



# Wales Act 2017

## 2017 CHAPTER 4

An Act to amend the Government of Wales Act 2006 and the Wales Act 2014 and to make provision about the functions of the Welsh Ministers and about Welsh tribunals; and for connected purposes. [31st January 2017]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### CONSTITUTIONAL ARRANGEMENTS

##### *Permanence of the National Assembly for Wales and Welsh Government*

#### **1 Permanence of the National Assembly for Wales and Welsh Government**

In the Government of Wales Act 2006, before Part 1 (National Assembly for Wales) insert—

#### **“PART A1**

##### PERMANENCE OF THE ASSEMBLY AND WELSH GOVERNMENT

#### **A1 Permanence of the Assembly and Welsh Government**

- (1) The Assembly established by Part 1 and the Welsh Government established by Part 2 are a permanent part of the United Kingdom's constitutional arrangements.

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- (2) The purpose of this section is, with due regard to the other provisions of this Act, to signify the commitment of the Parliament and Government of the United Kingdom to the Assembly and the Welsh Government.
- (3) In view of that commitment it is declared that the Assembly and the Welsh Government are not to be abolished except on the basis of a decision of the people of Wales voting in a referendum.

## A2 Recognition of Welsh law

- (1) The law that applies in Wales includes a body of Welsh law made by the Assembly and the Welsh Ministers.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to recognise the ability of the Assembly and the Welsh Ministers to make law forming part of the law of England and Wales.”

*Convention about Parliament legislating on devolved matters*

## 2 Convention about Parliament legislating on devolved matters

In section 107 of the Government of Wales Act 2006 (Acts of the National Assembly for Wales), after subsection (5) insert—

“(6) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Assembly.”

*Legislative competence*

## 3 Legislative competence

- (1) For section 108 of the Government of Wales Act 2006 (legislative competence) substitute—

### “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.

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- (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 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.”
- (2) For Schedule 7 to that Act (Acts of the Assembly) substitute—
- (a) the Schedule 7A set out in Schedule 1 to this Act, and
  - (b) the Schedule 7B set out in Schedule 2 to this Act.

#### Commencement Information

**II** S. 3 in force at 1.4.2018 by [S.I. 2017/1179](#), reg. 2

## 4 Devolved Welsh authorities

- (1) After section 157 of the Government of Wales Act 2006 insert—

### “157A Devolved Welsh authority”

- (1) In this Act ““devolved Welsh authority”” means—
- (a) a public authority that meets the conditions in subsection (2),
  - (b) a public authority that is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions), or
  - (c) the governing body of an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992) whose activities are carried on, or principally carried on, in Wales.
- (2) A public authority meets the conditions in this section if its functions—
- (a) are exercisable only in relation to Wales, and
  - (b) are wholly or mainly functions that do not relate to reserved matters.

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- (3) In determining for the purposes of this section whether functions of a public authority are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from this paragraph) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in subsection (2) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- (5) Her Majesty may by Order in Council amend Schedule 9A—
- (a) so as to remove or revise an entry, or
  - (b) so as to add or substitute a public authority whose functions—
    - (i) are exercisable wholly or mainly in relation to Wales, and
    - (ii) are wholly or mainly functions that do not relate to reserved matters.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section 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 and the Assembly.
- (7) Subsection (6) does not apply to a statutory instrument containing an Order in Council that only makes provision for—
- (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.
- Such an Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section ““public authority”” means a body, office or holder of an office that has functions of a public nature.”

(2) After Schedule 9 to that Act insert the Schedule 9A set out in Schedule 3 to this Act.

**Commencement Information**

**I2** S. 4 in force at 1.4.2018 by [S.I. 2017/1179](#), **reg. 3(a)**

*Elections*

**5 Power to make provision about elections**

- (1) For section 13 of the Government of Wales Act 2006 (power to make provision about elections etc) substitute—

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### **“13 Power of the Welsh Ministers to make provision about elections etc**

- (1) The Welsh Ministers may by order make provision that would be within the legislative competence of the Assembly, if included in an Act of the Assembly, as to—
  - (a) the conduct of elections of Assembly members,
  - (b) the questioning of an election of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision—
  - (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of the election expenses of candidates (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls,
  - (e) for modifying the application of sections 6 and 8(2) where the poll at an election for the return of an Assembly constituency member is abandoned (or notice of it is countermanded), and
  - (f) for modifying section 9(7) to ensure the allocation of the correct number of seats for the region.
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying section 11(3) to (5).
- (4) An order under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments, and
  - (b) so far as may be necessary in consequence of any provision made by an order under this section, make modifications of any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (5) In subsection (4)(a) “the election enactments” means—
  - (a) the Representation of the People Acts,
  - (b) the Political Parties, Elections and Referendums Act 2000,
  - (c) the European Parliamentary Elections Act 2002, and
  - (d) any other enactments relating to parliamentary elections, European Parliamentary elections or local government elections.
- (6) No return of an Assembly member at an election may be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied or incorporated in an order under this section.
- (7) No order is to be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

