



# Government of Wales Act 1998

## 1998 CHAPTER 38

### PART III

#### ASSEMBLY PROCEDURE

##### Commencement Information

- II** Part III wholly in force: Ss. 50, 51 in force at Royal assent, see [s. 158](#); Ss. 46-49, 52-79 in force at 1.12.1998 by [S.I. 1998/2789](#), [art. 2](#)

VALID FROM 01/12/1998

##### *Introductory*

#### **46 Regulation of procedure.**

- (1) The procedure of the Assembly (including that of committees of the Assembly and sub-committees of such committees) shall be regulated by the standing orders of the Assembly.
- (2) But subsection (1) is subject to any other provision of this Act or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly (or of committees of the Assembly or sub-committees of such committees).
- (3) The standing orders may make different provision for different circumstances.
- (4) Section 50 makes provision for the making of standing orders to have effect when the Assembly first meets; but the Assembly may remake or revise the standing orders at any time.
- (5) The Assembly may not delegate the function of remaking or revising the standing orders.

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- (6) The standing orders shall not be remade or revised unless a motion to approve the standing orders or revisions is passed by the Assembly on a vote in which at least two-thirds of the Assembly members voting support the motion.

#### **47 Equal treatment of English and Welsh languages.**

- (1) The Assembly shall in the conduct of its business give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.
- (2) In determining how to comply with subsection (1), the Assembly shall have regard to the spirit of any guidelines under section 9 of the <sup>M1</sup>Welsh Language Act 1993.
- (3) The standing orders shall be made in both English and Welsh.

#### **Marginal Citations**

**M1** 1993 c. 38.

#### **48 Equal opportunities in conduct of business.**

The Assembly shall make appropriate arrangements with a view to securing that its business is conducted with due regard to the principle that there should be equality of opportunity for all people.

#### *Initial provisions*

VALID FROM 01/12/1998

#### **49 First meeting.**

- (1) The first meeting of the Assembly shall be held on the day, and at the time and place, appointed by order made by the Secretary of State.
- (2) The Secretary of State for Wales, or a person nominated by him, shall take the chair at the first meeting of the Assembly until the election of an Assembly member to be the presiding officer in accordance with the standing orders.

#### **50 First standing orders.**

- (1) The Secretary of State shall appoint Commissioners to prepare a draft of standing orders to have effect when the Assembly first meets.
- (2) When the Commissioners have prepared draft standing orders, they shall submit them to the Secretary of State.
- (3) The Secretary of State shall consider the draft standing orders submitted to him and make standing orders either in the form of the draft or in that form but with such modifications as he considers appropriate.

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- (4) The Secretary of State shall publish the standing orders as soon as is reasonably practicable after he has made them.
- (5) The standing orders made by the Secretary of State shall have effect (subject to any revisions made by the Assembly) unless and until they are remade by the Assembly.

## **51 The Commissioners.**

- (1) There shall be not fewer than five, and not more than nine, Commissioners.
- (2) The Commissioners shall hold office on such terms (including terms as to the payment of allowances and expenses) as the Secretary of State considers appropriate.
- (3) A Commissioner may resign, and the Secretary of State may remove a Commissioner from office, at any time.
- (4) The Secretary of State may issue to the Commissioners guidance as to—
  - (a) the content and form of the draft standing orders which they are to prepare, and
  - (b) the date by which draft standing orders prepared by them are to be submitted to him.
- (5) But no guidance may be issued as to the content of the draft standing orders if standing orders prepared in accordance with it would not comply with any requirement contained in this Part.
- (6) Any guidance issued by the Secretary of State under subsection (4) shall be published by him.

VALID FROM 01/12/1998

### *Offices and committees*

## **52 Presiding officer and deputy.**

- (1) The Assembly shall elect from among the Assembly members—
  - (a) the presiding officer, and
  - (b) the deputy presiding officer.
- (2) The offices specified in subsection (1) shall be known by such titles as the standing orders may provide (but are referred to in this Act as the presiding officer and the deputy presiding officer).
- (3) The presiding officer and the deputy presiding officer may not be Assembly members who represent the same party.

