



Government of Wales Act 2006

2006 CHAPTER 32

PART 1

[^{F1}SENEDD CYMRU]

Witnesses and documents

37 Power to call

- (1) Subject as follows, the [^{F1}Senedd] may require any person—
 - (a) to attend [^{F1}Senedd] proceedings for the purpose of giving evidence, or
 - (b) to produce for the purposes of the [^{F1}Senedd] (or a committee of the [^{F1}Senedd] 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^[F2], 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 [^{F1}Senedd] 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 [^{F3}or the Welsh zone].
- (3) The [^{F1}Senedd] 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 [^{F1}Senedd] —
 - (a) may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and

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- (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 ^{F4}... Government (or a person seconded to work for the Welsh ^{F4}... 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.
- [^{F5}(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).]
- [^{F6}(6B) Subsection (1) applies in relation to things done by the Domestic Abuse Commissioner by virtue of section 7(4)(b) or (c) of the Domestic Abuse Act 2021 (functions exercisable in relation to devolved Welsh authorities etc) as it applies in relation to the exercise by the Welsh Ministers of their functions.]
- (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 [^{F1}Senedd], or any sub-committee of any committee of the [^{F1}Senedd], if the committee or sub-committee is expressly authorised to do so by the [^{F1}Senedd] (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.
- (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 Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

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- F2** 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)
- F3** 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**
- F4** Words in Act omitted (17.2.2015) by virtue of Wales Act 2014 (c. 29), **s. 4(2)(a)** (with s. 4(3))
- F5** 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)**
- F6** S. 37(6B) inserted (1.11.2021) by Domestic Abuse Act 2021 (c. 17), **ss. 21(3), 90(6)**; S.I. 2021/1038, **reg. 3(b)**

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))

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—
- whether the requirement is imposed for the purposes of the [F1Senedd] or a specified committee or sub-committee, and
 - the matters mentioned in either paragraph (a) or paragraph (b) of subsection (2).
- (2) Those matters are—
- the time and place at which the person is to attend and the particular subject concerning which the person is required to give evidence;
 - 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—
- 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
 - 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—
- by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)), or
 - 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—
- if the requirement was imposed for the purposes of the [F1Senedd], to the Presiding Officer, and
 - otherwise, to the person who chairs the committee or sub-committee for the purposes of which it was imposed.

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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))

39 Offences

- (1) A person to whom a notice under section 38(1) has been given commits an offence if the person—
- refuses or fails without reasonable excuse to attend proceedings as required by the notice,
 - 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,
 - refuses or fails without reasonable excuse to produce any document required to be produced by the notice, or
 - 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—
- to a fine not exceeding level 5 on the standard scale,
 - to imprisonment for a term not exceeding 51 weeks, or
 - 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 director, manager, secretary or other similar officer of the body corporate, or
 - 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

- I3** 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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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 [F1Senedd] 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 [F1Senedd] 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 [F1Senedd] 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 [F1Senedd] proceedings for the purpose of giving evidence, or
 - (b) producing for the purposes of the [F1Senedd] (or a committee of the [F1Senedd] 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 [F1Senedd] 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.

Textual Amendments

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Commencement Information

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