

Draft Order laid before Parliament under section 109(4)(a) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2010 No.

**CONSTITUTIONAL LAW
DEVOLUTION, WALES**

The National Assembly for Wales (Legislative
Competence) (Amendment of Schedule 7 to the
Government of Wales Act 2006) Order 2010

Made - - - - *****

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the ***** day of *****

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order has been laid before, and approved by a resolution of, each House of Parliament and the National Assembly for Wales in accordance with section 109(4) of the Government of Wales Act 2006(1).

Accordingly, Her Majesty, in pursuance of section 109(1) of that Act is pleased, by and with the advice of Her Privy Council, to order as follows:—

Citation and commencement

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2010.

(2) This Order comes into force on the day after the day on which it is made.

Interpretation

2. In this Order “Schedule 7” means Schedule 7 to the Government of Wales Act 2006 (Acts of the Assembly)(2).

Agriculture etc

3.—(1) For the heading before paragraph 1 of Part 1 of Schedule 7 (agriculture, fisheries, forestry and rural development) substitute “*Agriculture, forestry, animals, plants and rural development*”.

(2) For paragraph 1 substitute—

“1 Agriculture. Horticulture. Forestry. Fisheries and fishing. Animal health and welfare. Plant health. Plant varieties and seeds. Rural development.

In this Part of this Schedule “animal” means—

- (a) all mammals apart from humans, and
- (b) all animals other than mammals;

and related expressions are to be construed accordingly.”.

(3) In the exception listed under paragraph 1 which begins “Import”—

- (a) in paragraph (a)—
 - (i) omit “fish, fish products,”;
 - (ii) for “, fish or plant” substitute “or plant”;
- (b) in paragraph (b)—
 - (i) omit “, fish feedstuff”;
 - (ii) for “, fish or plant” substitute “or plant”.

Economic development

4.—(1) The exceptions listed under paragraph 4 of Part 1 of Schedule 7 (economic development) are amended in accordance with this article.

(2) In—

- (a) the exception which begins “Product standards”, and
- (b) the exception which begins “Consumer protection”,

for “fish and fish products,” substitute “animals and animal products,”.

(3) In the exception which begins “Occupational”, after “Deputy Welsh Ministers” insert “and schemes for or in respect of members of local authorities”.

(4) In the exception which begins “Generation”, after “transmission” insert “, distribution”.

(5) In the exception which begins “Nuclear”, after “installations” insert—

“—

- (a) including nuclear safety and liability for nuclear occurrences;
- (b) but not including disposal of very low level radioactive waste moved from a site requiring a nuclear site licence”.

(2) The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143) made various amendments which are relevant to this Order.

Environment

5. In paragraph 6 of Part 1 of Schedule 7 (environment), for “Collection, management and disposal of waste.” substitute “Prevention, reduction, collection, management, treatment and disposal of waste.”.

Fire and rescue services and the promotion of fire safety

6.—(1) For the heading before paragraph 7 of Part 1 of Schedule 7 (fire and rescue services and the promotion of fire safety) substitute “*Fire and rescue services and fire safety*”.

(2) In paragraph 7, after “Fire and rescue services.” insert “Provision of automatic fire suppression systems in newly constructed and newly converted residential premises.”.

Highways and transport

7.—(1) The exceptions listed under paragraph 10 of Part 1 of Schedule 7 (highways and transport) are amended in accordance with this article.

(2) For the exception which begins “Regulation of use of motor vehicles” substitute—
“Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads, apart from—

(a) any such regulation which—

- (i) relates to schemes for imposing charges in respect of the use or keeping of vehicles on Welsh trunk roads (“trunk road charging schemes”), or
- (ii) relates to the descriptions of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training, unless the regulation is the setting of technical standards for construction or equipment of motor vehicles or trailers which differ from the standards that would or might otherwise apply to them; and

(b) regulation of the use of motor vehicles and trailers carrying animals for the purpose of protecting human, animal or plant health, animal welfare or the environment.”.

(3) For the exception which begins “Traffic regulation on special roads”, substitute—
“Traffic regulation on special roads, apart from regulation relating to trunk road charging schemes.

Pedestrian crossings.

Traffic signs, apart from the placing and maintenance of traffic signs relating to trunk road charging schemes.