## **53 Assembly First Secretary and Assembly Secretaries.**

- (1) The Assembly shall elect one of the Assembly members to be Assembly First Secretary or Prif Ysgrifennydd y Cynulliad.

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- (2) The Assembly First Secretary shall appoint Assembly Secretaries, or Ysgrifenyddion y Cynulliad, from among the Assembly members (and may at any time remove a person from office as an Assembly Secretary).
- (3) The standing orders must specify the maximum number of Assembly Secretaries that may be appointed.
- (4) The Assembly First Secretary, and each of the Assembly Secretaries, is a Crown servant for the purposes of the <sup>M2</sup>Official Secrets Act 1989.

#### Marginal Citations

M2 1989 c. 6.

### 54 Committees.

- (1) The Assembly—
  - (a) shall establish the committees which it is required to establish by the following provisions of this Part, and
  - (b) may establish any other committees which it considers appropriate.
- (2) The members of any committee established by the Assembly under subsection (1) (b)—
  - (a) shall be elected by the Assembly from among the Assembly members, and
  - (b) shall, unless the committee exists solely to provide advice, be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.

### 55 Sub-committees.

- (1) Any committee of the Assembly may establish one or more sub-committees.
- (2) The members of any sub-committee established by a committee of the Assembly shall be elected by the committee from among Assembly members who are members of the committee.
- (3) A committee of the Assembly, other than the executive committee, shall not elect as members of a sub-committee Assembly members who all represent the same party.

VALID FROM 01/12/1998

#### *The statutory committees*

### 56 Executive committee.

- (1) There shall be a committee of the Assembly whose members shall be—
  - (a) the Assembly First Secretary, who shall chair it, and
  - (b) the Assembly Secretaries.

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- (2) The committee shall be known by such title as the standing orders may provide (but is referred to in this Act as the executive committee).
- (3) The Assembly First Secretary shall allocate accountability in the fields in which the Assembly has functions to members of the executive committee so that, in the case of each of those fields, accountability in the field is allocated either to one of the Assembly Secretaries or to him.
- (4) The Assembly First Secretary need not make an allocation under subsection (3) to every member of the executive committee; but the number of Assembly Secretaries to whom no such allocation is made shall not exceed such number as may be specified in, or determined in accordance with, the standing orders.
- (5) For the purposes of this section and section 57 “accountability”, in relation to a member of the executive committee and a field, means that he is the member of the executive committee accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of the Assembly’s functions in that field, except the exercise of functions by the executive committee (or by the Assembly itself).
- (6) The Assembly First Secretary is accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of functions by the executive committee.
- (7) The standing orders must include provision for allowing Assembly members to question (orally or in writing, as Assembly members prefer)—
  - (a) each member of the executive committee about the exercise of the Assembly’s functions in the field or fields in which he is accountable, except the exercise of functions by the executive committee (or by the Assembly itself), and
  - (b) the Assembly First Secretary about the exercise of functions by the executive committee.
- (8) In this section—
  - (a) references to the exercise of functions by the executive committee include the exercise of functions by a sub-committee of that committee or by members of the Assembly’s staff in pursuance of a delegation to the Assembly’s staff by either that committee or such a sub-committee, and
  - (b) references to the exercise of functions by the Assembly itself include the exercise of functions by members of the Assembly’s staff in pursuance of a delegation to the Assembly’s staff by the Assembly itself.

## **57 Subject committees.**

- (1) The Assembly shall establish committees with responsibilities in the fields in which the Assembly has functions.
- (2) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act as subject committees).
- (3) There shall be the same number of—
  - (a) subject committees, and

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- (b) members of the executive committee to whom the Assembly First Secretary allocates accountability in any of the fields in which the Assembly has functions.
- (4) The division between the subject committees of the fields in which those committees have responsibilities and the division between members of the executive committee of the fields in which accountability is allocated to members of that committee shall be the same; and the member of the executive committee who has accountability in the field or fields in which a subject committee has responsibilities shall be a member of that subject committee.
- (5) The Assembly shall elect a number of Assembly members to be a panel from which the members who are to chair the subject committees are to be selected; and the members of the panel shall be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the panel.
- (6) The number of members of the panel at any time shall be equal to the number of subject committees at that time; and each member of the panel shall be selected to chair one (but not more than one) subject committee.
- (7) A subject committee shall have such number of members (in addition to the person who is a member of the committee by virtue of subsection (4) and the member who chairs it) as the standing orders may provide.
- (8) Those other members shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee (including the person who is a member by virtue of subsection (4) and the member who chairs it).

