



Agriculture (Wales) Act 2023

2023 asc 4

PART 2

SUPPORT FOR AGRICULTURE ETC.

CHAPTER 1

WELSH MINISTERS' POWER TO PROVIDE SUPPORT

8 Welsh Ministers' power to provide support

- (1) The Welsh Ministers may provide support for or in connection with agriculture in Wales and ancillary activities that take place in Wales.
- (2) That support may, in particular, include support for or in connection with any of the following purposes—
 - (a) encouraging the production of food in an environmentally sustainable manner;
 - (b) helping rural communities to thrive and strengthening links between agricultural businesses and their communities;
 - (c) improving the resilience of agricultural businesses;
 - (d) sustaining the Welsh language and promoting and facilitating its use;
 - (e) reducing emissions of greenhouse gases;
 - (f) maximising carbon sequestration and storage;
 - (g) maintaining and enhancing the resilience of ecosystems;
 - (h) conserving and enhancing landscapes and the historic environment;
 - (i) improving air quality;
 - (j) improving water quality;
 - (k) maintaining and enhancing public access to and engagement with the countryside and the historic environment;
 - (l) mitigating flood and drought risks;
 - (m) achieving and promoting high standards of animal health and welfare;

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- (n) maximising resource efficiency;
 - (o) encouraging agricultural businesses to manage energy effectively (including by adopting energy efficiency and energy saving practices, and generating renewable energy on their land).
- (3) Support under this section may be provided under a scheme or otherwise.
- (4) The Welsh Ministers may, by regulations, amend subsection (2) by—
- (a) adding a purpose to the list in that subsection;
 - (b) removing a purpose from the list;
 - (c) altering the description of a purpose in the list.
- (5) In this section, “greenhouse gas” has the same meaning as in Part 2 of the [Environment \(Wales\) Act 2016 \(anaw 3\)](#).
- (6) In this Chapter—
- (a) references to support (except in the case of references to the provision of support under a third party scheme within section 9(8)) are to support under this section;
 - (b) references to financial support are to support under this section that is provided financially.

9 Further provision about support under section 8

- (1) Support may be provided financially or otherwise.
- (2) Financial support may be provided by way of grant, loan or guarantee, or in any other form.
- (3) Support may be provided subject to eligibility criteria being met.
- (4) Where support is provided in connection with the use of land, the eligibility criteria may (among other things) specify requirements relating to—
 - (a) the hectarage or characteristics of the land;
 - (b) the extent to which the land must be used for or in connection with agriculture or ancillary activities;
 - (c) the person to whom support is provided (for example by reference to the person’s use or intended use of the land).
- (5) Support may be provided subject to any conditions the Welsh Ministers consider appropriate.
- (6) The conditions may (among other things) include provision for financial support to be repaid or otherwise made good (with or without interest).
- (7) Support may be provided to the maker or operator of a third party scheme in connection with the establishment or operation of that scheme (including in connection with the provision of support under that scheme).
- (8) A “third party scheme” for this purpose is a scheme for the provision of support (whether financially or otherwise) for or in connection with agriculture or ancillary activities (or both), but which is not made by the Welsh Ministers.
- (9) The Welsh Ministers may delegate to any other person functions relating to the provision of support.

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(10) Functions delegated under subsection (9) may include—

- (a) giving guidance;
- (b) exercising a discretion.

10 Power to make provision about publication of information about support

- (1) The Welsh Ministers may by regulations make provision for, or in connection with, the publication of specified information about support that is or has been provided.
- (2) Regulations under subsection (1) may impose a requirement on any person (including on the Welsh Ministers).
- (3) The information that may be specified includes information about—
 - (a) the recipient of any support provided;
 - (b) the amount of any support provided;
 - (c) the purposes of any support provided.
- (4) In this section, “specified” means specified in regulations under subsection (1).

