2) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\), arts. 1\(2\), 2\(a\)](#), the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F450** Words in Sch. 11 para. 43(2) inserted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\), arts. 1\(2\), 2\(a\)](#), the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F451** Words in Sch. 11 para. 43(4) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\), arts. 1\(2\), 2\(b\)](#), the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)

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- F452** Words in Sch. 11 para. 43(4) inserted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(b)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F453** Words in Sch. 11 para. 43(5) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(c)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F454** Words in Sch. 11 para. 43(5) inserted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(c)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F455** Words in Sch. 11 para. 43(6)(a) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(d)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F456** Words in Sch. 11 para. 43(6)(a) inserted by virtue of [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(d)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F457** Words in Sch. 11 para. 43(6)(b) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(e)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F458** Words in Sch. 11 para. 43(7) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(f)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F459** Words in Sch. 11 para. 43(8) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(g)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F460** Words in Sch. 11 para. 43(9) substituted by [The National Assembly for Wales \(Transfer of staff to Assembly Commission Scheme\) Order 2007 \(S.I. 2007/1169\)](#), arts. 1(2), **2(h)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)

#### *Powers to lend money*

- 44 (1) This paragraph applies where—
- (a) a power to lend money was transferred to the Assembly constituted by the Government of Wales Act 1998 by an Order in Council under section 22 of that Act, and
  - (b) the power has been transferred to the Welsh Ministers by paragraph 30.
- (2) Sub-paragraph (3) applies to any sums which, for the purpose or as a result of the exercise of the power, would be required (apart from that sub-paragraph)—
- (a) to be issued by the Treasury out of the National Loans Fund, or
  - (b) to be paid into that Fund.
- (3) Those sums are instead—
- (a) to be charged on the Welsh Consolidated Fund, or
  - (b) to be paid into that Fund.
- (4) The following provisions apply where—
- (a) the power was exercised by a Minister of the Crown before its transfer to the Assembly constituted by the Government of Wales Act 1998 (c. 38) or by that Assembly after its transfer, and
  - (b) the sums required for the exercise of the power were issued by the Treasury out of the National Loans Fund.

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- (5) Any amount payable by way of repayment of, or of interest on, the loan is to be paid to the Welsh Ministers and into the Welsh Consolidated Fund (instead of to the Minister of the Crown and into the National Loans Fund).
- (6) Amounts equal to those which are to be received by the Welsh Ministers in repayment of principal are to be treated as being loans made to the Welsh Ministers by the Secretary of State on the date of the transfer of the power to the Welsh Ministers.
- (7) Such loans are to be repaid to the Secretary of State at such times and by such methods, and interest is to be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (8) Sums required to be paid to the Secretary of State under sub-paragraph (7) are to be charged on the Welsh Consolidated Fund.
- (9) Sums received by the Secretary of State under sub-paragraph (7) are to be paid into the National Loans Fund.
- (10) Her Majesty may by Order in Council disapply this paragraph (in whole or in part) in relation to any power to lend money.
- (11) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (10) 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.

#### *Local government scheme*

- 45 (1) Any scheme under section 113(1) of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 73.
- (2) Sub-paragraph (1) does not give rise to any obligation under section 73(4) to publish the scheme.
- (3) Section 73(6) does not apply in relation to the financial year ending with 31st March 2007.
- (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by paragraph 9 of Schedule 11 to that Act in relation to that financial year before the commencement of the repeal of that paragraph by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (5) In relation to the financial year ending with 31st March 2008, the reference in section 73(6)(a) to the proposals set out in the local government scheme includes those set out in a scheme under section 113(1) of the Government of Wales Act 1998.

#### *Voluntary sector scheme*

- 46 (1) Any scheme under section 114(1) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 74.

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- (2) Sub-paragraph (1) does not give rise to any obligation under section 74(7) to publish the scheme.
- (3) Section 74(9) does not apply in relation to the financial year ending with 31st March 2007.
- (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (9) of section 114 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (5) In relation to the financial year ending with 31st March 2008, the reference in section 74(9)(a) to the proposals set out in the voluntary sector scheme includes those set out in a scheme under section 114(1) of the Government of Wales Act 1998.

