



# Government of Wales Act 1998

## 1998 CHAPTER 38

### PART II

#### ASSEMBLY FUNCTIONS

##### *Other functions*

#### **27 Reform of Welsh health authorities**

- (1) The Assembly may by order make provision for the transfer to the Assembly of any or all of the functions of a Welsh health authority.
- (2) In this section “Welsh health authority” means—
  - (a) a Health Authority for an area in, or consisting of, Wales, or
  - (b) a Special Health Authority performing functions in respect only of Wales.
- (3) An order under subsection (1) relating to a Health Authority may provide for the transfer of any or all of the functions of the authority with respect to the whole, or any part, of the area for which the authority act.
- (4) If such an order provides for the transfer of all of the authority’s functions with respect to a part of that area, it shall also include provision—
  - (a) specifying the rest of that area as the new area for which the authority are to act, and
  - (b) specifying as the name by which the authority shall be known (in addition to the title “Health Authority”) such name as appears to the Assembly appropriately to signify the connection of the authority with the new area.
- (5) Where an order under subsection (1) transfers—
  - (a) all of the functions of a Health Authority with respect to the whole of the area for which the authority act, or
  - (b) all of the functions of a Special Health Authority,the Assembly may by order make provision for the abolition of the authority.

- (6) Subsection (7) applies where—
- (a) a Health Authority which act for an area are abolished by an order under subsection (5), or
  - (b) an order under subsection (1) relating to a Health Authority provides for the transfer of all of the functions of the authority with respect to a part of the area for which the authority act.
- (7) Where this subsection applies—
- (a) the duty imposed by section 8(1) and (5)(a) of the National Health Service Act 1977 (duty to establish Health Authorities covering whole of England and Wales) no longer requires there to be a Health Authority for the area mentioned in paragraph (a) of subsection (6), or the part mentioned in paragraph (b) of that subsection, but
  - (b) the duty imposed by section 20 of that Act (duty to establish community health councils covering the areas of all Health Authorities) includes a duty to establish one or more community health councils covering that area or part (whether or not together with the area, or part of the area, for which any Health Authority act).
- (8) An order under subsection (1) or (5) relating to a Welsh health authority may include provision for the transfer of staff of the authority and of any property, rights and liabilities to which the authority are entitled or subject.
- (9) An order under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (10) Nothing in this section limits any power conferred by the National Health Service Act 1977.

## **28 Reform of other Welsh public bodies**

- (1) The Assembly may by order make, in relation to any one or more of the statutory functions of a body specified in Part I or II of Schedule 4, provision for the transfer of the function or functions—
- (a) to a body specified in Part I or III of that Schedule,
  - (b) to a body specified in Part II or IV of that Schedule if that body consents to the transfer to it of the function or functions,
  - (c) to a county council, county borough council or community council in Wales (or to more than one such council), or
  - (d) to the Assembly.
- (2) Where the Assembly considers that, if a statutory function of a body specified in Part I or II of Schedule 4 were transferred to a body within any of paragraphs (a) to (d) of subsection (1) by an order under that subsection, that body—
- (a) would not be able to exercise the function because the function requires or permits something to be done in relation to that body, or
  - (b) could by exercising another of its functions do what the function would require or permit that body to do,
- the Assembly may by order make provision for the abolition of the function.

- (3) Where each of the statutory functions of a body specified in Part I or II of Schedule 4 is transferred or abolished by an order under subsection (1) or (2), the Assembly may by order make provision—
  - (a) for the abolition of the body if it is a body specified in Part I of that Schedule, or
  - (b) for the abolition of the duty to recognise the body if it is a body specified in Part II of that Schedule.
- (4) An order under subsection (1), (2) or (3)(a) making provision in relation to a body specified in Part I of Schedule 4 may include provision for the transfer of staff of the body and of any property, rights and liabilities to which the body is entitled or subject and may in particular—
  - (a) provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order,
  - (b) provide for the creation of interests in, or rights over, property transferred or retained or for the creation of new rights and liabilities between the body and the transferee,
  - (c) provide for the order to have effect in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order, or
  - (d) make provision about property situated outside the United Kingdom or rights and liabilities arising otherwise than under the law of England and Wales.
- (5) Where by an order under subsection (1) or (2)—
  - (a) any function of a body specified in Part I of Schedule 4 is transferred or abolished, or
  - (b) any function is transferred to a body specified in Part I or III of that Schedule, the Assembly may by order make provision altering the membership of the body.
- (6) An order under subsection (3)(a) making provision for the abolition of a body may include provision for the abolition of any duty in compliance with which it was established or constituted.
- (7) An order under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (8) In this section “statutory functions” means functions conferred or imposed by an enactment (including an enactment which is contained in an Act passed after this Act or is made after the passing of this Act).