11 Multi-annual support plans

- (1) The Welsh Ministers must prepare a plan, to be known as a “multi-annual support plan”, giving information about the expected use of the powers conferred on the Welsh Ministers by section 8 during the period to which the plan applies.
- (2) A multi-annual support plan must—
 - (a) specify the period in relation to which it applies;
 - (b) set out how the Welsh Ministers intend to provide support during the period so as to best contribute to achieving the sustainable land management objectives (in accordance with section 2);
 - (c) where support is intended to be provided during the period under a scheme as mentioned in section 8(3), describe each scheme that—
 - (i) is in operation, or
 - (ii) the Welsh Ministers expect to come into operation during the period;
 - (d) describe any support intended to be provided during the period other than under a scheme as mentioned in section 8(3).
- (3) The period in relation to which the first plan is to apply is the period of five years beginning with 1 January 2025.
- (4) The period in relation to which subsequent plans are to apply may not be shorter than five years.
- (5) The Welsh Ministers must ensure that a plan does not expire without a new plan being in place.
- (6) A plan prepared under this section must be laid before Senedd Cymru, and published, by the Welsh Ministers—
 - (a) in the case of the first plan, as soon as reasonably practicable before the beginning of the period in relation to which it applies, and
 - (b) in the case of each subsequent plan, at least 12 months before the beginning of the period in relation to which it applies.

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- (7) If, before the end of the period in relation to which a plan applies, any information set out or described in the plan in accordance with paragraphs (b), (c) or (d) of subsection (2) ceases to be accurate or complete, the Welsh Ministers must amend the plan as soon as is practicable to do so.
- (8) Where the Welsh Ministers amend the plan, they must as soon as reasonably practicable—
 - (a) publish the revised plan, and
 - (b) lay it before Senedd Cymru.

12 Power to make provision about checking eligibility for support, etc.

- (1) The Welsh Ministers may by regulations make provision for, or in connection with—
 - (a) checking whether eligibility criteria for support are met;
 - (b) the consequences, where support has been provided without eligibility criteria having been met;
 - (c) enforcing compliance with any conditions subject to which support is or has been provided;
 - (d) monitoring the extent to which the purpose of support has been achieved;
 - (e) the investigation of suspected offences in connection with applications for, or the provision of, support.
- (2) Regulations under subsection (1) may, among other things, include provision—
 - (a) about the provision of information;
 - (b) conferring powers of entry;
 - (c) conferring powers of inspection, search and seizure;
 - (d) about the process for determining whether eligibility criteria or conditions in respect of the provision of support are met;
 - (e) about record keeping;
 - (f) about the recovery or making good of all or any part of financial support (with or without interest);
 - (g) about withholding support, in whole or in part;
 - (h) about steps to be taken, by a person to whom support is or has been provided, to rectify any breach of a condition applicable to that support;
 - (i) about monetary penalties (including penalties calculated by reference to the amount of any financial support);
 - (j) for recovery of amounts due in respect of monetary penalties, including provision for interest, set-off and security for payment;
 - (k) prohibiting a person from receiving support, or support of a specified description, for a specified period or until specified conditions are satisfied;
 - (l) about appeals;
 - (m) conferring functions (including functions involving the exercise of a discretion) on a person.
- (3) Regulations under subsection (1) may not authorise entry to a private dwelling without a warrant issued by a justice of the peace.
- (4) The provision that may be made under subsection (2)(i) includes provision for interest on any recoverable amount to be payable from whatever day (whether the day on

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which the support in question was provided, or another day) may be provided for in, or determined under, the regulations.

- (5) In this section, “specified” means specified in, or determined under, regulations under subsection (1).