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### **13A Power of the Secretary of State to make provision about the combination of polls**

- (1) The Secretary of State may by regulations make provision for—
    - (a) the combination of polls at ordinary general elections of Assembly members with polls at the elections listed in subsection (2), and
    - (b) the combination of polls at extraordinary general elections of Assembly members, and by-elections for the return of Assembly members, with polls at the elections listed in subsections (2) and (3).
  - (2) The elections are—
    - (a) early parliamentary general elections,
    - (b) parliamentary by-elections, and
    - (c) European Parliamentary by-elections.
  - (3) The elections are—
    - (a) parliamentary general elections, and
    - (b) European Parliamentary general elections.
  - (4) The Secretary of State may not make regulations under this section without the agreement of the Welsh Ministers.
  - (5) Regulations under this section may—
    - (a) apply or incorporate, with or without modifications or exceptions, any provision made by or under the election enactments, and
    - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections of Assembly members.
  - (6) In subsection (5)(a) “the election enactments” has the meaning given by section 13(5).
  - (7) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) In section 15 of the Representation of the People Act 1985 (combination of polls), after subsection (5C) insert—
- “(5D) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Wales, the Secretary of State must consult the Welsh Ministers.”
- (3) In section 7 of the Political Parties, Elections and Referendums Act 2000 (Commission to be consulted on changes to electoral law), in subsection (2)(f), after “64(3)” insert “or regulations under section 13A ”.

#### **Commencement Information**

**I3** S. 5 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(b)

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## 6 Timing of elections

- (1) Section 3 of the Government of Wales Act 2006 (ordinary general elections) is amended as set out in subsections (2) to (5).
- (2) In subsection (1), for the words after ““was held,”” substitute “unless—
  - (a) subsection (1A) prevents the poll being held on that day, or
  - (b) the day of the poll is determined by a proclamation under section 4.”
- (3) After subsection (1) insert—

“(1A) The poll is not to be held on the same date as the date of the poll at—
  - (a) a parliamentary general election (other than an early parliamentary general election), or
  - (b) a European Parliamentary general election.

(1B) Where subsection (1A) prevents the poll being held on the day specified in subsection (1), the poll is to be held on such day, subject to subsection (1A), as the Welsh Ministers may by order specify unless the day of the poll is determined by a proclamation under section 4(2) as modified by section 4(2A).”
- (4) In subsection (2), after ““May”” insert “ or on the day specified by an order under subsection (1B) ”.
- (5) After subsection (4) insert—

“(5) No order is to be made under subsection (1B) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”
- (6) Section 4 of that Act (power to vary date of ordinary general election) is amended in as set out in subsections (7) to (11).
- (7) For subsections (1) and (2) substitute—

“(1) Subject to section 3(1A), the Presiding Officer may propose, for the holding of the poll at an ordinary general election, a day which is not more than one month earlier, nor more than one month later, than the first Thursday in May.

(2) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh Seal—
  - (a) dissolve the Assembly,
  - (b) require the poll at the election to be held on the day proposed, and
  - (c) require the Assembly to meet within the period of seven days beginning immediately after the day of the poll.

(2A) Where a day is specified by an order under section 3(1B), subsection (1) applies as if the reference to the first Thursday in May were a reference to that day.”
- (8) In subsection (3), for ““(2)(b)”” substitute “ (2)(c) ”.
- (9) In subsection (4)—
  - (a) for ““An order under this section may”” substitute “ The Welsh Ministers may by order ”;

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- (b) for ““Secretary of State considers”” substitute “ Welsh Ministers consider ”;
  - (c) after ““poll”” insert “ under this section ”.
- (10) Omit subsection (5).
- (11) In subsection (6), for ““either House of Parliament”” substitute “ the Assembly ”.
- (12) Section 5 of that Act (extraordinary general elections) is amended as set out in subsections (13) and (14).
- (13) In subsection (1), for ““Secretary of State”” substitute “ Presiding Officer ”.
- (14) In subsection (4)—
- (a) for ““Secretary of State”” substitute “ Presiding Officer ”;
  - (b) for ““Order in Council”” substitute “ proclamation under the Welsh Seal ”.
- (15) The Representation of the People Act 1983 is amended as set out in subsections (16) to (20).
- (16) In section 37 (ordinary day of local elections in England and Wales)—
- (a) in subsection (1), and in the heading, omit ““and Wales””;
  - (b) in subsection (2A), for the words after ““under”” substitute “ section 37A. ”
- (17) After that section insert—