*Equality of opportunity arrangements*

- 47 (1) Any arrangements under section 120(1) of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that provision by this Act have effect after that time (with appropriate modifications) as if made under section 77.
- (2) Section 77(2) does not apply in relation to the financial year ending with 31st March 2007.
- (3) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (2) of section 120 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (4) In relation to the financial year ending with 31st March 2008, the references in subsection (2) of section 77 to the arrangements made in pursuance of subsection (1) of that section include those made in pursuance of section 120(1) of the Government of Wales Act 1998.

*Welsh language strategy and scheme*

- 48 (1) The National Action Plan for a Bilingual Wales (or Iaith Pawb) as it stands immediately before the coming into force of section 78 has effect after that time (with appropriate modifications) as if it were a strategy adopted under subsection (1) of that section.
- <sup>F461</sup>(2) .....
- (3) [<sup>F462</sup>Sub-paragraph (1) does] not give rise to any obligation under section 78(6).
- (4) Section 78(8) does not apply in relation to the financial year ending with 31st March 2007.

**Textual Amendments**

**F461** Sch. 11 para. 48(2) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(b)(i)**

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**F462** Words in Sch. 11 para. 48(3) substituted (31.3.2016) by [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), 2(b)(ii)

*Sustainable development scheme*

- 49 (1) Any scheme under section 121(1) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 79.
- (2) Sub-paragraph (1) does not give rise to any obligation under section 79(4) to publish the scheme.
- (3) Section 79(6) does not apply in relation to the financial year ending with 31st March 2007.
- (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (6) of section 121 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (5) In relation to the financial year ending with 31st March 2008, the reference in section 79(6)(a) to the proposals set out in the sustainable development scheme includes those set out in a scheme under section 121(1) of the Government of Wales Act 1998.
- (6) Section 79(7) has effect as if 2008 were the year following that in which an ordinary general election is held.

*Orders in Council amending Schedule 5*

- 50 (1) Section 95 has effect until the end of the initial period subject to the following modifications.
- (2) In subsection (2), for the words after “exercisable by” substitute “ the Assembly constituted by the Government of Wales Act 1998 ”.
- (3) In subsection (5)(a), after “Assembly” insert “ constituted by the Government of Wales Act 1998 ”.
- (4) Omit subsections (6) to (10).
- 51 Section 96 has effect until the end of the initial period with the substitution of “ Assembly constituted by the Government of Wales Act 1998 ” for “Counsel General”.

*Assembly Measures: criminal penalties*

- 52 (1) No term of imprisonment of more than six months is to be imposed on conviction of a summary offence created by or by virtue of an Assembly Measure if the offence is committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (c. 44).
- (2) No term of imprisonment of more than six months is to be imposed on summary conviction of an offence triable either way created by or by virtue of an Assembly

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Measure if the offence is committed before the coming into force of section 154(1) of that Act.

*[<sup>F463</sup>Payments into the Welsh Consolidated Fund]*

**Textual Amendments**

**F463** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

<sup>F464</sup>53A No later than four weeks after a certified copy of the accounts of the Public Services Ombudsman for Wales (“the Ombudsman”) for the financial year ending with 31st March 2007 is, under paragraph 17(2)(b) of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, laid before the Assembly, the Ombudsman must pay into the Welsh Consolidated Fund a sum equal to the total amount of all monies standing to the credit of the Ombudsman immediately before 1st April 2007.

**Textual Amendments**

**F464** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

- 53B (1) No later than four weeks after a certified copy of the accounts of the Auditor General for the financial year ending with 31st March 2007 is laid before the Assembly under paragraph 15(3)(b) of Schedule 8 (as it applies by virtue of paragraph 64C of this Schedule) the Auditor General must pay the required amount into the Welsh Consolidated Fund.
- (2) “The required amount” means a sum equal to the total amount of all monies standing to the credit of the Auditor General immediately before 1st April 2007 except monies within both sub-paragraph (3) and sub-paragraph (4).
- (3) Monies are within this sub-paragraph if they represent—
- (a) fees charged by the Auditor General by virtue of Part 1 of the Local Government Act 1999 (best value audits and inspections),
  - (b) grants made to the Auditor General under section 33(3)(b) of that Act (grants in respect of expenditure under that Act),
  - (c) fees charged by the Auditor General by virtue of Part 2 of the Public Audit (Wales) Act 2004 (local government audit), or
  - (d) fees or other sums received by the Auditor General by virtue of section 96C of the Government of Wales Act 1998 (arrangements with relevant authorities).
- (4) Monies are within this sub-paragraph if they are retained by the Auditor General for use in connection with the exercise of the functions conferred or imposed by, or the exercise of functions pursuant to —
- (a) Part 1 of the Local Government Act 1999,
  - (b) Part 2 of the Public Audit (Wales) Act 2004, or
  - (c) section 96C of the Government of Wales Act 1998.]