## **58 Subordinate legislation scrutiny committee.**

- (1) The Assembly shall establish a committee with responsibilities relating to the scrutiny of relevant Welsh subordinate legislation.
- (2) For the purposes of this section “relevant Welsh subordinate legislation” is any subordinate legislation—
  - (a) which is made or proposed to be made, or
  - (b) which, or a draft of which, is (or but for paragraph 2(4) of Schedule 7 would be) required to be confirmed or approved,
 by the Assembly (whether or not jointly with a Minister of the Crown or government department).
- (3) The committee established under this section shall be known by such title as the standing orders may provide (but is referred to in this Act as the subordinate legislation scrutiny committee).
- (4) The subordinate legislation scrutiny committee shall—
  - (a) consider any proposed Assembly general subordinate legislation when the draft statutory instrument containing it has been laid before the Assembly, and
  - (b) report to the Assembly whether or not the special attention of the Assembly should be drawn to it on any of the grounds specified in the standing orders for the purposes of this subsection.
- (5) The Assembly may give to the subordinate legislation scrutiny committee—

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- (a) other responsibilities relating to the scrutiny of Assembly general subordinate legislation, or
  - (b) responsibilities relating to the scrutiny of any other description of relevant Welsh subordinate legislation.
- (6) For the purposes of this Act “Assembly general subordinate legislation” is any relevant Welsh subordinate legislation within subsection (2)(a) which is—
- (a) required to be made by statutory instrument,
  - (b) not made or proposed to be made by an instrument in the case of which, or of a draft of which, any relevant Parliamentary procedural provision has effect, and
  - (c) not local in nature.
- (7) The Assembly may not give to the subordinate legislation scrutiny committee responsibilities not relating to the scrutiny of relevant Welsh subordinate legislation.

#### **59 Members of scrutiny committee etc.**

- (1) The subordinate legislation scrutiny committee shall have such number of members as the standing orders may provide.
- (2) The members of the subordinate legislation scrutiny committee shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.
- (3) Neither the Assembly First Secretary nor an Assembly Secretary may be a member of the subordinate legislation scrutiny committee.
- (4) The Assembly shall elect one of the members of the subordinate legislation scrutiny committee to chair the committee but it may not be chaired by a member who represents the largest party with an executive role.
- (5) The subordinate legislation scrutiny committee may not delegate the function of making reports under section 58(4).
- (6) But the standing orders may include provision for securing that, in circumstances specified in the standing orders, any function of the subordinate legislation scrutiny committee which is so specified may be exercised—
  - (a) by the member who chairs the committee, or
  - (b) in the absence of that member, by any other member of the committee authorised by that member.
- (7) For the purposes of this Act a party is the largest party with an executive role if—
  - (a) an Assembly member representing the party is a member of the executive committee, and
  - (b) it is represented by more Assembly members than any other party represented by an Assembly member who is a member of that committee.

#### **60 Audit Committee.**

- (1) The Assembly shall establish a committee to be known as the Audit Committee or Pwyllgor Archwilio.



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- (2) The Audit Committee shall have such number of members as the standing orders may provide.
- (3) The members of the Audit Committee shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the Committee.
- (4) Neither the Assembly First Secretary nor an Assembly Secretary may be a member of the Audit Committee.
- (5) The Assembly shall elect one of the members of the Audit Committee to chair the Committee but it may not be chaired by a member who represents the largest party with an executive role.
- (6) The Assembly may not delegate any function to the Audit Committee except as provided by section 94(4).