Speed limits.”.

(4) In the exception which begins “Provision and regulation of railway services”, for paragraph (c) substitute—

“(c) is not made in connection with Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road(3).”.

(5) In the exception “Transport security”, at the end insert “, apart from regulation relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training”.

(6) In—

(3) OJNo. L315, 3.12.2007, p. 1.

- (a) the exception which begins “Aviation”,
 - (b) the exception which begins “Shipping”, and
 - (c) the exception which begins “Harbours”,
- for “, fish or plant” substitute “or plant”.
- (7) After the last exception insert—
- “Technical specifications for fuel for use in internal combustion engines.”.

Social welfare

- 8.**—(1) In paragraph 15 of Part 1 of Schedule 7 (social welfare) —
- (a) after “fostering)” insert “and of young adults”;
 - (b) after “Care of” insert “children,”.
- (2) The exceptions listed under paragraph 15 are amended in accordance with the following provisions of this article.
- (3) For “Child trust funds” substitute—
- “Child trust funds, apart from subscriptions to such funds by—
- (a) a county council or county borough council in Wales, or
 - (b) the Welsh Ministers.”.

(4) In paragraph (a) of the exception relating to family law and proceedings, for “welfare, advice” substitute “welfare advice”.

Town and country planning

- 9.** After paragraph 18 of Part 1 of Schedule 7 (town and country planning), insert—
- “Exception—*
- Functions of the Infrastructure Planning Commission or any of its members under the Planning Act 2008(4).”.

Modification of enactments

- 10.**—(1) Paragraph 2 of Part 2 of Schedule 7 (general restrictions: modifications of enactments other than the Government of Wales Act 2006) is amended in accordance with this article.
- (2) The existing provision becomes sub-paragraph (1) of paragraph 2.
- (3) After that sub-paragraph, insert—
- “(2) Sub-paragraph (1) does not apply to any provision making modifications, or conferring power by subordinate legislation to make modifications, of section 31(6) of the Data Protection Act 1998(5) so that it applies to complaints under an enactment relating to the provision of redress for negligence in connection with the diagnosis of illness or the care or treatment of any patient (in Wales or elsewhere) as part of the health service in Wales.”.
- 11.** In paragraph 5 of Part 2 of Schedule 7 (general restrictions: modifications of the Government of Wales Act 2006), for sub-paragraph (2) substitute—
- “(2) Sub-paragraph (1) does not apply to the following provisions—

(4) 2008 c. 29.

(5) 1998 c. 29. Subsection (6) was inserted into section 31 by section 119 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), and has been subject to amendments which are not relevant to this Order.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2010 No. 2968

- (a) sections 20, 22, 24, 35(1), 36(1) to (5) and (7) to (11), 53, 54, 78, 146, 147, 148 and 156(2) to (5);
- (b) paragraph 8(3) of Schedule 2.”.

Name
Clerk of the Privy Council

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the legislative competence of the National Assembly for Wales (“the Assembly”) to pass Acts of the National Assembly for Wales (or “Assembly Acts”).

Part 4 of the Government of Wales Act 2006 (“the 2006 Act”) includes provisions which would enable the Assembly to pass Assembly Acts (“the Assembly Act provisions”). The Assembly Act provisions may be brought into force by order of the Welsh Ministers if the majority of voters in a referendum held throughout Wales vote in favour of their coming into force.

An Assembly Act will only be law so far as it is within the Assembly’s legislative competence. Section 108 of the 2006 Act, together with Schedule 7, set out the extent of the Assembly’s legislative competence. Part 1 of Schedule 7 sets out the subjects to which provisions of Assembly Acts may relate, and exceptions from those subjects. Parts 2 and 3 of Schedule 7 set out general restrictions on the Assembly’s legislative competence and exceptions from those restrictions.

This Order is made under section 109 of the 2006 Act, which provides that Her Majesty may by Order in Council amend Schedule 7. Articles 3 to 9 make amendments to the subjects and exceptions set out in Part 1 of Schedule 7. Articles 10 and 11 make amendments to restrictions in Part 2. Since this is not the first Order under section 109 of which a draft has been laid before Parliament, it is also required to be laid before and approved by a resolution of the Assembly under section 109(4)(b).

A full regulatory assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.