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#### Textual Amendments

**F464** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

[<sup>F465</sup>53 No later than four weeks after a certified copy of the accounts of the Assembly constituted by the Government of Wales Act 1998 for the financial year ending with 31st March 2007 is, under section 97(5)(b) of that Act, laid before the Assembly constituted by this Act, the Welsh Ministers must pay into the Welsh Consolidated Fund a sum equal to the total amount of all monies standing to the credit of the Assembly constituted by the Government of Wales Act 1998 immediately before 1st April 2007.]

#### Textual Amendments

**F465** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

#### *Grants*

54 Until the end of the initial period section 118(2) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for the reference to the Welsh Ministers, the First Minister or the Counsel General.

#### *Statement of estimated payments*

55 In its application for the financial year beginning on 1st April 2007 section 119 has effect as if—

- (a) the references in subsection (1)(b) and (c) to the Welsh Ministers, the First Minister or the Counsel General included the Assembly constituted by the Government of Wales Act 1998, and
- (b) the reference in subsection (6) to the Assembly were to that Assembly.

#### *Destination of receipts*

56 Until the end of the initial period section 120 has effect—

- (a) with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for paragraphs (a) and (b) of subsection (1), and
- (b) as if the references in subsections (3), (4) and (5) to the Welsh Ministers were to that Assembly;

and the reference in subsection (2)(a) to a resolution of the Assembly includes a resolution made before the beginning of the initial period by that Assembly.

#### *Borrowing*

57 (1) Until the end of the initial period section 121(1) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for the reference to the Welsh Ministers.

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- (2) For the purpose of section 122(2) the aggregate amount which, immediately before 1st April 2007, is outstanding in respect of the principal of—
- (a) loans made under section 82 of the Government of Wales Act 1998, and
  - (b) any other loans issued out of the National Loans Fund which the Assembly constituted by the Government of Wales Act 1998 is liable to repay,
- is treated as outstanding in respect of the principal of sums borrowed under section 121.

*Payments out of Welsh Consolidated Fund.*

58 Until the end of the initial period section 124(3) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 (c. 38) for paragraphs (a) and (b).

59 Until the end of the initial period—

- (a) paragraph 5(3) of Schedule 31 to the Local Government, Planning and Land Act 1980 (c. 65) (financial provisions relating to urban development corporations: guarantees),
- (b) paragraph 16 of Schedule 8 to the Local Government Finance Act 1988 (c. 41) (non-domestic rating: pooling), and
- (c) paragraph 5(3) of Schedule 8 to the Housing Act 1988 (c. 50) (financial provisions relating to housing action trusts: guarantees),

have effect with the substitution of references to that Assembly for the references to the Welsh Ministers.

*Annual Budget motions*

- 60 (1) In its application for the financial year beginning on 1st April 2007 section 125 has effect as if—
- (a) the reference in subsection (1) to the Assembly included the Assembly constituted by the Government of Wales Act 1998 (except as it continues in existence by virtue of paragraph 22), and
  - (b) the references in paragraphs (b) and (c) of subsection (3) to the Welsh Ministers, the First Minister or the Counsel General included that Assembly.
- (2) In relation to a Budget motion moved in that Assembly that section has effect as if—
- (a) the reference in subsection (2) to the First Minister or a Welsh Minister appointed under section 48, and
  - (b) the reference in subsection (3) to the Welsh Ministers in the words before the paragraphs,
- were to a member of the executive committee within the meaning of the Government of Wales Act 1998 and as if the references in paragraphs (a), (b) and (c) of that subsection to the estimate of the Welsh Ministers were to the estimate of the member of that committee by whom the statement is made.

*Supplementary Budget motions*

- 61 (1) In its application for the financial year beginning on 1st April 2007 section 126 has effect as if the reference in subsection (1) to the Assembly included the Assembly constituted by the Government of Wales Act 1998 (except as it continues in existence by virtue of paragraph 22).