#### **61 Regional committees.**

- (1) The Assembly shall establish a committee for North Wales to provide advice to the Assembly about matters affecting North Wales.
- (2) The Assembly shall also establish a committee for each of the other regions of Wales to provide advice to the Assembly about matters affecting the region.
- (3) The standing orders must specify the areas which are to constitute—
  - (a) North Wales, and
  - (b) the other regions of Wales,
 for the purposes of this section.
- (4) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act as regional committees).
- (5) The members of a regional committee shall be—
  - (a) the Assembly members returned for an Assembly constituency which is wholly or partly included in the region about which the committee is to provide advice, and
  - (b) such of the Assembly members returned for an Assembly electoral region which is wholly or partly included in that region as may be elected as members of the committee by the Assembly.
- (6) Each regional committee shall elect one of the members of the committee to chair it.

VALID FROM 01/12/1998

#### *Delegation*

#### **62 Delegation of functions.**

- (1) The Assembly may delegate functions of the Assembly (to such extent as the Assembly may determine) to—
  - (a) any committee of the Assembly, or



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- (b) the Assembly First Secretary.
- (2) Any committee of the Assembly, apart from the Audit Committee, may delegate functions of the committee (to such extent as the committee may determine) to a sub-committee of the committee.
- (3) In addition—
- (a) the executive committee may delegate functions of the executive committee (to such extent as the executive committee may determine) to the Assembly First Secretary or an Assembly Secretary, and
  - (b) a subject committee may delegate functions of the subject committee (to such extent as the subject committee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section 57(4).
- (4) A sub-committee of the executive committee may delegate functions of the sub-committee (to such extent as the sub-committee may determine) to the Assembly First Secretary or an Assembly Secretary; and a sub-committee of a subject committee may delegate functions of the sub-committee (to such extent as the sub-committee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section 57(4).
- (5) The Assembly First Secretary may delegate functions of his (to such extent as he may determine) to an Assembly Secretary.
- (6) In delegating a function under any provision of this section the Assembly, a committee of the Assembly or a sub-committee of such a committee may limit or prohibit its further delegation under this section or section 63 (or both); and in delegating a function under subsection (5) the Assembly First Secretary may limit or prohibit its further delegation under section 63.
- (7) Where a function has been delegated to the Assembly, this section applies to the function subject to the terms of the delegation to the Assembly.
- (8) The delegation of a function under this section shall not prevent the exercise of the function by the body or person by whom the delegation is made.

### **63 Exercise of functions by Assembly staff.**

- (1) Each of the following—
- (a) the Assembly,
  - (b) any committee of the Assembly, apart from the Audit Committee,
  - (c) any sub-committee of a committee of the Assembly,
  - (d) the Assembly First Secretary, and
  - (e) any Assembly Secretary,
- may delegate functions of its or his (to such extent as it or he may determine) to the Assembly's staff.
- (2) Where a function is delegated to the Assembly's staff it is for the Permanent Secretary to the Assembly to make arrangements as to which member or members of the Assembly's staff is or are to exercise the function; and in this subsection "the Permanent Secretary to the Assembly" means the person appointed in accordance with section 34(1) and (3) to be the head of the Assembly's staff (whether or not that person is known by the title of Permanent Secretary to the Assembly).

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- (3) Where a function has been delegated to the Assembly, this section applies to the function subject to the terms of the delegation to the Assembly.
- (4) The delegation of a function under this section shall not prevent the exercise of the function by the body or person by whom the delegation is made.

VALID FROM 01/12/1998

### *Procedures relating to subordinate legislation*

#### **64 Standing orders to provide procedures.**

The standing orders must provide procedures (referred to in this Act as the subordinate legislation procedures) for—

- (a) the preparation, and
- (b) the making, confirmation and approval,

of orders, regulations, rules and other subordinate legislation.

#### **65 Regulatory appraisals.**

- (1) The subordinate legislation procedures must include provision for securing that an appraisal (referred to in this Act as a regulatory appraisal) as to the likely costs and benefits of complying with any proposed Assembly general subordinate legislation is carried out before a draft of the statutory instrument containing the subordinate legislation is laid before the Assembly.
- (2) But the subordinate legislation procedures may provide that a regulatory appraisal need not be carried out in relation to any proposed Assembly general subordinate legislation if in the particular circumstances it is inappropriate or not reasonably practicable for one to be carried out.
- (3) The subordinate legislation procedures must also include provision for securing that, if a regulatory appraisal indicates that the costs of complying with any proposed Assembly general subordinate legislation are likely to be significant—
  - (a) appropriate consultation (including consultation with representatives of business) is carried out, and
  - (b) the regulatory appraisal is published,
 before a draft of the statutory instrument containing the subordinate legislation is laid before the Assembly.