13 Annual report about support provided under section 8

- (1) The Welsh Ministers must prepare a report under this section (an “annual report”), in relation to each reporting period, about the support provided during the period.
- (2) The annual report must include the following information—
- (a) the total amount of any financial support provided during the reporting period;
 - (b) where support has been provided during the period through a scheme as mentioned in section 8(3)—
 - (i) the total amount of any financial support provided under the scheme during the period;
 - (ii) a description of any other support provided under the scheme during the period;
 - (c) a description of any support other than financial support provided during the reporting period, but not under a scheme as mentioned in section 8(3).
- (3) The annual report may also include any other information the Welsh Ministers consider appropriate.
- (4) The Welsh Ministers must, no later than 12 months after the end of each reporting period—
- (a) publish the annual report that relates to that reporting period, and
 - (b) lay it before Senedd Cymru.
- (5) In this section the “reporting period” means—
- (a) in the case of the first annual report, the period beginning with the day on which section 8 comes into force and ending with 31 March 2025;
 - (b) in the case of subsequent annual reports, successive financial years.

14 Impact Report

- (1) The Welsh Ministers must prepare a report under this section (an “Impact Report”) in relation to each reporting period.
- (2) The Impact Report must set out the purposes for which support has been provided during the reporting period.
- (3) The Impact Report must also set out the Welsh Ministers’ assessment of the impact and effectiveness of that support, including their assessment of—
- (a) the way in which, and the extent to which, the support has achieved the purposes for which it was provided, and
 - (b) the way in which, and the extent to which, the provision of the support has contributed to achieving the sustainable land management objectives.
- (4) The Impact Report may also assess and report on any other matters that the Welsh Ministers consider relevant for the purposes of assessing the impact and effectiveness of support provided during the reporting period.

- (5) The Welsh Ministers must, no later than 12 months after the end of each reporting period—
- (a) publish the Impact Report that relates to that reporting period, and
 - (b) lay it before Senedd Cymru.
- (6) In this section, the “reporting period” means —
- (a) in the case of the first Impact Report, the period beginning with the day on which section 8 comes into force and ending with 31 December 2029;
 - (b) in the case of subsequent Impact Reports, successive periods of five years.
- (7) The Welsh Ministers may by regulations amend subsection (6).

15 Steps to be taken in preparing report under section 14

- In preparing a report under section 14, the Welsh Ministers must have regard to—
- (a) the purposes specified in section 8(2);
 - (b) each report published under section 13 in respect of the reporting period to which the report under section 14 relates;
 - (c) the most recent report published under section 14;
 - (d) any other matters the Welsh Ministers consider appropriate.

CHAPTER 2

POWERS TO MODIFY LEGISLATION RELATING TO FINANCIAL AND OTHER SUPPORT

16 Power to modify legislation governing the basic payment scheme

- (1) The Welsh Ministers may by regulations modify legislation governing the basic payment scheme so far as it has effect in relation to Wales.
- (2) In this Act—
- (a) the basic payment scheme means the Basic Payment Scheme under [Regulation \(EU\) No 1307/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (“the Direct Payments Regulation”);
 - (b) the “legislation governing the Basic Payment Scheme” means the following retained direct EU legislation, and any subordinate legislation relating to that legislation—
 - (i) the Direct Payments Regulation;
 - (ii) any Council Delegated Regulation, or Commission Delegated Regulation, made under the Direct Payments Regulation;
 - (iii) any other retained direct EU legislation which relates to the operation of the basic payment scheme.

17 Power to modify legislation relating to the common agricultural policy

- (1) The Welsh Ministers may by regulations modify legislation relating to the financing, management and monitoring of the common agricultural policy so far as it has effect in relation to Wales.
- (2) In this Act “legislation relating to the financing, management and monitoring of the common agricultural policy” means the following retained direct EU legislation, and any subordinate legislation relating to that legislation—
 - (a) [Regulation \(EU\) No 1306/2013](#) of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy;
 - (b) retained direct EU legislation made under that Regulation.

18 Power to modify legislation relating to support for apiculture

- (1) The Welsh Ministers may by regulations modify legislation relating to support for apiculture so far as it has effect in relation to Wales.
- (2) In this Act “legislation relating to support for apiculture” means the following retained direct EU legislation, and any subordinate legislation relating to that legislation—
 - (a) Articles 55 to 57 of the CMO Regulation;
 - (b) retained direct EU legislation made under that legislation.

