

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 6

Tribunal proceedings

Part 5

General

Schedule 11: Transitional Provisions

Paragraphs 22 to 25: Exercise of functions before appointment of first First Minister

813. These paragraphs ensure that governmental functions of the old Assembly can continue to be exercised during “the initial period”, that is, the period beginning at the start of polling day 2007 (when all members of the existing Assembly, including Assembly Ministers, would normally cease to be able to exercise those functions) and ending with the appointment of a First Minister.
814. This is done by ensuring that membership of the old Assembly does not, in relation to certain office-holders, cease until the end of the initial period. These office-holders are the Assembly First Secretary, the Assembly Secretaries (i.e. members of the “Assembly Government”) and also the Presiding Officer, provided these persons are candidates for election to the Assembly as constituted under this Act .
815. These persons will however cease to be treated as members of the Assembly if they are not re-elected or if they are disqualified from being members of the Assembly as re-constituted.
816. **Paragraph 23** provides that during the initial period, functions of the Assembly constituted under GoWA (other than those which are the subject of paragraph 24) will be exercisable by the person who was First Secretary immediately before the beginning of the initial period, provided he or she is still an Assembly member. If that person is no longer a member of the Assembly, or the office of First Secretary was vacant immediately before the beginning of the initial period, the functions are exercisable by a person who was an Assembly Secretary at that time, is an Assembly member and who has been designated to exercise the functions by the other Secretaries. The First Secretary (or the other Secretary designated to act as such) will be able to delegate functions exercisable to one of the other Secretaries or to staff and functions delegated to Secretaries will be able to be further delegated by them to staff.
817. Where functions are delegated to staff, the head of the Assembly staff (the Permanent Secretary) makes the arrangements for the exercise of those functions. Any condition, restriction or limitation which applied to the exercise of a function before the beginning of election day 2007 applies equally to the exercise of that function during the initial period.

*These notes refer to the Government of Wales Act 2006
(c.32) which received Royal Assent on 25 July 2006*

818. [Paragraph 24](#) maintains the distinction between the parliamentary and executive sides of the existing Assembly. It provides that functions of the Assembly constituted under GoWA which were delegated to its House Committee are to be exercisable during the initial period by the person who was the presiding officer immediately before election day or, if that person does not qualify to be treated as continuing in office, or ceases to be so qualified, by the person who was the Clerk of the old Assembly. The presiding officer (or the clerk) will be able to delegate functions to staff of the Assembly. Where functions are delegated to staff, the person who was the Clerk of the Assembly immediately before the beginning of the initial period is to make the arrangements for the exercise of the functions. Any condition, restriction or limitation which applied to the exercise of a function before the beginning of election day applies to the exercise of that function during the initial period.
819. [Paragraph 25](#) provides that subordinate legislation is to be made, confirmed or approved during the initial period by being signed by the person exercising the relevant function. Any such legislation is not subject to the normal Assembly procedures but the Clerk will be required to lay it before the Assembly as soon as reasonably practicable after the end of the initial period.