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## SCHEDULES

### SCHEDULE 3

Section 39

#### MINOR AND SUPPLEMENTARY AMENDMENTS TO THE 1989 ACT

- 1 The 1989 Act is amended in accordance with this Schedule.
- 2 In section 17(4) for “Secretary of State” substitute “appropriate national authority”.
- 3 In section 17A(1) for “Secretary of State” substitute “appropriate national authority”.

PROSPECTIVE

F14 .....

#### Textual Amendments

- F1** Sch. 3 paras. 2-19 omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#), regs. 2(1), **267(a)**

- 5 In section 21(3), after “Secretary of State” insert “, the Welsh Ministers”.
- 6 In section 22(7)—
- (a) for “Secretary of State” substitute “appropriate national authority”;
  - (b) for “he” substitute “the appropriate national authority”;
  - (c) for “the authority” substitute “the local authority”.
- 7 (1) Section 23 is amended as follows.
- (2) In subsection (2), in paragraphs (a) and (f)(ii) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (2A)—
- (a) for the words “the Secretary of State”, in the first place where they occur, substitute “an appropriate national authority”;
  - (b) for those words in the second place where they occur, substitute “that national authority”.
- (4) In subsection (5) for “Secretary of State” substitute “appropriate national authority”.
- (5) In subsection (6) for “Secretary of State” substitute “appropriate national authority”.
- 8 (1) Section 23A is amended as follows.
- (2) In subsection (3) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (5)—
- (a) for “Secretary of State” substitute “appropriate national authority”;

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- (b) for “he” substitute “the appropriate national authority”.
- 9 (1) Section 23B is amended as follows.
- (2) In subsection (5) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (7) for “The authority” substitute “The local authority”.
- (4) In subsection (10) for “Secretary of State” substitute “appropriate national authority”.
- 10 In section 23D, in subsections (1) and (2), for “Secretary of State” substitute “appropriate national authority”.
- 11 In section 23E(2) for “Secretary of State” substitute “appropriate national authority”.
- 12 In section 24(5)(za) for “Secretary of State” substitute “appropriate national authority”.
- 13 In section 24B(6) for “Secretary of State” substitute “appropriate national authority”.
- 14 In section 24D, in subsections (1A) and (2), for “Secretary of State” substitute “appropriate national authority”.
- 15 In section 25, in subsections (2) and (7), for “Secretary of State” substitute “appropriate national authority”.
- 16 (1) Section 26 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (2D) for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In each of subsections (3A), (3B), (3C), (4A), (5) and (6) for “Secretary of State” substitute “appropriate national authority”.
- 17 In section 26ZB(1) for “Secretary of State” substitute “Welsh Ministers”.
- 18 In section 26A, in each of subsections (3)(a) and (4), for “Secretary of State” substitute “appropriate national authority”.
- 19 In section 27(3)(e) for “Secretary of State” substitute “appropriate national authority”.
- 20 In section 29(8)(c) after “Secretary of State” insert “, the Welsh Ministers”.
- 21 (1) Section 30 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “determining authority”.
- (3) After subsection (2) insert—
- “(2A) For the purposes of subsection (2) “the determining authority” is—
- (a) in a case where all the local authorities concerned are in Wales, the Welsh Ministers;
- (b) in any other case, the Secretary of State.
- (2B) In a case where—
- (a) the determining authority is the Secretary of State, and
- (b) one or more of the local authorities concerned are in Wales,

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the Secretary of State must consult the Welsh Ministers before making a determination for the purposes of subsection (2).”

(4) In subsection (4) for “Secretary of State” substitute “appropriate national authority”.

22 After section 30 insert—

**“30A Meaning of appropriate national authority**

In this Part “the appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.”

23 (1) Section 59 is amended as follows.

(2) In subsection (1A)—

- (a) for the words “the Secretary of State”, in the first place where they occur, substitute “an appropriate national authority”; and
- (b) for those words in the second place where they occur, substitute “that national authority”.

(3) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.

(4) In subsection (3) for “Secretary of State” substitute “appropriate national authority”.

(5) In subsection (4) for “Secretary of State” substitute “appropriate national authority”.

(6) After subsection (6) add—

“(7) In this Part “appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.”

24 In section 62(3) for “Secretary of State” substitute “appropriate national authority”.

25 (1) Section 104 is amended as follows.

(2) In subsection (2) after “108(2)” insert “or one containing regulations which fall within subsection (3B) or (3C)”.

(3) Omit subsection (2A).

(4) For subsection (3) substitute—

“(3A) An order under section 4(1B) or 17(4) or regulations which fall within subsection (3B) or (3C) shall not be made by the Secretary of State unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3B) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by section 23C(5B)(b).

(3C) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by paragraph 6(2) of Schedule 2.”

(5) In subsection (4)(c) omit—

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- (a) the word “such”;
- (b) the words “as the person making it considers expedient”.

26 After section 104 insert—

**“104A Regulations and orders made by the Welsh Ministers under Part 3 etc.**

- (1) Any power of the Welsh Ministers under Part 3, Part 7 or section 86A to make an order or regulations shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4) or one containing regulations which fall within subsection (4) or (5), shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) An order under section 17(4) or regulations which fall within subsection (4) or (5) shall not be made by the Welsh Ministers unless a draft of the statutory instrument containing the order or regulations has been laid before and approved by a resolution of the National Assembly for Wales.
- (4) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by section 23C(5B)(b).
- (5) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by paragraph 6(2) of Schedule 2.”

27 (1) Schedule 2 is amended as follows.

- (2) In paragraph 17(7) for “Secretary of State” substitute “appropriate national authority”.
- (3) In paragraph 19B, in sub-paragraphs (3) and (7), for “Secretary of State” substitute “appropriate national authority”.
- (4) In paragraph 20(1)(a) for “Secretary of State” substitute “appropriate national authority”.
- (5) In paragraph 25—
  - (a) for “Secretary of State” substitute “appropriate national authority”;
  - (b) for “they” substitute “a local authority”.

28 In paragraph 7 of Schedule 5 for “Secretary of State” substitute “appropriate national authority”.

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