19 Power to modify legislation relating to support for rural development

- (1) The Welsh Ministers may by regulations modify legislation relating to support for rural development so far as it has effect in relation to Wales.
- (2) In this Act “legislation relating to support for rural development” means the following retained direct EU legislation, and any subordinate legislation relating to that legislation—
 - (a) [Regulation \(EU\) No 1305/2013](#) of the European Parliament and of the Council of 17 December 2013 on support for rural development;
 - (b) [Regulation \(EU\) No 1310/2013](#) of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development;
 - (c) [Council Regulation \(EC\) No 1698/2005](#) of 20 September 2005 on support for rural development;
 - (d) so far as it relates to support for rural development, [Regulation \(EU\) No 1303/2013](#) of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund etc.;
 - (e) [Council Regulation \(EC\) No 1257/99](#) of 17 May 1999 on support for rural development;
 - (f) [Council Regulation \(EEC\) No 2080/92](#) of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture;
 - (g) [Council Regulation \(EEC\) No 2078/92](#) of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside;

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- (h) retained direct EU legislation made under the retained direct EU legislation in paragraphs (a) to (g).

20 Relationship with other powers to modify legislation

Nothing in this Chapter affects any other power under an enactment to modify provisions of—

- (a) legislation governing the basic payment scheme (see section 16(2)(b));
- (b) legislation relating to the financing, management and monitoring of the common agricultural policy (see section 17(2));
- (c) legislation relating to support for apiculture (see section 18(2));
- (d) legislation relating to support for rural development (see section 19(2)).

CHAPTER 3

INTERVENTION IN AGRICULTURAL MARKETS

21 Declaration relating to exceptional market conditions

- (1) If the Welsh Ministers consider that there are exceptional market conditions, the Welsh Ministers may make and publish a declaration (“an exceptional market conditions declaration”) in accordance with this section.
- (2) There are “exceptional market conditions” if—
 - (a) there is a severe disturbance in agricultural markets or a serious threat of a severe disturbance in agricultural markets, and
 - (b) the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers in Wales in terms of the prices achievable for one or more agricultural products.
- (3) An exceptional market conditions declaration must—
 - (a) state that the Welsh Ministers consider that there are exceptional market conditions;
 - (b) describe the exceptional market conditions in question by specifying—
 - (i) the disturbance or threatened disturbance in agricultural markets;
 - (ii) the grounds for considering that the disturbance is severe, or that there is a serious threat of a severe disturbance;
 - (iii) any agricultural product which is or is likely to be affected by the disturbance or threatened disturbance;
 - (iv) the grounds for considering that the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers in terms of the prices achievable for the agricultural product in question;
 - (c) specify the date until which the powers conferred by or referred to in section 22 are available for use in relation to the exceptional market conditions.
- (4) The date specified under subsection (3)(c) may not be later than the last day of the period of three months beginning with the day on which the exceptional market conditions declaration is published.

- (5) An exceptional market conditions declaration has effect from the beginning of the day on which it is published until the end of the day specified under subsection (3)(c).
- (6) The Welsh Ministers may revoke an exceptional market conditions declaration by making and publishing a declaration under this subsection stating that the exceptional market conditions declaration is revoked from the date specified in the declaration.
- (7) Subsection (8) applies if, at any time during the period of seven days ending with the day specified under subsection (3)(c) in an exceptional market conditions declaration that has effect under this section, the Welsh Ministers consider that there continue to be exceptional market conditions.
- (8) The Welsh Ministers may extend the exceptional market conditions declaration by making and publishing a declaration under this subsection specifying—
 - (a) that the exceptional market conditions declaration is extended for a period (not exceeding three months) specified in the declaration, and
 - (b) that the powers conferred by or referred to in section 22(2) are available for use during that period.
- (9) The fact that an exceptional market conditions declaration has expired or has been revoked does not prevent the Welsh Ministers from making and publishing another exceptional market conditions declaration relating in whole or part to the same exceptional market conditions.
- (10) A copy of any declaration made and published under this section must be laid before Senedd Cymru by the Welsh Ministers as soon as practicable after it is published.
- (11) References in this section to a declaration being published are to it being published electronically.