## **29 Implementation of Community law**

- (1) The power to designate a Minister of the Crown or government department under section 2(2) of the European Communities Act 1972 may be exercised to designate the Assembly.
- (2) Accordingly, the Assembly may exercise the power to make regulations conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if the Assembly has been designated in relation to that matter or for that

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purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council designating the Assembly.

- (3) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 (Parliamentary procedure) shall not apply to a statutory instrument containing regulations made by the Assembly unless the statutory instrument contains regulations—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Assembly),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (4) The power conferred by section 56 of the Finance Act 1973 (services provided in pursuance of a Community obligation etc.) on the Minister in charge of a government department to make (with the consent of the Treasury) regulations prescribing, or providing for the determination of, fees and charges in respect of things done by the department may be exercised by the Assembly (with the consent of the Treasury) for prescribing, or providing for the determination of, fees and charges in respect of corresponding things done by the Assembly.
- (5) Section 56(4) of the Finance Act 1973 shall not cause a statutory instrument containing regulations made by the Assembly to be subject to annulment in pursuance of a resolution of either House of Parliament unless the statutory instrument contains regulations—
- (a) made by a Minister of the Crown (whether or not jointly with the Assembly),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).

### **30 Consultation about public appointments**

- (1) Her Majesty may by Order in Council make provision requiring any Minister of the Crown or other person to consult the Assembly before—
- (a) appointing a person to a specified public post,
  - (b) recommending, consenting to or approving the appointment of a person to a specified public post,
  - (c) nominating a person for appointment to a specified public post, or
  - (d) selecting persons with a view to the appointment of one or more of them to a specified public post (whether or not by the person subject to the requirement).
- (2) In subsection (1) “a specified public post” means—
- (a) a public office specified, or of a description specified, in the Order in Council, or
  - (b) membership, or membership of a description so specified, of a public body so specified or of a description so specified.
- (3) An Order in Council under this section may not specify any public office or body, or public offices or bodies of any description, unless the office or body exercises, or all offices or bodies of the description exercise, functions in or in relation to Wales or

a part of Wales (whether or not they also exercise functions in or in relation to any other area).

- (4) An Order in Council under this section may impose a requirement on a person even where—
  - (a) he is required to consult, or obtain the consent or approval of, another person before acting, or
  - (b) he is required to act at the request of another person or after a recommendation, nomination or selection has been made by another person.
- (5) A requirement imposed by an Order in Council under this section need not be complied with in relation to an appointment if—
  - (a) it is not reasonably practicable to comply with it because of the urgency of making the appointment, or
  - (b) the appointment is a temporary one.
- (6) Where a person is appointed to an office or membership of a body, any failure to comply with a requirement imposed by an Order in Council under this section in relation to the appointment does not affect the validity of anything done by or in relation to him as the holder of the office, or by or in relation to the body while he is a member of it.
- (7) An Order in Council under this section may contain any appropriate consequential, incidental, transitional or supplementary provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (8) No recommendation shall be made to Her Majesty in Council to make an Order in Council under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an Order in Council under this section shall (unless a draft of it has been approved by a resolution of each House of Parliament) be subject to annulment in pursuance of a resolution of either House of Parliament.

### **31 Consultation about government’s legislative programme**

- (1) As soon as is reasonably practicable after the beginning of each session of Parliament, the Secretary of State for Wales shall undertake with the Assembly such consultation about the government’s legislative programme for the session as appears to him to be appropriate but including attending and participating in proceedings of the Assembly relating to the programme on at least one occasion.
- (2) For this purpose the government’s legislative programme for a session of Parliament consists of the bills which (at the beginning of the session) are intended to be introduced into either House of Parliament during the session by a Minister of the Crown.
- (3) If at any time after the beginning of a session of Parliament—
  - (a) it is decided that a bill should be introduced into either House of Parliament during the session by a Minister of the Crown, and
  - (b) no consultation about the bill has been undertaken under subsection (1),

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the Secretary of State for Wales shall undertake with the Assembly such consultation about the bill as appears to him to be appropriate.

- (4) This section does not require the Secretary of State for Wales to undertake consultation with the Assembly about a bill if he considers that there are considerations relating to the bill which make it inappropriate for him to do so.

### **32 Support of culture etc**

The Assembly may do anything it considers appropriate to support—

- (a) museums, art galleries or libraries in Wales,
- (b) buildings of historical or architectural interest, or other places of historical interest, in Wales,
- (c) the Welsh language, or
- (d) the arts, crafts, sport or other cultural or recreational activities in Wales.

### **33 Consideration of matters affecting Wales**

The Assembly may consider, and make appropriate representations about, any matter affecting Wales.