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- (2) In relation to a supplementary Budget resolution moved in that Assembly that section has effect as if the reference in subsection (5) to the First Minister or a Welsh Minister appointed under section 48 were to a member of the executive committee within the meaning of the Government of Wales Act 1998.

*[<sup>F466</sup>Contingencies]*

**Textual Amendments**

**F466** Sch. 11 para. 62 substituted (1.4.2007) by virtue of [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), [art. 4](#)

- <sup>F467</sup>62(1) Until the end of the initial period, section 128 has effect as if for the words after “this section” in subsections (4) and (5) there were substituted in each place “must not exceed £50 million.”.
- (2) Until the beginning of the initial period, section 128(1) to (6) has effect as if the references to the Welsh Ministers were to two or more members of the executive committee within the meaning of the Government of Wales Act 1998.
- (3) Where authorisation is given under section 128 before the beginning of the initial period, that section has effect as if for subsection (7) there were substituted—
- “(7) Where two or more members of the executive committee within the meaning of the Government of Wales Act 1998 authorise the use of resources or the payment of amounts under this section, that committee must, as soon as possible, lay before the Assembly constituted by that Act a report setting out—
- (a) the resources authorised to be used or the amounts authorised to be paid,
- (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
- (c) why it was considered necessary to authorise the use of the resources, or the payment of the amounts, under this section.”.
- (4) During the initial period, section 128(1) to (6) has effect as if the references to the Welsh Ministers were to two or more members of the Assembly constituted by the Government of Wales Act 1998 (as it continues in existence by virtue of paragraph 22) not including the person who immediately before the beginning of the initial period held office as the presiding officer.
- (5) Where authorisation is given under section 128 during the initial period, that section has effect as if for subsection (7) there were substituted—
- “(7) Where two or more members of the Assembly constituted by the Government of Wales Act 1998 authorise the use of resources or the payment of amounts under this section, that Assembly (as it continues in existence by virtue of paragraph 22 of Schedule 11) must, as soon as possible, prepare a report for the Welsh Ministers setting out—
- (a) the resources authorised to be used or the amounts authorised to be paid,

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- (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
  - (c) why it was considered necessary to authorise the use of the resources, or the payment of the amounts, under this section.
- (8) The Welsh Ministers must lay the report before the Assembly constituted by this Act as soon as reasonably practicable after the end of the initial period.”.]

#### Textual Amendments

**F467** Sch. 11 para. 62 substituted (1.4.2007) by virtue of [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 4**

#### *Approvals to draw*

- 63 (1) This paragraph applies until the end of the initial period.
- (2) Section 129 has effect as if the [<sup>F468</sup>references] in subsection (1) [<sup>F469</sup>and subsection (3)] to the Welsh Ministers were—
- (a) before the beginning of the initial period, to a member of the executive committee within the meaning of the Government of Wales Act 1998, and
  - (b) during the initial period, to a member of the Assembly constituted by that Act (as it continues in existence by virtue of paragraph 22) other than the person who immediately before the beginning of the initial period held office as the presiding officer.
- [<sup>F470</sup>(3) That section has effect as if for the references in subsection (4) to the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission there were substituted a reference to the Assembly constituted by the Government of Wales Act 1998.]
- (4) And that section has effect as if the reference in subsection (5)(b) to the principal accounting officer for the Welsh <sup>F74</sup>... Government were—
- (a) before the beginning of the initial period, to the Assembly's principal accounting officer (designated under section 98 of the Government of Wales Act 1998), and
  - (b) during the initial period, to the person who was the Assembly's principal accounting officer immediately before the beginning of the initial period.

#### Textual Amendments

- F74** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **s. 4(2)(a)** (with s. 4(3))
- F468** Word in Sch. 11 para. 63(2) substituted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(1)**
- F469** Words in Sch. 11 para. 63(2) inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(1)**
- F470** Sch. 11 para. 63(3) substituted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(2)**

[<sup>F471</sup>Preparation of Assembly's annual accounts for financial year ending 31st March 2007

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**Textual Amendments**

**F471** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

63A The function of the Assembly constituted by the Government of Wales Act 1998 under section 97 of that Act of preparing accounts of that Assembly for the financial year ending with 31st March 2007 shall transfer to the Welsh Ministers at the end of the initial period.