22 Exceptional market conditions: powers available to Welsh Ministers

- (1) This section applies during the period for which an exceptional market conditions declaration has effect.
- (2) The Welsh Ministers may provide, or agree to provide, financial support to agricultural producers in Wales whose incomes have been, are being, or are likely to be, adversely affected by the exceptional market conditions described in the declaration.
- (3) Nothing in this section affects any other powers that are available to the Welsh Ministers (including under retained direct EU legislation) to provide financial support to agricultural producers.
- (4) Financial support under subsection (2) may be provided by way of grant, loan or guarantee or in any other form.
- (5) The financial support may be provided subject to such conditions as the Welsh Ministers consider appropriate.
- (6) The conditions may (among other things) include provision for financial support to be repaid or otherwise made good (with or without interest).
- (7) Nothing in subsection (1) or (2) prevents the Welsh Ministers from providing, or agreeing to provide, financial support under subsection (2) after the end of the period for which an exceptional market conditions declaration has effect, but in response to an application made during that period.

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23 Power to modify retained direct EU legislation relating to public market intervention and private storage aid

- (1) The Welsh Ministers may by regulations modify retained direct EU legislation relating to public market intervention or aid for private storage, so far as it has effect in relation to Wales.
- (2) The power conferred by this section includes power to change the agricultural products that are eligible for public market intervention or aid for private storage.
- (3) In this section “retained direct EU legislation relating to public market intervention or aid for private storage” includes—
 - (a) Articles 8 to 18 of the CMO Regulation;
 - (b) [Council Regulation \(EU\) No 1370/2013](#) of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products (so far as relating to public market intervention and aid for private storage);
 - (c) the following Commission Regulations (so far as relating to public market intervention and aid for private storage)—
 - (i) [Commission Delegated Regulation \(EU\) 2016/1238](#) of 18 May 2016 supplementing the CMO Regulation with regard to public intervention and aid for private storage;
 - (ii) [Commission Implementing Regulation \(EU\) 2016/1240](#) of 18 May 2016 laying down rules for the application of the CMO Regulation with regard to public intervention and aid for private storage;
 - (iii) [Commission Delegated Regulation \(EU\) 2017/1182](#) of 20 April 2017 supplementing the CMO Regulation in relation to the Union scales for the classification of bovine, pig and sheep carcasses and in relation to the reporting of market prices of certain categories of carcasses and live animals.
- (4) Until either paragraph 1 or paragraph 2 of Schedule 3 (amendment of Articles 219, 220, 221 and 222 of the CMO Regulation) is in force, any reference in this section to exceptional market conditions which are the subject of an exceptional market conditions declaration includes a reference to circumstances which are the subject of measures under any of those Articles.

CHAPTER 4

AGRICULTURAL TENANCIES

24 Agricultural Holdings: dispute resolution relating to financial support

- (1) The [Agricultural Holdings Act 1986 \(c. 5\)](#) is amended as follows.
- (2) In section 19A (disputes relating to requests for landlord’s consent or variation of terms), in subsection (7), in the definition of “relevant financial assistance”—
 - (a) in paragraph (b) for “, or paragraph 8 of Schedule 5 to, that Act (powers of Secretary of State and Welsh Ministers)” substitute “that Act (powers of Secretary of State”;
 - (b) omit the “or” after paragraph (b);
 - (c) after paragraph (c) insert—

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- “(d) section 8 of the Agriculture (Wales) Act 2023 (“the 2023 Act”) (Welsh Ministers’ power to provide support),
- (e) a scheme of the sort mentioned in section 9(7) of the 2023 Act (meaning of “third party scheme” for purposes of power to provide support),
- (f) the basic payment scheme, as defined in section 16 of the 2023 Act (power to modify legislation governing the basic payment scheme),
- (g) legislation relating to the financing, management and monitoring of the common agricultural policy, as defined in section 17 of the 2023 Act (power to modify legislation relating to the common agricultural policy),
- (h) legislation relating to support for apiculture, as defined in section 18 of the 2023 Act (power to modify legislation relating to support for apiculture),
- (i) legislation relating to support for rural development, as defined in section 19 of the 2023 Act (support for rural development), or
- (j) section 22 of the 2023 Act (powers of Welsh Ministers to give financial assistance in exceptional market conditions);”.