#### **Modifications etc. (not altering text)**

- C1** S. 65 excluded by [Government of Wales Act 2006 \(c. 32\)](#), ss. 161, 162, [Sch. 11 para. 25\(2\)\(a\)](#), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

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## **66 Making of Assembly general subordinate legislation.**

- (1) Assembly general subordinate legislation shall be made by being signed by the presiding officer, the deputy presiding officer, the Assembly First Secretary or such other person as may be authorised by the subordinate legislation procedures.
- (2) Assembly general subordinate legislation may not be made until a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.
- (3) The subordinate legislation procedures must include provision for securing that Assembly general subordinate legislation may be made by being signed otherwise than by the presiding officer only in the absence of the presiding officer.
- (4) The subordinate legislation procedures must include provision for securing that a draft of the statutory instrument containing any Assembly general subordinate legislation may be approved by the Assembly only if the draft is in both English and Welsh unless in the particular circumstances it is inappropriate or not reasonably practicable for the draft to be in both languages.
- (5) The subordinate legislation procedures must include provision for securing that a draft of the statutory instrument containing any Assembly general subordinate legislation is not approved by the Assembly until the Assembly has considered—
  - (a) the report of the subordinate legislation scrutiny committee relating to the subordinate legislation, and
  - (b) the regulatory appraisal (if any) published in relation to it.
- (6) The Assembly First Secretary may not delegate his function of signing Assembly general subordinate legislation.
- (7) The Assembly may not delegate the function of approving the draft of the statutory instrument containing any Assembly general subordinate legislation or the function of considering—
  - (a) the report of the subordinate legislation scrutiny committee relating to it, or
  - (b) the regulatory appraisal (if any) published in relation to it.

### **Modifications etc. (not altering text)**

- C2** S. 66 excluded by [Government of Wales Act 2006 \(c. 32\)](#), ss. 161, 162, [Sch. 11 para. 25\(2\)\(d\)](#), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

## **67 Disapplication of procedural requirements.**

- (1) The subordinate legislation procedures may include provision permitting Assembly general subordinate legislation to be made without compliance with any of the relevant procedural requirements if the executive committee determines that, in the particular circumstances, it is not reasonably practicable to comply with the requirement in relation to the subordinate legislation.
- (2) For the purposes of this section the relevant procedural requirements are—

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- (a) the requirement in section 66(2), and
  - (b) each of the requirements included in the subordinate legislation procedures in pursuance of sections 65(3) and 66(5).
- (3) If the subordinate legislation procedures include provision permitting Assembly general subordinate legislation to be made without compliance with the requirement in section 66(2), they must also provide that any Assembly member is entitled to move, within the period of forty working days beginning with the day on which any Assembly general subordinate legislation is made without that requirement having been complied with, that it be revoked.
- (4) If, pursuant to a motion made within that period, the Assembly resolves that the subordinate legislation be revoked, the resolution revokes it.
- (5) The Assembly may by order make any provision which appears appropriate in consequence of the revocation of the subordinate legislation by the resolution.
- (6) Neither the passing of a resolution revoking any subordinate legislation nor the making of an order making provision consequential on the revocation—
- (a) affects the validity of anything done under the subordinate legislation before its revocation, or
  - (b) prevents the making of new subordinate legislation.
- (7) For the purposes of subsections (3) and (4) a day is a working day unless it is—
- (a) a Saturday or a Sunday,
  - (b) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday,
  - (c) a day which is a bank holiday in Wales under the <sup>M3</sup>Banking and Financial Dealings Act 1971, or
  - (d) a day appointed for public thanksgiving or mourning.

#### Modifications etc. (not altering text)

- C3** S. 67 excluded by [Government of Wales Act 2006 \(c. 32\)](#), ss. 161, 162, [Sch. 11 para. 25\(2\)\(b\)](#), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

#### Marginal Citations

- M3** 1971 c. 80.

