



# Government of Wales Act 2006

## 2006 CHAPTER 32

### PART 1

#### NATIONAL ASSEMBLY FOR WALES

##### *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—
  - (a) one member for each Assembly constituency (referred to in this Act as “Assembly constituency members”), and
  - (b) 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—
  - (a) the holding of general elections of Assembly members (for the return of the entire Assembly), and
  - (b) 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—
  - (a) the Assembly,
  - (b) committees of the Assembly, or
  - (c) sub-committees of such committees.

*Status: Point in time view as at 12/11/2009.*

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#### Commencement Information

**II** 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

- (1) The Assembly constituencies are the parliamentary constituencies in Wales (as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (S.I. 2006/1041)).
- (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.
- (5) For provision about alterations in the Assembly electoral regions and in the allocation of seats to those regions see Schedule 1.
- (6) Subsections (1), (3) and (4) are subject to any Order in Council under the Parliamentary Constituencies Act 1986 (c. 56), as that Act has effect as extended by that Schedule.

#### 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 fourth calendar year following that in which the previous ordinary general election was held, unless provision is made for the day of the poll by an order under section 4.
- (2) If the poll is to be held on the first Thursday in May, 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.

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#### 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

- (1) The Secretary of State may by order provide for the poll at an ordinary general election to be held on a day which is neither—
  - (a) more than one month earlier, nor
  - (b) more than one month later,than the first Thursday in May.
- (2) An order under this section must make provision for the Assembly—
  - (a) to be dissolved on a day specified in the order, and
  - (b) to meet within the period of seven days beginning immediately after the day of the poll.
- (3) In calculating any period of days for the purposes of provision made by virtue of subsection (2)(b), 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) An order under this section may 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 Secretary of State considers appropriate in connection with the alteration of the day of the poll.
- (5) No order is to be made under this section unless the Secretary of State has consulted the Welsh Ministers about it.
- (6) 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

**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 Secretary of State must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.
- (2) This subsection applies if—
  - (a) the Assembly resolves that it should be dissolved, and

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- (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 Secretary of State proposes a day under subsection (1), Her Majesty may by Order in Council—
  - (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.

#### **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.
- (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.

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- (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

**I6** 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, or
  - (c) who is a candidate to be the Assembly constituency member for an Assembly constituency.
- (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, or
  - (c) a candidate to be the Assembly constituency member for an Assembly constituency.
- (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.

#### 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))

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## 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.

### 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.

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- (4) An individual candidate already returned as an 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.
- (6) Once a party's list has been exhausted by the return of persons included on it as Assembly regional members 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.

#### **Commencement Information**

**19** 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

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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—
  - (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—



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- (a) was returned as an Assembly regional member under section 9 at that election (even if the return was void),
- (b) has subsequently been a candidate in an election held under section 10 (whether or not returned), or
- (c) has subsequently been returned under this section (even if the return was void),

is treated on and after the return of the person, or of the successful candidate at the election, as not having been included on the list.

#### **Commencement Information**

**II1** 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—
  - (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, and
  - (b) are registered in the register of local government electors at an address within the Assembly 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.

#### **Commencement Information**

**II2** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **13 Power to make provision about elections etc.**

- (1) The Secretary of State may by order make provision as to—
  - (a) the conduct of elections for the return of Assembly members,
  - (b) the questioning of an election for the return of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.
- (2) The provision which 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),

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- (d) for the combination of polls at elections for the return of Assembly members and other elections, and
  - (e) for modifying the operation of sections 6 and 8(2) in a case where the poll at an election for the return of the Assembly constituency member for an Assembly constituency is abandoned (or notice of it is countermanded).
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision making modifications to 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,
  - (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 for the return of Assembly members, and
  - (c) so far as may be necessary in consequence of any provision made by this Act or 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. 41),
  - (c) the European Parliamentary Elections Act 2002 (c. 24), 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 (c. 2) as applied by 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, each House of Parliament.

#### **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))

#### *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.

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#### 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))

### 15 Resignation of members

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

#### 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))

### *Disqualification*

### 16 Disqualification from being Assembly member

- (1) A person is disqualified from being an Assembly member if that person—
  - (a) is disqualified from being a member of the House of Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (c. 24) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures),
  - (b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,
  - (c) holds the office of Auditor General,
  - (d) holds the office of Public Services Ombudsman for Wales, or
  - (e) is employed as a member of the staff of the Assembly.
- (2) Subject to section 17(1) and (2), a person is also disqualified from being an Assembly member if that person is disqualified otherwise than under the House of Commons Disqualification Act 1975 (c. 24) (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it.
- (3) For the purposes of subsection (2) the references to the Republic of Ireland in section 1 of the Representation of the People Act 1981 (c. 34) (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland) are to be treated as references to any member State (other than the United Kingdom).
- (4) A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area.
- (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 in that paragraph and this subsection “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.

