



Government of Wales Act 2006

2006 CHAPTER 32

PART 2

WELSH ASSEMBLY GOVERNMENT

Government

45 Welsh Assembly Government

- (1) There is to be a Welsh Assembly Government, or Llywodraeth Cynulliad Cymru, whose members are—
- (a) the First Minister or Prif Weinidog (see sections 46 and 47),
 - (b) the Welsh Ministers, or Gweinidogion Cymru, appointed under section 48,
 - (c) the Counsel General to the Welsh Assembly Government or Cwnsler Cyffredinol i Lywodraeth Cynulliad Cymru (see section 49) (referred to in this Act as “the Counsel General”), and
 - (d) the Deputy Welsh Ministers or Dirprwy Weinidogion Cymru (see section 50).
- (2) In this Act and in any other enactment or instrument the First Minister and the Welsh Ministers appointed under section 48 are referred to collectively as the Welsh Ministers.

Ministers, staff etc.

46 The First Minister

- (1) The First Minister is to be appointed by Her Majesty after nomination in accordance with section 47.
- (2) The First Minister holds office at Her Majesty’s pleasure.
- (3) The First Minister may at any time tender resignation to Her Majesty and ceases to hold office as First Minister when it is accepted.

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- (4) A person ceases to hold office as the First Minister if another person is appointed to that office.
- (5) The functions of the First Minister are exercisable by a person designated by the Presiding Officer if—
 - (a) the office of the First Minister is vacant,
 - (b) the First Minister is for any reason unable to act, or
 - (c) the First Minister has ceased to be an Assembly member.
- (6) A person may not be designated to exercise the functions of the First Minister unless the person is—
 - (a) an Assembly member, or
 - (b) if the Assembly has been dissolved, a person who ceased to be an Assembly member by reason of the dissolution.
- (7) A person may be designated to exercise the functions of the First Minister only on the recommendation of the Welsh Ministers (unless there is no-one holding office as a Welsh Minister appointed under section 48).
- (8) If a person is designated to exercise the functions of the First Minister, the designation continues to have effect even if the Assembly is dissolved.

47 Choice of First Minister

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

48 Welsh Ministers

- (1) The First Minister may, with the approval of Her Majesty, appoint Welsh Ministers from among the Assembly members.

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

49 Counsel General

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

50 Deputy Welsh Ministers

- (1) The First Minister may, with the approval of Her Majesty, appoint Deputy Welsh Ministers from among the Assembly members to assist the First Minister, a Welsh

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Minister appointed under section 48 or the Counsel General in the exercise of functions.

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

51 Limit on number of Ministers

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

52 Staff

- (1) The Welsh Ministers may appoint persons to be members of the staff of the Welsh Assembly Government.
- (2) Service as a member of the staff of the Welsh Assembly Government is service in the Home Civil Service.
- (3) Subsection (1) and any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government are subject to any provision made in relation to the Home Civil Service by or under any Order in Council.
- (4) Any Civil Service management function is exercisable by the Minister for the Civil Service in relation to members of the staff of the Welsh Assembly Government as in relation to other members of the Home Civil Service; and, accordingly, section 1 of the Civil Service (Management Functions) Act 1992 (c. 61) (delegation of functions by Ministers) applies to any such function as extended by this subsection (so as to allow functions to be delegated to the Welsh Ministers, the First Minister or the Counsel General).
- (5) The Welsh Ministers are to pay the salaries and expenses of the members of the staff of the Welsh Assembly Government.
- (6) Section 1(2) and (3) of the Superannuation Act 1972 (c. 11) (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another Minister etc. and consultation by that Minister or another Minister) have effect as if the references to a Minister of the Crown other than the Minister for the Civil Service included the Welsh Ministers.
- (7) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—

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- (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Welsh Assembly Government, and
 - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (8) The Welsh Ministers may make payments towards the provision of pensions, allowances or gratuities to or in respect of any person who is or has been a member of the staff of the Welsh Assembly Government.
- (9) Without prejudice to any rule of law with respect to the carrying out of functions by members of the Home Civil Service under authority, the Welsh Ministers, the First Minister or the Counsel General may authorise the staff of the Welsh Assembly Government to carry out any function on their behalf.
- (10) In this section—
- “Civil Service management function” means any function to which section 1 of the Civil Service (Management Functions) Act 1992 (c. 61) applies and which is vested in the Minister for the Civil Service, and
 - “the Home Civil Service” means Her Majesty’s Home Civil Service.

