



Government of Wales Act 2006

2006 CHAPTER 32

PART 4

ACTS OF THE ASSEMBLY

Power

[^{F1}108A Legislative competence

- (1) An Act of the Assembly is not law so far as any provision of the Act is outside the Assembly's legislative competence.
- (2) A provision is outside that competence so far as any of the following paragraphs apply—
 - (a) it extends otherwise than only to England and Wales;
 - (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales;
 - (c) it relates to reserved matters (see Schedule 7A);
 - (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions;
 - (e) it is incompatible with the Convention rights or with EU law.
- (3) But subsection (2)(b) does not apply to a provision that—
 - (a) is ancillary to a provision of any Act of the Assembly or Assembly Measure or to a devolved provision of an Act of Parliament, and
 - (b) has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision.
- (4) For this purpose, a provision of an Act of Parliament is ““devolved”” if it would be within the Assembly's legislative competence if it were contained in an Act of

Status: Point in time view as at 01/03/2019. This version of this provision has been superseded.

Changes to legislation: Government of Wales Act 2006, Section 108A is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the Assembly (ignoring any requirement for consent or consultation imposed under paragraph 8, 10 or 11 of Schedule 7B or otherwise).

- (5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the Assembly is disregarded.
- (6) The question whether a provision of an Act of the Assembly relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.
- (7) For the purposes of this Act a provision is ancillary to another provision if it—
 - (a) provides for the enforcement of the other provision or is otherwise appropriate for making that provision effective, or
 - (b) is otherwise incidental to, or consequential on, that provision.]

Textual Amendments

- F1** S. 108A substituted for s.108 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 3(1)**, 71(3) (with [Sch. 7 paras. 1, 2, 6](#)); [S.I. 2017/1179](#), **reg. 2**

Modifications etc. (not altering text)

- C1** S. 108A modified by [2000 c. 22, s. 7\(9\)](#) (as amended) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 57** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), **reg. 3(r)**
- C2** [S. 108A\(2\)\(e\)](#) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 8 para. 41\(4\)\(9\)](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2019/399](#), **reg. 2**

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