#### 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))

### 17 Exceptions and relief from disqualification

- (1) A person is not disqualified from being an Assembly member merely because that person is—
- (a) a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
  - (b) a Lord Spiritual.
- (2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being an Assembly member merely because of section 3 of the Act of Settlement (1700 c. 2) (disqualification of certain persons born outside United Kingdom).
- (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) or (4) is to be disregarded if it appears to the Assembly—
- (a) that the ground has been removed, and
  - (b) that it is proper so to resolve.
- (4) A resolution under subsection (3) does not—
- (a) 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
  - (b) enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.

#### 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))

### 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

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- (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—
  - (a) section 141 of the Mental Health Act 1983 (c. 20) (mental illness), and
  - (b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).
- (6) If, in consequence of a 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.

#### **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))

## **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, or
  - (b) an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit,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.

*Status: Point in time view as at 12/11/2009.*

*Changes to legislation: Government of Wales Act 2006, Part 1 is up to date with all changes known to be in force on or before 13 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)*

- (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.

#### **Commencement Information**

**119** 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) The Assembly must make provision for the payment of salaries to Assembly members.
- (2) The Assembly may make provision for the payment of allowances to Assembly members.
- (3) The Assembly may make provision 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.
- (6) Provision under this section may be made by—
  - (a) the standing orders, or
  - (b) resolutions of the Assembly,
 and may include provision conferring functions on the Assembly Commission.

*Status: Point in time view as at 12/11/2009.*

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#### 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))

## 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—
  - (a) pursuant to a resolution (or combination of resolutions) of either House of Parliament 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 (1)(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.

#### 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))

## 22 Remuneration: supplementary

- (1) Different provision may be made under section 20 or 21 for different cases.
- (2) The Assembly 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 (and may, in particular, do so by requiring it to be published by the Assembly Commission).
- (3) If the Assembly has exercised the power under section 20 to confer on the Assembly Commission the function of determining any salaries, allowances, pensions or gratuities of the kind mentioned in that section, the Assembly Commission must publish every such determination 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,is to be treated as an Assembly member until the end of the day on which the poll at the election is held.

*Status: Point in time view as at 12/11/2009.*

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- (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.

#### 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))

### 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
  - (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.



*Status: Point in time view as at 12/11/2009.*

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- (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**

**I23** 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 as the Assembly 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) If a motion making a determination under subsection (1) is passed on a vote it has no effect unless at least two-thirds of the Assembly members voting support it.
- (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.
- (6) The standing orders must include provision—
- (a) for the publication of every determination under this section, and
  - (b) for the publication for each financial year of information about the sums paid under this section in the financial year.

**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))

*Status: Point in time view as at 12/11/2009.*

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### *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.
- (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—

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- (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**

**I25** 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").
- (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**

**I26** 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.

*Status: Point in time view as at 12/11/2009.*

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- (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**

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

### *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.

*Status: Point in time view as at 12/11/2009.*

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### 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))

## 29 Composition of committees

- (1) The provision included in the standing orders in compliance with section 28(3) must meet the requirements of this section.
- (2) The provision must secure that the appointments to the places on each committee are (if possible) determined by a resolution of the Assembly—
  - (a) which secures that its membership reflects (so far as is reasonably practicable) the balance of the political groups to which Assembly members belong, and
  - (b) which (if the motion for it is passed on a vote) has no effect unless at least two-thirds of the Assembly members voting support it.
- (3) The provision must secure that, if the membership of a committee is not so determined—
  - (a) the person appointed to the first place on the committee is an Assembly member belonging to the largest political group, and
  - (b) the persons eligible to be appointed to the second and subsequent places on the committee are ascertained in accordance with subsection (5).
- (4) “The largest political group” means the political group to which the most Assembly members belong.
- (5) An Assembly member is eligible to be appointed to the second or any subsequent place on the committee if—
  - (a) the number produced by subsection (6) in relation to that place for the political group to which the Assembly member belongs, exceeds
  - (b) that so produced for each of the other political groups.
- (6) The number produced for a political group in relation to the second or any subsequent place on the committee is—
  - (a) if one or more places are already allocated to the political group, the number of Assembly members belonging to the political group divided by the aggregate of one and the number of places already so allocated, or
  - (b) otherwise, the number of Assembly members belonging to the political group.
- (7) References to a place already allocated to a political group, in relation to the appointment to the second or any subsequent place on the committee, are to a place on the committee to which an Assembly member belonging to the political group is eligible to be appointed—
  - (a) (in relation to the second place) by virtue of subsection (3)(a), or
  - (b) (in relation to any subsequent place) by virtue of subsection (3)(a) or the previous application of subsection (5) in relation to a place on the committee.
- (8) The provision must modify the operation of the provision made in compliance with subsections (3) to (7) for cases where—
  - (a) the number of Assembly members belonging to two or more political groups is the same and exceeds the number of Assembly members belonging to any other political group, or