## 68 Financial initiative.

- (1) The subordinate legislation procedures must include provision requiring the recommendation of the executive committee for the making by the Assembly of any Assembly general subordinate legislation which may give rise to the payment of any sums by the Assembly.
- (2) The provision included in the subordinate legislation procedures in pursuance of subsection (1) may contain an exception from the requirement of a recommendation in circumstances in which the sums are unlikely to be significant.

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#### **Modifications etc. (not altering text)**

- C4** S. 68 excluded by Government of Wales Act 2006 (c. 32), ss. 161, 162, **Sch. 11 para. 25(2)(a)**, the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

VALID FROM 01/12/1998

#### *Other provisions about standing orders*

#### **69 Preservation of order.**

- (1) The standing orders must include provision for preserving order in proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee).
- (2) In particular, standing orders made for preserving order in such proceedings must include provision for—
  - (a) preventing conduct which would constitute a criminal offence, and
  - (b) a sub judice rule,and may include provision for excluding Assembly members from the proceedings and for withdrawing their rights and privileges as Assembly members for the period of their exclusion.

#### **70 Openness.**

- (1) The standing orders must include provision—
  - (a) for all proceedings of the Assembly itself to be held in public, and
  - (b) for all proceedings of a committee of the Assembly, or a sub-committee of such a committee, to be held in public except where the standing orders otherwise provide.
- (2) But the standing orders may include provision as to conditions to be complied with by any member of the public attending proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) and, in particular, provision for excluding from the proceedings any member of the public who does not comply with the conditions.
- (3) The standing orders must include provision for—
  - (a) the publication of a report of the proceedings of the Assembly itself, and
  - (b) the publication of a report of the proceedings of a committee of the Assembly, or a sub-committee of such a committee, unless the proceedings were not held in public,as soon as reasonably practicable after the day on which the proceedings take place.

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- (4) The standing orders must include provision for any documents in the possession or under the control of the Assembly which contain material relating to any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which have taken place, or are to take place, to be open to inspection by members of the public except where the standing orders otherwise provide.
- (5) The standing orders must include provision—
  - (a) establishing procedures for the investigation of complaints about actions or failures on the part of the Assembly and for dealing with reports by the Welsh Administration Ombudsman and the Health Service Commissioner for Wales of investigations pursuant to complaints relating to the Assembly, and
  - (b) for publicising details of those procedures.

## **71 Participation of Assembly members.**

- (1) The standing orders must include provision specifying the circumstances in which Assembly members who are not members of a subject committee, or of a sub-committee of such a committee, may attend and make representations at proceedings of the committee or sub-committee.
- (2) The standing orders must include provision for any documents in the possession or under the control of the Assembly which contain material relating to any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which have taken place, or are to take place, to be open to inspection by any Assembly member except where the standing orders otherwise provide.

## **72 Integrity.**

- (1) The standing orders must include provision for a register of interests of Assembly members and for—
  - (a) registrable interests (as defined in the standing orders) to be registered in it, and
  - (b) the publication of the register.
- (2) The standing orders must include provision for requiring any Assembly member who has—
  - (a) a financial interest (as defined in the standing orders) in any matter, or
  - (b) any other interest, or an interest of any other kind, specified in the standing orders in any matter,
 to declare that interest before taking part in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) relating to that matter.
- (3) The standing orders may include provision—
  - (a) for preventing or restricting the participation in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) of an Assembly member if he has a registrable interest, or an interest mentioned in subsection (2), in any matter to which the proceedings relate, and



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- (b) for preventing or restricting the exercise of a function by a member of the executive committee, or the exercise of a function by an Assembly member by virtue of section 59(6), if he has a registrable interest, or an interest mentioned in subsection (2), in any matter to which the function relates.
- (4) The standing orders must include provision prohibiting an Assembly member—
  - (a) from advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified, or
  - (b) from urging, in consideration of any such payment or benefit in kind, another Assembly member to advocate or initiate any cause or matter on behalf of any person by any such means.
- (5) The standing orders may include provision—
  - (a) for excluding from proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) an Assembly member who fails to comply with or contravenes any provision included in the standing orders in pursuance of subsections (1) to (4), and
  - (b) for withdrawing his rights and privileges as an Assembly member for the period of his exclusion.
- (6) An Assembly member who—
  - (a) takes part in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) without having complied with, or in contravention of, any provision included in the standing orders in pursuance of subsection (1), (2) or (3)(a),
  - (b) exercises any function in contravention of any provision included in the standing orders in pursuance of subsection (3)(b), or
  - (c) contravenes any provision included in the standing orders in pursuance of subsection (4),is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) A prosecution for an offence under subsection (6) shall not be instituted except by or with the consent of the Director of Public Prosecutions.

