

2007 No. 1171

CONSTITUTIONAL LAW

DEVOLUTION, WALES

**The Government of Wales Act 2006 (Transitional Provisions)
(Assembly General Subordinate Legislation) Order 2007**

<i>Made</i> - - - -	<i>4th April 2007</i>
<i>Laid before Parliament</i>	<i>10th April 2007</i>
<i>Coming into force</i> - -	<i>2nd May 2007</i>

The Secretary of State makes the following Order in exercise of powers conferred on him by sections 162(2) of the Government of Wales Act 2006(a).

Citation and commencement

1.—(1) This Order may be cited as the Government of Wales Act 2006 (Transitional Provisions) (Assembly General Subordinate Legislation) Order 2007.

(2) This Order shall come into force on 2nd May 2007.

Assembly general subordinate legislation – disapplication of procedural requirements

2.—(1) This article applies to Assembly general subordinate legislation if—

(a) in accordance with standing order 24.27(iv), it is made without a draft of it being laid before, and approved by a resolution of, the Assembly constituted by the Government of Wales Act 1998(b), and

(b) it is made during the relevant period.

(2) The validity of the Assembly general subordinate legislation is not affected—

(a) by the fact that members of that Assembly have a period shorter than 40 working days to table a motion under standing order 24.29 that the Assembly general subordinate legislation be revoked; or

(b) in a case where such a motion is tabled, by any failure of that Assembly to consider the motion.

(3) If standing order 24.27(iii) also applies to the Assembly general subordinate legislation (cases where it is not reasonably practicable for the Assembly to consider a report from the Legislation Committee(c)), the validity of the subordinate legislation is not affected by any failure to comply with standing order 24.28 (Assembly general subordinate legislation to be submitted to

(a) 2006 c.32.

(b) 1998 c.38.

(c) This is the name given in the standing orders of the National Assembly for Wales constituted by the Government of Wales Act 1998 (standing order 11.1.) to the subordinate legislation scrutiny committee established under section 58 of that Act.

Legislation Committee after being made, and to be considered and reported on by that Committee).

(4) As soon as is reasonably practicable after the end of the initial period^(a) the Clerk of the Assembly constituted by the Government of Wales Act 2006^(b) must lay the Assembly general subordinate legislation before that Assembly.

(5) In this article—

- (a) Assembly general subordinate legislation has the same meaning as in section 58(6) of the Government of Wales Act 1998;
- (b) references to standing orders are references to the standing orders of the Assembly constituted by the Government of Wales Act 1998;
- (c) relevant period means the period of 39 working days that ends with the day before the day on which the initial period starts; and
- (d) working day has the same meaning as in the standing orders^(c).

4th April 2007

Nick Ainger
Parliamentary Under Secretary of State
Wales Office

(a) For the meaning of the initial period, *see* section 161(5) of the Government of Wales Act 2006.
(b) As to the Clerk of the Assembly, *see* section 26 of the Government of Wales Act 2006.
(c) This has the same meaning as in section 67(7) of the Government of Wales Act 1998.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order makes provision in respect of Assembly general subordinate legislation.

Assembly general subordinate legislation is defined in section 58(6) of the Government of Wales Act 1998 (c.38) (“the 1998 Act”) and means subordinate legislation made by the National Assembly for Wales constituted by the 1998 Act (“the existing Assembly”) which is required to be made in a statutory instrument; is not local in nature and is not subject to Parliamentary procedure.

Section 66 of the 1998 Act specifies procedures which are to be followed by the existing Assembly before it can make Assembly general subordinate legislation. These include a draft of the instrument being laid before and approved by a resolution of the existing Assembly; and that Assembly having considered the report on that instrument by its Legislation Committee (the name given to the subordinate legislation scrutiny committee established under section 58 of the 1998 Act).

Section 67 of the 1998 Act permits the existing Assembly in its standing orders to provide that its executive committee (see section 56 of the 1998 Act – it is now called the Assembly Cabinet) may determine that Assembly general subordinate legislation may be made without complying with these procedural requirements. This is called the Assembly’s executive procedure. In such cases, however, section 67(3) provides that a member of the existing Assembly may within 40 working days (as defined in section 67(7)) move a motion that that Assembly general subordinate legislation shall be revoked.

The existing Assembly is to be abolished by the Government of Wales Act 2006 (c.32) (“the 2006 Act”). Members of the existing Assembly will, by virtue of section 2(5)(b) of 1998 Act, cease to be members of it at the end of the 2nd May 2007, that is at the end of the day before the poll of the ordinary election under section 3 of the 1998 Act which is to be held on 3rd May 2007 and at which members of the National Assembly for Wales constituted by the 2006 Act are to be elected.

Standing Order 24 of the standing orders of the existing Assembly provide for use of the executive procedure without a draft of it having been laid before and approved by resolution of the existing Assembly. By virtue of Schedule 11 paragraph 25(2) to the 2006 Act section 67 is disapplied during the initial period (as to the meaning of which see section 161(5) of the 2006 Act). It will not apply to the Assembly constituted by the 2006 Act.

This Order provides that the validity of Assembly general subordinate legislation is unaffected by the fact that members of the existing Assembly have less than 40 working days before the 2nd May 2007 to table a motion to revoke such Assembly general subordinate legislation or, if they do table such motion, by any failure by the existing Assembly to consider the motion. It also provides that the validity of such Assembly general subordinate legislation is unaffected by any failure to refer such legislation after it is made for consideration by the Legislation Committee where it has been made without a report from that committee having first been considered.

The Clerk of the Assembly constituted by the 2006 Act is required to lay such Assembly general subordinate legislation before that Assembly as soon as reasonably practicable after the end of the initial period.

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