Remuneration, oaths etc.

53 Remuneration

- (1) The Assembly must make provision for the payment of salaries to persons to whom this section applies.
- (2) The Assembly may make provision for the payment of allowances to persons to whom this section applies.
- (3) The Assembly may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a person to whom this section applies.
- (4) Such provision may, in particular, include provision for—
 - (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
 - (b) the establishment and administration (whether by the Assembly Commission or otherwise) of one or more pension schemes.
- (5) This section applies to—
 - (a) the First Minister,
 - (b) every Welsh Minister appointed under section 48,
 - (c) the Counsel General, and
 - (d) every Deputy Welsh Minister.
- (6) Sums required for the making of payments by virtue of provision under this section are payable out of the Welsh Consolidated Fund.
- (7) 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.

54 Remuneration: supplementary

- (1) Different provision may be made under section 53 for different cases.
- (2) The Assembly must ensure that information concerning—
 - (a) the amounts paid to each person to whom section 53 applies as salary and allowances, and
 - (b) the total amount paid to such persons 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 53 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) Provision made under section 53(3) does not affect pensions or allowances in payment before the provision was made.

55 Oath or affirmation

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

Functions

56 Introduction

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

57 Exercise of functions

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

58 Transfer of Ministerial functions

- (1) Her Majesty may by Order in Council—
 - (a) provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any function so far as exercisable by a Minister of the Crown in relation to Wales,
 - (b) direct that any function so far as so exercisable is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General concurrently with the Minister of the Crown, or
 - (c) direct that any function so far as exercisable by a Minister of the Crown in relation to Wales is to be exercisable by the Minister of the Crown only with the agreement of, or after consultation with, the Welsh Ministers, the First Minister or the Counsel General.
- (2) An Order in Council under this section may, in particular, provide for any function exercisable by the Welsh Ministers, the First Minister or the Counsel General by virtue of an Order in Council under subsection (1)(a) or (b) to be exercisable either generally or in such circumstances as may be specified in the Order in Council, concurrently with any other of the Welsh Ministers, the First Minister or the Counsel General.
- (3) An Order in Council under this section may make such modifications of—

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

59 Implementation of Community law

- (1) The power to designate a Minister of the Crown or government department under section 2(2) of the European Communities Act 1972 (c. 68) may be exercised to designate the Welsh Ministers.
- (2) Accordingly, the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council designating them.
- (3) A statutory instrument containing provision made by the Welsh Ministers in the exercise of that power, if made without a draft having been approved by resolution of the Assembly, is subject to annulment in pursuance of a resolution of the Assembly.
- (4) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 (Parliamentary procedure) does not apply to the statutory instrument unless it contains provision—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
 - (b) relating to an English border area, or
 - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (5) The power conferred by section 56 of the Finance Act 1973 (c. 51) (services provided in pursuance of a Community obligation etc.) on the Minister in charge of a government department to make (with the consent of the Treasury) regulations prescribing, or providing for the determination of, fees and charges in respect of things done by the department may be exercised by the Welsh Ministers (with the consent of the Treasury) for prescribing, or providing for the determination of, fees and charges in respect of corresponding things done by the Welsh Ministers.
- (6) A statutory instrument containing regulations made by the Welsh Ministers in the exercise of that power is subject to annulment in pursuance of a resolution of the Assembly.

- (7) Section 56(4) of the Finance Act 1973 does not cause the statutory instrument to be subject to annulment in pursuance of a resolution of either House of Parliament unless it contains regulations—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
 - (b) relating to an English border area, or
 - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).

60 Promotion etc. of well-being

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

61 Support of culture etc.

The Welsh Ministers may do anything which they consider appropriate to support—

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

62 Representations about matters affecting Wales

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

63 Consultation about cross-border bodies

- (1) A Minister of the Crown must consult the Welsh Ministers—
 - (a) before exercising any function which relates to the appointment or removal of a relevant cross-border body,
 - (b) before exercising any function which relates to the appointment or removal of any member or office-holder of a relevant cross-border body, other than one who is not concerned in the functions or activities which the body exercises or carries on in or with respect to Wales, and
 - (c) before exercising, in relation to a relevant cross-border body, any function the exercise of which might affect Wales in relation to any matter as respects which functions are exercisable by the Welsh Ministers.
- (2) A body is a relevant cross-border body if it is a cross-border body which exercises functions of a public nature and which is not a government department.
- (3) Subsection (1) does not apply in relation to the exercise of a function if it is not reasonably practicable to comply with it in relation to the exercise of the function (for reasons of urgency or for any other reasons).
- (4) If subsection (1) does not apply in relation to the exercise of a function by a Minister of the Crown by reason of subsection (3), the Minister of the Crown must as soon as is reasonably practicable inform the Welsh Ministers of the exercise of the function and of the reasons for its exercise.
- (5) A failure to comply with subsection (1) in relation to the exercise of a function does not affect the validity of its exercise.