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- (b) the number produced by subsection (6) in relation to any place on a committee is the same for two or more political groups and is greater than that so produced for any other political group.
- (9) The provision must modify the operation of the provision made in compliance with subsections (2) to (8) with a view to securing that (so far as is reasonably practicable having regard to the total number of places on committees)—
  - (a) every Assembly member who does not belong to a political group is entitled to be a member of at least one committee, and
  - (b) the total number of places on committees allocated to Assembly members belonging to each political group is at least as great as the number of Assembly members belonging to the political group.
- (10) The provision must secure that the Presiding Officer decides questions arising under the provision made in compliance with this section.

#### 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))

### 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.
- (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

**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 12/11/2009.*

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*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.
- (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**

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

**32 Participation by UK Ministers etc.**

- (1) The Secretary of State for Wales is entitled to participate in proceedings of the Assembly but not to vote.
- (2) The standing orders must include provision for any documents which—
  - (a) contain material relating to any proceedings of the Assembly which have taken place or are to take place, and

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- (b) are made available to all Assembly members,  
to be made available to the Secretary of State for Wales no later than the time when they are made available to Assembly members.
- (3) The standing orders may make provision for—
- (a) the participation of the Secretary of State for Wales in proceedings of any committee of the Assembly, or any sub-committee of any such committee, and
  - (b) the participation in any Assembly proceedings of other Ministers of the Crown and of persons serving in the department of the Secretary of State for Wales or of any other Minister of the Crown.
- (4) The provision made by virtue of subsection (3) may not include provision conferring any right to vote.
- (5) The standing orders may include provision for the making available of documents or information in connection with participation in Assembly proceedings pursuant to, or to standing orders made under, this section.

#### 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))

### 33 Consultation about UK Government's legislative programme

- (1) As soon as is reasonably practicable after the beginning of each session of Parliament, the Secretary of State for Wales must undertake with the Assembly such consultation about the UK Government's legislative programme for the session as appears to the Secretary of State to be appropriate.
- (2) The consultation in relation to the UK Government's legislative programme for a session must include participating in proceedings of the Assembly relating to it on at least one occasion.
- (3) For this purpose the UK Government's legislative programme for a session of Parliament consists of the bills which, at the beginning of the session, are intended to be introduced into either House of Parliament during the session by a Minister of the Crown.
- (4) If, at any time after the beginning of a session of Parliament, it is decided that a bill should be introduced into either House of Parliament during the session by a Minister of the Crown and no consultation about the bill has been undertaken under subsection (1), the Secretary of State for Wales must undertake with the Assembly such consultation about the bill as appears to the Secretary of State to be appropriate.
- (5) This section does not require the undertaking of consultation with the Assembly about a bill if it appears to the Secretary of State for Wales that there are considerations relating to the bill that make such consultation inappropriate.

#### 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))



*Status: Point in time view as at 12/11/2009.*

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### 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

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

### 35 Equality of treatment

- (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.
- (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.

#### 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))

### 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.

*Status: Point in time view as at 12/11/2009.*

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

**I36** 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

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- (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,  
concerning any matter relevant to the exercise by the Welsh Ministers of any of their 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>F1</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 Assembly Government (or a person seconded to work for the Welsh Assembly 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.
- (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—
- (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.

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- (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

- F1** 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](#)

#### 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))

### 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
  - (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.

*Status: Point in time view as at 12/11/2009.*

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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))

### 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.

#### 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))

### 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.

*Status: Point in time view as at 12/11/2009.*

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- (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**

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

### *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.

*Status: Point in time view as at 12/11/2009.*

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- (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

**I41** 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).

#### 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))

## 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.

*Status: Point in time view as at 12/11/2009.*

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- (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**

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

**44 Corrupt practices**

The Assembly and the Assembly Commission are public bodies for the purposes of the Prevention of Corruption Acts 1889 to 1916.

**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))



**Status:**

Point in time view as at 12/11/2009.

**Changes to legislation:**

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