

WALES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Part 2: Finance

Section 7: Amendments relating to the Commissioners for Revenue and Customs

50. *Section 7* amends the Commissioners for Revenue and Customs Act 2005 (“CRCA 2005”) and the Customs and Excise Management Act 1979 to enable Her Majesty’s Revenue and Customs (“HMRC”) to disclose information to Welsh Ministers regarding devolved taxes; to make such information confidential and subject to onward disclosure controls; and to ensure that such devolved taxes are neither a function nor an “assigned matter” of HMRC, but remain a matter for Welsh Ministers, while leaving scope for HMRC to administer these taxes on behalf of Welsh Ministers if desired.
51. HMRC has a statutory duty of confidentiality which sets out the circumstances in which lawful disclosure of information it holds can be made. Disclosure may only occur in a limited number of specific circumstances. Devolution of some areas of taxation to the Assembly means that amendments are needed to the CRCA 2005 to enable HMRC to disclose relevant information regarding devolved taxes.
52. *Subsections (3) and (4)* amend section 15 of CRCA 2005 to ensure that HMRC has the power to administer devolved taxes on behalf of Welsh Ministers.
53. *Subsection (5)* amends section 17 of CRCA 2005 to ensure that an Act, or instrument made under such an Act, of the Assembly may not restrict or prohibit the use of information acquired by HMRC in connection with any of its functions.
54. *Subsections (6) and (7)* amend HMRC’s statutory duty of confidentiality under section 18 of CRCA 2005 so that HMRC may disclose relevant information to Welsh Ministers in connection with devolved taxes.
55. *Subsection (8)* applies the existing criminal sanction under section 19 of CRCA 2005 for onward disclosure (forbidding further disclosure of such information without the consent of the Commissioners) to information disclosed to Welsh Ministers.
56. *Subsection (9)* amends section 18(4)(e) of CRCA 2005 to ensure that an Act, or instrument made under such an Act, of the Assembly may not permit disclosure by HMRC of information held in connection with one of its functions. *Subsection (10)* makes similar provision in relation to the Revenue and Customs Prosecution Office.
57. *Subsections (11), (12) and (13)* amend section 51 of CRCA 2005 (interpretation). *Subsection (12)* provides that, unless the context otherwise requires, references to enactments in CRCA 2005 include an Act, or instrument made under such an Act, of the Assembly. *Subsection (13)* inserts a new subsection (2B) which prevents any function relating to a devolved tax from being a function of HMRC.
58. *Subsection (14)* amends Schedule 7 to GOWA 2006 to make clear the circumstances in which the Assembly can amend the functions of HMRC. *Subsection (14)(a)* amends

*These notes refer to the Wales Act 2014 (c.29)
which received Royal Assent on 17 December 2014*

Part 2 of Schedule 7 to set out a general rule that the Assembly cannot amend, remove or add to HMRC's functions. *Subsection (14)(b)* amends Part 3 of the Schedule to provide an exception to this general rule so that, if the Treasury consents, the Assembly can confer functions relating to devolved taxes on HMRC and also, once conferred, amend these functions. This ensures that functions can only be conferred on HMRC by the Assembly by mutual agreement.