**Textual Amendments**

**F471** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

*Preparation of whole of government accounts for year ending 31st March 2007*

63B The function of the Assembly constituted by the Government of Wales Act 1998 under section 101A of that Act of preparing whole of government accounts for the financial year ending with 31st March 2007 shall transfer to the Welsh Ministers at the end of the initial period.]

**Textual Amendments**

**F471** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

*Auditor General*

64 The person who, immediately before the commencement of the repeal of section 90 of the Government of Wales Act 1998, holds the post of Auditor General for Wales is to be taken after that time to have been appointed to that post under paragraph 1 of Schedule 8.

*<sup>F472</sup>Auditor General's staff*

**Textual Amendments**

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

64A The members of staff employed by the Auditor General immediately before the commencement of the repeal of section 92 of the Government of Wales Act 1998 are to be taken after that time to have been appointed to that employment under paragraph 7 of Schedule 8.

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#### Textual Amendments

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

#### *Audit of Auditor General's accounts*

64B The person appointed as the auditor of the accounts for the Auditor General under section 94(1) of the Government of Wales Act 1998 immediately before the commencement of the repeal of that section is to be taken after that time to have been appointed by the Assembly constituted by this Act under paragraph 14(1) of Schedule 8.

#### Textual Amendments

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

64C Paragraph 15 of Schedule 8 (audit of accounts) applies to accounts prepared by the Auditor General under section 93(8) of the Government of Wales Act 1998 for the financial year ending with 31st March 2007 as it applies to accounts prepared under paragraph 13 of that Schedule.

#### Textual Amendments

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

#### *Audit Committee reports*

64D The reference in section 143(1) (Audit Committee reports) to any accounts, statement of accounts or report laid before the Assembly includes any accounts, statement of accounts or report laid before the Assembly constituted by the Government of Wales Act 1998.

#### Textual Amendments

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

#### *Examinations into use of resources by the 1998 Assembly*

64E (1) Notwithstanding the repeal of section 100 of the Government of Wales Act 1998 (examination into Assembly's use of resources) the Auditor General may carry out, or continue to carry out, examinations into the economy, efficiency and effectiveness with which the Assembly constituted by that Act used its resources in discharging its functions.

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- (2) Section 135 of this Act applies to an examination carried out pursuant to subparagraph (1) as it applies to an examination of the kind mentioned in subsection (1) of that section.

**Textual Amendments**

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Remuneration of the Auditor General*

- 64F Any sums required by the Assembly constituted by the Government of Wales Act 1998 for the making of payments under section 91(1), (2) or (4) of that Act (remuneration of the Auditor General for Wales) shall, to the extent that they relate to the financial year beginning with 1st April 2007, be charged on the Welsh Consolidated Fund.

**Textual Amendments**

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Remuneration etc. of the Public Services Ombudsman for Wales*

- 64G Any sums required by the Assembly constituted by the Government of Wales Act 1998 for the making of payments under paragraph 9(1), (2) and (5) of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (remuneration of Public Services Ombudsman for Wales) or paragraph 10 of that Schedule (expenses) shall, to the extent that they relate to the financial year beginning with 1st April 2007, be charged on the Welsh Consolidated Fund.]

**Textual Amendments**

**F472** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Advocate General for Northern Ireland*

- 65 (1) Until the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26) this Act has effect subject to the following modifications.
- (2) In section 81(3), omit “, the Advocate General for Northern Ireland”.
- (3) In section 153(5)(c) and paragraphs 23(1) and (2), 24(1) and 29(2)(c) of Schedule 9, for “Advocate General” substitute “ Attorney General ”.

