



Government of Wales Act 2006

2006 CHAPTER 32

PART 4

ACTS OF THE ^{F2}SENEDD]

Power

^{F1}108A Legislative competence

- (1) An Act of the ^{F2}Senedd] is not law so far as any provision of the Act is outside the ^{F2}Senedd'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 ^{F3}....
- (3) But subsection (2)(b) does not apply to a provision that—
 - (a) is ancillary to a provision of any Act of the ^{F2}Senedd] 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 ^{F2}Senedd's] legislative competence if it were contained in an Act of

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 11 April 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) View outstanding changes

the [^{F2}Senedd] (ignoring any requirement for consent or consultation imposed under paragraph 8, 10 or 11 of Schedule 7B or otherwise).

[References in subsections (2)(b) and (3) to Wales include, in relation to a relevant ^{F4}(4A) provision of an Act of the Senedd, the area of the Welsh zone beyond the seaward limit of the territorial sea.

A provision of an Act of the Senedd is “relevant” if it relates to fishing, fisheries or fish health.]

- (5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the [^{F2}Senedd] is disregarded.
- (6) The question whether a provision of an Act of the [^{F2}Senedd] 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
- F2** Words in Act substituted (6.5.2020) by Senedd and Elections (Wales) Act 2020 (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with Sch. 1 para. 2(11)-(14))
- F3** Words in s. 108A(2)(e) omitted (31.3.2022) by virtue of The European Union (Withdrawal) Act 2018 (Repeal of EU Restrictions in Devolution Legislation, etc.) Regulations 2022 (S.I. 2022/357), regs. 1(1), **4(4)**
- F4** S. 108A(4A) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), **ss. 45(2)**, 54(2) (with Sch. 4 para. 31)

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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 155A inserted by [2014 c. 29 s. 10](#)
- Sch. 7A Section C15 para. 92 omitted by [2017 c. 4 s. 48\(1\)\(a\)](#)
- Sch. 7A Section C15 para. 93 words omitted by [2017 c. 4 s. 48\(1\)\(b\)](#)
- Sch. 7B para. 10(2)(o) inserted by [2022 c. 30 s. 143](#)
- Sch. 7B para. 11(6)(b)(x) repealed by [2023 c. 54 Sch. 11 para. 1\(b\)](#)
- Sch. 7B para. 11(6)(b)(x) word omitted by [2023 c. 54 s. 118\(c\)](#)