64 Polls for ascertaining views of the public

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

or referendums; and the provision which may be made under paragraph (a) of that subsection includes, in particular, provision for disregarding alterations in a register of electors.

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

65 Private bills

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

66 Provision of information to Treasury

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

67 Legal proceedings

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

68 Contracts

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

69 Charges for documents

- (1) The Welsh Ministers may make a charge for supplying copies of (or of any part of) any document which they publish or make available for public inspection.
- (2) Subsection (1) has effect subject to any provision contained in, or made under, any enactment which makes provision for—
- (a) the making of charges for the inspection of documents,
 - (b) the making of charges for supplying copies of documents (or parts of documents), or

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(c) the supply of copies of documents (or parts of documents) free of charge.

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

70 Financial assistance

(1) The Welsh Ministers may give financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which the Welsh Ministers consider will secure, or help to secure, the attainment of any objective which they aim to attain in the exercise of any of their functions.

(2) The Welsh Ministers may attach conditions to the giving of financial assistance by them; and the conditions which may be attached include, in particular, conditions requiring the repayment of the whole or any part of a grant, or the making of any other payments, in any circumstances.

(3) This section applies in relation to the First Minister and the Counsel General as in relation to the Welsh Ministers.

71 Supplementary

(1) The persons to whom this section applies may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any of their other functions.

(2) This section applies to the Welsh Ministers, the First Minister and the Counsel General.

“Inclusive” approach to exercise of functions

72 Partnership Council

(1) The Welsh Ministers must establish and maintain a body to be known as the Partnership Council for Wales or Cyngor Partneriaeth Cymru (“the Partnership Council”).

(2) The Partnership Council is to consist of members appointed by the Welsh Ministers from among—

- (a) the Welsh Ministers,
- (b) the Deputy Welsh Ministers, and
- (c) the members of local authorities in Wales.

(3) Before appointing members of the Partnership Council under subsection (2)(c), the Welsh Ministers must consult such associations of local authorities in Wales as they consider appropriate.

(4) The Partnership Council may—

- (a) give advice to the Welsh Ministers about matters affecting the exercise of any of their functions,
- (b) make representations to the Welsh Ministers about any matters affecting, or of concern to, those involved in local government in Wales, and
- (c) give advice to those involved in local government in Wales.

- (5) For the purposes of this section the following are local authorities in Wales—
- (a) county councils, county borough councils and community councils in Wales,
 - (b) National Park authorities for National Parks in Wales,
 - (c) police authorities for police areas in Wales,
 - (d) fire and rescue authorities for areas in Wales, and
 - (e) authorities of any description specified for the purposes of this paragraph by order made by the Welsh Ministers.
- (6) No order may be made under subsection (5)(e) unless the Welsh Ministers have consulted the Partnership Council.
- (7) A statutory instrument containing an order under subsection (5)(e) is subject to annulment in pursuance of a resolution of the Assembly.

73 Local government scheme

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

74 Voluntary sector scheme

- (1) The Welsh Ministers must make a scheme (“the voluntary sector scheme”) setting out how they propose, in the exercise of their functions, to promote the interests of relevant voluntary organisations.
- (2) In this section “relevant voluntary organisations” means bodies (other than local authorities or other public bodies) whose activities—
- (a) are carried on otherwise than for profit, and
 - (b) directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area).

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

75 Business scheme

- (1) The Welsh Ministers must make a scheme (“the business scheme”) setting out how they propose, in the exercise of their functions, to take account of the interests of business.
- (2) The business scheme must specify how the Welsh Ministers propose—
 - (a) to carry out consultation about the exercise of such of their functions as relate to matters affecting the interests of business, and
 - (b) to consider the impact of the exercise of their functions on the interests of business.
- (3) The Welsh Ministers—
 - (a) must keep the business scheme under review, and
 - (b) may from time to time remake or revise it.
- (4) Before making, remaking or revising the business scheme, the Welsh Ministers must consult such organisations representative of business (including trade unions) and such other organisations as they consider appropriate.