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*The Supreme Court*

- 66 (1) Until the coming into force of section 23(1) of the Constitutional Reform Act 2005 (c. 4) this Act has effect subject to the following modifications.
- (2) In section 96, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”.
- (3) In section 98(6)(a), for “the Supreme Court decides” substitute “ the Judicial Committee of the Privy Council decide ”.
- (4) In the following provisions, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”
- (a) the title to section 99,
  - (b) subsection (1) of that section,
  - (c) section 100(1)(b),
  - (d) section 101(4)(c), and
  - (e) section 102(2)(b).
- (5) In section 102(3)(a), for “the Supreme Court has” substitute “ the Judicial Committee of the Privy Council have ”.
- (6) In section 111(6)(a), for “the Supreme Court decides” substitute “ the Judicial Committee of the Privy Council decide ”.
- (7) In the following provisions, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”
- (a) the title to section 112,
  - (b) subsection (1) of that section,
  - (c) section 113(1)(b),
  - (d) section 114(4)(c), and
  - (e) section 115(2)(b).
- (8) In section 115(3)(a), for “the Supreme Court has” substitute “ the Judicial Committee of the Privy Council have ”.
- (9) In section 148(1)(f), for “Senior Courts” substitute “ Supreme Court ”.
- (10) In paragraph 1(2) of Schedule 9 after “Schedule” insert “—
- (a) “the Judicial Committee” means the Judicial Committee of the Privy Council, and
  - (b) ”.
- (11) In paragraphs 7(2)(a), 9, 15 and 25 of that Schedule, for “Supreme Court” substitute “ House of Lords ”.
- (12) In the following provisions of that Schedule—
- (a) paragraph 10 and the heading before it,
  - (b) paragraph 18 and the heading before it,
  - (c) paragraph 19,
  - (d) paragraph 20 and the heading before it,
  - (e) paragraph 27 and the heading before it,
  - (f) sub-paragraph (1) of paragraph 29 and the heading before it, and
  - (g) paragraph 30(1),

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for “Supreme Court” substitute “ Judicial Committee ”.

- (13) In paragraph 11 of that Schedule—
- (a) for “Supreme Court”, in both places, substitute “ Judicial Committee ”,
  - (b) for “permission”, in the first two places, substitute “ leave ”, and
  - (c) for “permission”, in the third place, substitute “ special leave ”,
- and in the heading before it, for “Supreme Court” substitute “ Judicial Committee ”.
- (14) In paragraph 21 of that Schedule—
- (a) for “Supreme Court apart from this paragraph” substitute “ House of Lords ”,
  - (b) for “Supreme Court”, in the second and third places, substitute “ Judicial Committee ”,
  - (c) for “permission”, in the first two places, substitute “ leave ”, and
  - (d) for “permission”, in the third place, substitute “ special leave ”.
- (15) In paragraph 28 of that Schedule—
- (a) for “Supreme Court”, in both places, substitute “ Judicial Committee ”,
  - (b) for “permission”, in the first two places, substitute “ leave ”, and
  - (c) for “permission”, in the third place, substitute “ special leave ”,
- and in the heading before it, for “Supreme Court” substitute “ Judicial Committee ”.
- (16) Before paragraph 29 of that Schedule insert—

*“Proceedings in the House of Lords*

28A Any devolution issue which arises in judicial proceedings in the House of Lords is to be referred to the Judicial Committee unless the House considers it more appropriate, having regard to all the circumstances, that it should determine the issue.”

- 67 (1) This paragraph has effect until the coming into force of section 23(1) of the Constitutional Reform Act 2005 (c. 4).
- (2) Any decision of the Judicial Committee in proceedings under this Act—
- (a) must be stated in open court, and
  - (b) is binding in all legal proceedings (other than proceedings before the Judicial Committee).
- (3) The only members of the Judicial Committee who may sit and act as members of the Judicial Committee in proceedings under this Act are those who hold or have held—
- (a) the office of a Lord of Appeal in Ordinary, or
  - (b) high judicial office as defined in section 25 of the Appellate Jurisdiction Act 1876 (c. 59) (ignoring for this purpose section 5 of the Appellate Jurisdiction Act 1887 (c. 70)).
- (4) Her Majesty may by Order in Council—
- (a) confer on the Judicial Committee in relation to proceedings under this Act such powers as appear to be appropriate,
  - (b) apply the Judicial Committee Act 1833 (c. 41) in relation to proceedings under this Act with exceptions and modifications, and
  - (c) make rules for regulating the procedure with respect to proceedings under this Act before the Judicial Committee.