### **73 Publication.**

- (1) Where the Assembly remakes the standing orders, it shall publish them.
- (2) Where the Assembly revises standing orders (without remaking them as a whole), it shall publish either the revisions or the standing orders as revised (as it considers appropriate).



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VALID FROM 01/12/1998

*Evidence and documents relating to public bodies*

**74 Power to require attendance and production of documents.**

- (1) The Assembly may require any person to whom subsection (2) applies—
  - (a) to attend proceedings of the Assembly for the purpose of giving evidence, or
  - (b) to produce to the Assembly documents in his possession or under his control.
- (2) This subsection applies to—
  - (a) any person who is a member, or a member of the staff, of a body specified in Schedule 5, and
  - (b) any person who holds, or is a member of the staff of a person who holds, an office so specified.
- (3) A requirement imposed on a person under subsection (1)—
  - (a) if imposed under paragraph (a) of that subsection, is to attend to give evidence in connection with the affairs of the body or office in question so far as relating to Wales, and
  - (b) if imposed under paragraph (b) of that subsection, is to produce documents which relate to those affairs.
- (4) The powers conferred by subsection (1) may be exercised by and for the purposes of the Audit Committee.
- (5) Those powers may be exercised by and for the purposes of—
  - (a) any other committee of the Assembly, apart from the executive committee, or
  - (b) any sub-committee of any such committee, apart from a sub-committee of the executive committee,

if the committee or sub-committee is expressly authorised to exercise those powers by the standing orders (but may not be exercised by any individual Assembly member or by any member of the Assembly’s staff).
- (6) In order to impose a requirement on a person under subsection (1) the presiding officer or deputy presiding officer must give him notice in writing specifying the body or office in question and—
  - (a) the time and place at which he is to attend, or
  - (b) the documents, or types of documents, which he is to produce and the date by which he is to produce them.
- (7) A notice required by subsection (6) to be given to a person must be given at least two weeks before the day on which the proceedings are to take place, or by which the documents are to be produced, unless he waives that requirement.
- (8) If a notice required by subsection (6) to be given to a person is sent to him, by registered post or the recorded delivery service, addressed to his usual or last known address or, where he has given an address for service of the notice, to that address, it shall be taken to be given to him.

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## 75 Witnesses and documents: supplementary.

- (1) Where a requirement has been imposed on a person under section 74(1) to attend proceedings—
  - (a) the presiding officer or deputy presiding officer, or the Assembly member who chairs the committee or sub-committee concerned, or
  - (b) such other person as may be authorised by the standing orders,may require him to take an oath (or make an affirmation) before he gives evidence at the proceedings and may administer the oath (or affirmation) to him.
- (2) A person to whom a notice under section 74(6) has been given is guilty of an offence if he—
  - (a) refuses or fails, without reasonable excuse, to attend proceedings as required by the notice,
  - (b) refuses to take an oath (or make an affirmation) when required to do so in accordance with subsection (1),
  - (c) refuses to answer any question which is properly put to him when attending any proceedings as required by the notice,
  - (d) refuses or fails, without reasonable excuse, to produce any document required by the notice to be produced by him, or
  - (e) intentionally alters, suppresses, conceals or destroys any document required by the notice to be produced by him.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to—
  - (a) a fine not exceeding level 5 on the standard scale, or
  - (b) imprisonment for a term not exceeding [<sup>F1</sup>51 weeks] .
- (4) A person is not obliged by section 74 to answer any question or produce any document which he would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales; and subsection (2) has effect accordingly.
- (5) The Secretary of State may by order amend Schedule 5 by—
  - (a) adding or omitting any body or office, or
  - (b) altering the description of any body or office.
- (6) For the purposes of section 74 and this section—
  - (a) a person shall be taken to comply with a requirement to produce a document if he produces a copy of, or an extract of the relevant part of, the document, and
  - (b) “document” means anything in which information is recorded in any form (and references to producing a document are to the production of the information recorded in it in a visible and legible form).