- (5) The Welsh Ministers must publish the business scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (6) If the Welsh Ministers publish a scheme or revisions under subsection (5) they must lay a copy of the scheme or revisions before the Assembly.
- (7) The Welsh Ministers must—
 - (a) within the period of two years beginning with the day on which the business scheme is first made, and
 - (b) subsequently at intervals of no more than two years, publish a report of how the proposals set out in the business scheme have been implemented.
- (8) The Welsh Ministers must lay before the Assembly a copy of each report published under subsection (7).

76 Regulatory impact assessments

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

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77 Equality of opportunity

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

78 The Welsh language

- (1) The Welsh Ministers must adopt a strategy (“the Welsh language strategy”) setting out how they propose to promote and facilitate the use of the Welsh language.
- (2) The Welsh Ministers must adopt a scheme (“the Welsh language scheme”) specifying measures which they propose to take, for the purpose mentioned in subsection (3), as to the use of the Welsh language in connection with the provision of services to the public in Wales by them, or by others who—
 - (a) are acting as servants or agents of the Crown, or
 - (b) are public bodies (within the meaning of Part 2 of the Welsh Language Act 1993 (c. 38)).
- (3) The purpose referred to in subsection (2) is that of giving effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that in the conduct of public business in Wales the English and Welsh languages should be treated on a basis of equality.
- (4) The Welsh Ministers—
 - (a) must keep under review both the Welsh language strategy and the Welsh language scheme, and
 - (b) may from time to time adopt a new strategy or scheme or revise them.
- (5) Before adopting or revising a strategy or scheme, the Welsh Ministers must consult such persons as they consider appropriate.
- (6) The Welsh Ministers must publish the Welsh language strategy and the Welsh language scheme when they first adopt it and—
 - (a) if they adopt a new strategy or scheme they must publish it, and
 - (b) if they revise the Welsh language strategy or the Welsh language scheme (rather than adopting a new strategy or scheme) they must publish either the revisions or the strategy or scheme as revised (as they consider appropriate).
- (7) If the Welsh Ministers publish a strategy or scheme, or revisions, under subsection (6) they must lay a copy of the strategy or scheme, or revisions, before the Assembly.
- (8) After each financial year the Welsh Ministers must publish a report of—
 - (a) how the proposals set out in the Welsh language strategy were implemented in that financial year and how effective their implementation has been in promoting and facilitating the use of the Welsh language, and

- (b) how the proposals set out in the Welsh language scheme were implemented in that financial year,
and must lay a copy of the report before the Assembly.

79 Sustainable development

- (1) The Welsh Ministers must make a scheme (“the sustainable development scheme”) setting out how they propose, in the exercise of their functions, to promote sustainable development.
- (2) The Welsh Ministers—
 - (a) must keep the sustainable development scheme under review, and
 - (b) may from time to time remake or revise it.
- (3) Before making, remaking or revising the sustainable development scheme, the Welsh Ministers must consult such persons as they consider appropriate.
- (4) The Welsh Ministers must publish the sustainable development scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (5) If the Welsh Ministers publish a scheme or revisions under subsection (4) they must lay a copy of the scheme or revisions before the Assembly.
- (6) After each financial year the Welsh Ministers must—
 - (a) publish a report of how the proposals set out in the sustainable development scheme were implemented in that financial year, and
 - (b) lay a copy of the report before the Assembly.
- (7) In the year following that in which an ordinary general election is (or, apart from section 5(5), would be) held, the Welsh Ministers must—
 - (a) publish a report containing an assessment of how effective their proposals (as set out in the scheme and implemented) have been in promoting sustainable development, and
 - (b) lay a copy of the report before the Assembly.

Community law, human rights and international obligations etc.

80 Community law

- (1) A community obligation of the United Kingdom is also an obligation of the Welsh Ministers if and to the extent that the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions.
- (2) Subsection (1) does not apply in the case of a Community obligation of the United Kingdom if—
 - (a) it is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
 - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales).

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- (3) But if such a Community obligation could (to any extent) be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions, a Minister of the Crown may by order provide for the achievement by the Welsh Ministers (in the exercise of their functions) of so much of the result to be achieved under the Community obligation as is specified in the order.
- (4) The order may specify the time by which any part of the result to be achieved by the Welsh Ministers is to be achieved.
- (5) No order is to be made by a Minister of the Crown under subsection (3) unless the Minister of the Crown has consulted the Welsh Ministers.
- (6) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Where an order under subsection (3) is in force in relation to a Community obligation, to the extent that the Community obligation involves achieving what is specified in the order it is also an obligation of the Welsh Ministers (enforceable as if it were an obligation of the Welsh Ministers under subsection (1)).
- (8) The Welsh Ministers have no power—
 - (a) to make, confirm or approve any subordinate legislation, or
 - (b) to do any other act,
 so far as the subordinate legislation or act is incompatible with Community law or an obligation under subsection (7).
- (9) Subsections (1) and (8) apply to the First Minister and the Counsel General as to the Welsh Ministers.