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- (5) An Order in Council under sub-paragraph (4) may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (4) 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.
- (7) A statutory instrument containing an Order in Council which makes provision falling within sub-paragraph (4)(a) or (b) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

## SCHEDULE 12

Section 163

### REPEALS AND REVOCATIONS

#### Commencement Information

**I283** Sch. 12 partly in force at Royal Assent, partly in force at 1.4.2007, partly in force immediately after "the 2007 election" and partly in force immediately after the end of "the initial period" (subject to s. 161(6)) by s. 161(1)-(5)

<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
Copyright, Designs and Patents Act 1988 (c. 48)	Section 163(1A).
Official Secrets Act 1989 (c. 6)	Section 12(2)(aa).
Town and Country Planning Act 1990 (c. 8)	Section 321B(5).
Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)	In Schedule 3, paragraph 8(5).
Planning (Hazardous Substances) Act 1990 (c. 10)	In the Schedule, paragraph 8(5).
Government of Wales Act 1998 (c. 38)	Sections 1 to 26. Section 27(1) to (5) and (8) to (10). Sections 29 to 103. Section 104(5). Sections 106 to 124. Section 144(6) and (8A). In section 145(3), the words "(or, before the first ordinary election, the views of the Secretary of State)".



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	In section 154—
	(a) in subsection (3), paragraph (a) and, in paragraph (b), the words “96(5), 117,” and the words “144(1) or (4),”
	(b) subsection (4),
	(c) in subsection (6), in paragraph (a), the words from “3” to “118(1)(f),” the words “144(1) or (4),” and the words “or paragraph 17(9) of Schedule 9” and paragraph (b) and the word “and” preceding it, and
	(d) subsection (7).
	In section 155—
	(a) in subsection (1), the definitions of “Community law” and “delegate”,
	(b) subsection (2), and
	(c) in subsection (3), the words from “; and the” to the end.
	Section 156.
	Schedules 1 to 3.
	Schedule 5.
	Schedule 8.
	Schedule 11.
	In Schedule 12—
	(a) paragraph 2,
	(b) paragraph 7,
	(c) paragraph 8(2)(a), (3) and (4),
	(d) paragraph 12,
	(e) paragraph 13,
	(f) paragraph 15,
	(g) paragraph 17(3)(a),
	(h) paragraph 28, and
	(i) paragraph 30
Northern Ireland Act 1998 (c. 47)	In Schedule 13, paragraph 8(2) to (4).
Pollution Prevention and Control Act 1999 (c. 24)	In Schedule 2, paragraph 20.
Care Standards Act 2000 (c. 14)	In Schedule 1, paragraph 27(a).
Government Resources and Accounts Act 2000 (c. 20)	In Schedule 1, paragraphs 22, 23(a) and 24.
Learning and Skills Act 2000 (c. 21)	In Schedule 9, paragraph 93.
Political Parties, Elections and Referendums Act 2000 (c. 41)	In Schedule 3, paragraphs 8 to 16. In Schedule 21, paragraph 12.
House of Commons (Removal of Clergy Disqualification) Act 2001 (c. 13)	In Schedule 1, paragraph 3.
European Parliamentary Elections Act 2002 (c. 24)	In Schedule 3, paragraph 6.
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 7, paragraphs 3, 6 and 9.
Health (Wales) Act 2003 (c. 4)	In Schedule 3, paragraph 10.

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Local Government Act 2003 (c. 26)	In Schedule 7, paragraph 67.
Criminal Justice Act 2003 (c. 44)	In Schedule 26, paragraph 50.
Copyright and Related Rights Regulations 2003 (S.I. 2003/2498)	In Schedule 1, paragraph 11(a).
Planning and Compulsory Purchase Act 2004 (c. 5)	Section 60(7).
Public Audit (Wales) Act 2004 (c. 23)	Section 2. Sections 6 to 11. Section 65(2). In Schedule 2, paragraphs 43 and 45.
Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004 (S.I. 2004/533)	Article 6.
Companies Act 1985 (Inter—national Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947)	In Schedule 7, paragraph 13.
Constitutional Reform Act 2005 (c. 4)	In Schedule 9, paragraphs 87 to 92.
Public Services Ombudsman (Wales) Act 2005 (c. 10)	Section 12(9). Section 16(9). Section 21(11). Section 23(6). In section 24— (a) in subsection (2), paragraph (b) and the word “and” preceding it, and subsection (3). (b) In section 41(1), the definition of “Assembly Cabinet”. Section 44(3). In Schedule 1, in paragraph 15(3), the words “to it”. In Schedule 6, paragraphs 62 to 64.
Inquiries Act 2005 (c. 12)	In section 1(2), the words following paragraph (c).

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**Status:**

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