(3) The [Agricultural Tenancies Act 1995 \(c. 8\)](#) is amended as follows.

(4) After section 8 insert—

**“8A Reference of certain requests for consent or variation to arbitration:
Wales**

- (1) This section applies to a farm business tenancy where the land comprised in the tenancy is in Wales.
- (2) A tenant may, by notice in writing given to the landlord, refer to arbitration under this Act a request made by the tenant to the landlord where—
 - (a) the request falls within subsection (3), and
 - (b) no agreement has been reached with the landlord on the request.
- (3) A request falls within this subsection if—
 - (a) it is a request for—
 - (i) the landlord’s consent to a matter which under the terms of the tenancy requires such consent, or
 - (ii) a variation of the terms of the tenancy, and
 - (b) it is made for the purposes of—
 - (i) enabling the tenant to request or apply for relevant financial support, or
 - (ii) complying with a statutory duty applicable to the tenant.
- (4) Subsection (5) applies where the tenant has given notice under subsection (2) but an arbitrator has not been appointed by agreement before the end of the period of two months beginning with the day on which the notice was given.
- (5) The tenant or the landlord may apply to a professional authority for the appointment of an arbitrator by that authority, but once either party has made such an application the other may no longer do so.
- (6) An arbitrator, on a reference made under subsection (2), may—

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- (a) determine that the landlord must comply with the request (either in full or in part),
 - (b) determine that the landlord may refuse to comply with the request, or
 - (c) make any other award or determination permitted by regulations.
- (7) The Welsh Ministers may by regulations make provision—
- (a) about conditions to be met before a reference may be made under subsection (2);
 - (b) about the awards or determinations that may be made by an arbitrator, which may include making an order for a variation in the rent payable under the tenancy or for the payment of compensation or costs;
 - (c) about the time at which, or the conditions subject to which, an award or determination may be expressed to take effect;
 - (d) restricting a tenant’s ability to make subsequent references to arbitration where a reference to arbitration has already been made under subsection (2) in relation to the same tenancy.
- (8) In this section—
- “relevant financial support” means financial support under—
- (a) section 8 of the Agriculture (Wales) Act 2023 (“the 2023 Act”) (Welsh Ministers’ power to provide support),
 - (b) a scheme of the sort mentioned in section 9(7) of the 2023 Act (meaning of “third party scheme” for purposes of power to provide support),
 - (c) the basic payment scheme, as defined in section 16 of the 2023 Act (power to modify legislation governing the basic payment scheme),
 - (d) legislation relating to the financing, management and monitoring of the common agricultural policy, as defined in section 17 of the 2023 Act (power to modify legislation relating to the common agricultural policy),
 - (e) legislation relating to support for apiculture, as defined in section 18 of the 2023 Act (power to modify legislation relating to support for apiculture),
 - (f) legislation relating to support for rural development, as defined in section 19 of the 2023 Act (support for rural development), or
 - (g) section 22 of the 2023 Act (powers of Welsh Ministers to give financial assistance in exceptional market conditions);
- “statutory duty” means a duty imposed by or under—
- (a) an Act of Parliament;
 - (b) an Act of Senedd Cymru or an Assembly Measure;
 - (c) retained direct EU legislation.”
- (5) In section 28(5), before paragraph (a), insert—
- “(za) a request made under section 8A(2) of this Act.”.
- (6) After section 36, insert—

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“36A Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) The Welsh Ministers’ power to make regulations under section 8A(7) includes power to make different provision for different purposes.
- (3) A statutory instrument containing regulations made under section 8A(7) is subject to annulment in pursuance of a resolution of Senedd Cymru.”