81 Human rights

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

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- (b) does not enable a court or tribunal to award in respect of any act any damages which it could not award on finding the act unlawful under that subsection.
- (5) Subsection (1) applies to the First Minister and the Counsel General as to the Welsh Ministers.
- (6) In subsection (2) “the Convention” has the same meaning as in the Human Rights Act 1998.

82 International obligations etc.

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

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- (11) A statutory instrument containing—
- (a) subject to subsection (12), an order under subsection (1), or
 - (b) an order under subsection (5),
- is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A statutory instrument containing only an order under subsection (1) revoking a previous order under that subsection—
- (a) is not subject to annulment in pursuance of a resolution of either House of Parliament, but
 - (b) is to be laid before Parliament.
- (13) No order is to be made under subsection (2) or (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (14) Subsections (1), (2) and (3) apply to the First Minister and the Counsel General as to the Welsh Ministers; and where subsection (9) operates in relation to an order under subsection (2) or (3) relating to the First Minister or the Counsel General the reference in subsection (9) to the Welsh Ministers is to the First Minister or the Counsel General.
- (15) In this section “action” includes making, confirming or approving subordinate legislation and in subsection (2) also includes introducing into the Assembly a proposed Assembly Measure or a Bill.

Functions: supplementary

83 Agency arrangements and provision of services

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

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

84 Different exercise of functions by Welsh Ministers etc.

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

85 Construction of references to Ministers and departments

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

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Minister or the Counsel General are each deemed to be a government department for the purposes of any enactment).

- (3) In this section “enactment” includes a future enactment.

86 Laying of reports and statements

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

Property, rights and liabilities

87 Property, rights and liabilities of Welsh Ministers etc.

- (1) Property, rights and liabilities may belong to—
- (a) the Welsh Ministers by that name,
 - (b) the First Minister by that name, or
 - (c) the Counsel General by that name.
- (2) Property and rights acquired by or transferred to the Welsh Ministers belong to, and liabilities incurred by the Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (3) Property and rights acquired by or transferred to any of the Welsh Ministers appointed under section 48 belong to, and liabilities incurred by any of those Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (4) Property and rights acquired by or transferred to the First Minister belong to, and liabilities incurred by the First Minister are liabilities of, the First Minister for the time being.

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

88 Transfer of Ministerial property, rights and liabilities

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

Supplementary

89 Rights and liabilities of the Crown in different capacities

- (1) Rights and liabilities may arise between the Crown in right of Her Majesty's Government in the United Kingdom and the Crown in right of the Welsh Assembly Government by virtue of a contract, by operation of law or by virtue of an enactment as they may arise between subjects.
- (2) Property, rights and liabilities may be transferred between the Crown in one of those capacities and the Crown in the other capacity as they may be transferred between subjects; and they may together create, vary or extinguish any property, rights or liabilities as subjects may.
- (3) Proceedings in respect of—
- (a) any property, rights or liabilities to which the Crown in one of those capacities is entitled or subject under subsection (1) or (2), or
 - (b) the exercise of, or failure to exercise, any function exercisable by an office-holder of the Crown in one of those capacities,
- may be instituted by the Crown in either capacity; and the Crown in the other capacity may be a separate party in the proceedings.
- (4) This section applies to the Crown in right of a devolved administration (other than the Welsh Assembly Government) as it applies to the Crown in right of Her Majesty's Government in the United Kingdom.
- (5) In this section “office-holder” means—
- (a) in relation to the Crown in right of Her Majesty's Government in the United Kingdom, any Minister of the Crown or other office-holder under the Crown in that capacity,
 - (b) in relation to the Crown in right of the Welsh Assembly Government, the First Minister, a Welsh Minister appointed under section 48 or the Counsel General, and

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- (c) in relation to the Crown in right of a devolved administration other than the Welsh Assembly Government, an office-holder in that administration; and “subject” means a person not acting on behalf of the Crown.

90 Documents

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

91 Validity of acts

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

92 Official secrets

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

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