### Textual Amendments

- F1** Words in s. 75(3)(b) substituted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 280(2), 336, [Sch. 26 para. 50](#) (with s. 280(3) (which substituting provisions were repealed by [Government of Wales Act 2006 \(c. 32\)](#), s. 163, [Sch. 12](#) , the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial

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period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.)

VALID FROM 01/12/1998

### *Miscellaneous*

#### **76 Attendance of Secretary of State for Wales.**

- (1) The Secretary of State for Wales shall be entitled to attend and participate in any proceedings of the Assembly.
- (2) Subsection (1) does not confer on the Secretary of State for Wales—
  - (a) any right to vote, or
  - (b) a right to attend or participate in the proceedings of a committee of the Assembly or any sub-committee of such a committee.
- (3) The standing orders must include provision for any documents which—
  - (a) contain material relating to any proceedings of the Assembly itself which have taken place or are to take place, and
  - (b) are made available to all Assembly members,
 to be made available to the Secretary of State for Wales no later than the time when they are made available to Assembly members who are not members of the executive committee.

#### **77 Defamation.**

- (1) For the purposes of the law of defamation—
  - (a) any statement made in, for the purposes of or for purposes incidental to proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee), and
  - (b) the publication by or under the authority of the Assembly of a report of such proceedings,
 is absolutely privileged.
- (2) Subsection (1)(a) applies, in particular, to any statement made in—
  - (a) evidence given before the Assembly, a committee of the Assembly or a sub-committee of such a committee,
  - (b) a document laid before the Assembly or such a committee or sub-committee,
  - (c) a document prepared for the purposes of, or for purposes incidental to, the transaction of business by the Assembly or such a committee or sub-committee,
  - (d) a document (other than a report to which subsection (1)(b) applies) formulated, made or published by or under the authority of the Assembly or such a committee or sub-committee,
  - (e) any communication—
    - (i) between any person and a person having functions in connection with the registration of interests of Assembly members, or

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- (ii) between any person and an Assembly member,  
in connection with such registration, or
- (f) any communication—
  - (i) between any person and a person having functions in connection with the investigation of complaints about actions or failures on the part of the Assembly, or
  - (ii) between any person and an Assembly member,  
in connection with any such complaint.
- (3) In subsections (1) and (2) “statement” has the same meaning as in the <sup>M4</sup>Defamation Act 1996.
- (4) The Assembly—
  - (a) is a legislature for the purposes of Schedule 1 to that Act (qualified privilege for fair and accurate report of public proceedings of legislatures etc.), and
  - (b) shall be treated as if it were a Minister of the Crown for the purposes of paragraph 11(1)(c) of that Schedule (report of proceedings of person appointed by a Minister etc. for the purposes of an inquiry).
- (5) Section 10 of the <sup>M5</sup>Defamation Act 1952 and section 10 of the <sup>M6</sup>Defamation Act Northern Ireland) 1955 (limitation on privilege at elections) have effect in relation to elections of Assembly members as to elections to Parliament.

#### Marginal Citations

- M4** 1996 c. 31.
- M5** 1952 c. 66.
- M6** 1955 c. 11 (N.I.).

## 78 Contempt of court.

- (1) The strict liability rule shall not apply in relation to any publication—
  - (a) made in, for the purposes of or for purposes incidental to proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee), or
  - (b) to the extent that it consists of a report of such proceedings which either is made by or under the authority of the Assembly or is fair and accurate and made in good faith.
- (2) Paragraph (a) of subsection (1) applies, in particular, to any publication made in any evidence, document or communication such as is specified in section 77(2)(a) to (f); and in that subsection “the strict liability rule” and “publication” have the same meanings as in the <sup>M7</sup>Contempt of Court Act 1981.

#### Marginal Citations

- M7** 1981 c. 49.

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## **79 Corrupt practices.**

The Assembly is a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

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