**“37ZA Ordinary day of local elections in Wales**

- (1) In every year the ordinary day of election of councillors is the same for all local government areas in Wales and, subject to section 37B, and unless subsection (2) applies, is—
    - (a) the first Thursday in May;
    - (b) such other day as may be fixed by the Welsh Ministers by order made not later than 1st February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect.
  - (2) The ordinary day of election of councillors is not the day specified in or fixed under subsection (1) if that day is the day of the poll at an ordinary general election of members of the National Assembly for Wales.
  - (3) Where under subsection (2) the ordinary day of election of councillors is not the day specified in or fixed under subsection (1), it is such other day as the Welsh Ministers may by order specify.
  - (4) The power to make an order under subsection (1)(b) or (3) is exercisable by statutory instrument.
  - (5) A statutory instrument containing an order under subsection (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”
- (18) Section 37B (power to change date of local elections to date of European Parliamentary general election: Wales) is amended as follows.
- (19) After subsection (1) insert—



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“(1A) The Welsh Ministers may not make an order under this section if the date of the poll at the European Parliamentary general election is the same date as the poll at an ordinary general election of members of the National Assembly for Wales.”

(20) In subsection (4)(b), for ““37(1)(b)”” substitute “ 37ZA(1)(b) ”.

#### Commencement Information

**I4** S. 6 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(b)

## 7 Electoral registration: the digital service

(1) Section 10ZC of the Representation of the People Act 1983 (registration of electors in Great Britain) is amended as set out in subsections (2) to (4).

(2) In subsection (4)—

(a) for ““this section, so far as”” substitute “this section—

(a) so far as”;

(b) at the end insert “, and

(b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.”

(3) After subsection (5) insert—

“(5A) The power of the Welsh Ministers to make regulations by virtue of subsection (4) is not exercisable without the agreement of a Minister of the Crown.

(5B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(4) In subsection (6), after the definition of ““election in Scotland”” insert—

““election in Wales”” means—

(a) an election of Assembly members, or

(b) a local government election in Wales;”.

(5) Section 10ZD of that Act (registration of electors in Great Britain: alterations) is amended as set out in subsections (6) to (8).

(6) In subsection (4)—

(a) for ““this section, so far as”” substitute “this section—

(a) so far as”;

(b) at the end insert “, and

(b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.”

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(7) After subsection (5) insert—

“(5A) The power of the Welsh Ministers to make regulations by virtue of subsection (4) is not exercisable without the agreement of a Minister of the Crown.

(5B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(8) In subsection (6), after ““election in Scotland”” insert “ , election in Wales ”.

(9) Section 53 of that Act (power to make regulations about registration etc) is amended as set out in subsections (10) to (12).

(10) In subsection (9)—

(a) for ““this section, so far as”” substitute “this section—

(a) so far as”;

(b) at the end insert “, and

(b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.”

(11) After subsection (10) insert—

“(10A) The power of the Welsh Ministers to make regulations by virtue of subsection (9) is not exercisable without the agreement of a Minister of the Crown.

(10B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (9) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(12) In subsection (11), after the definition of ““election in Scotland”” insert—

““election in Wales”” means—

(a) an election of Assembly members, or

(b) a local government election in Wales;”.

#### Commencement Information

**I5** S. 7 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(b)

## 8 Elections of police and crime commissioners

(1) Section 50 of the Police Reform and Social Responsibility Act 2011 (timing of ordinary election of police and crime commissioners) is amended as set out in subsections (2) to (4).

(2) In subsection (3), for ““the ordinary day of election”” substitute “ the first Thursday in May ”.

(3) In subsection (5)—

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- (a) in paragraph (a), for ““the ordinary day of election”” substitute “ the first Thursday in May ”;
  - (b) in paragraph (b), for the words from ““the ordinary day of election”” to ““in relation to Wales,”” substitute “ the first Thursday in May ”.
- (4) Omit subsection (6).
- (5) In section 51 of that Act (election to fill vacancy in office of commissioner), for subsection (6) substitute—
- “(6) A person is a relevant elector for the purposes of subsection (5) in relation to a police area in England if the person is registered in a register of local government electors in respect of an address within the police area.
  - (6A) A person is a relevant elector for the purposes of subsection (5) in relation to a police area in Wales if subsection (6B) or (6C) applies.
  - (6B) This subsection applies if—
    - (a) the person is registered in a register of parliamentary electors in respect of an address within the police area, and
    - (b) the registration is not in pursuance of an overseas elector's declaration.
  - (6C) This subsection applies if—
    - (a) the person is disqualified as a peer from voting as an elector at parliamentary elections, or is a relevant citizen of the Union, and
    - (b) the person is registered in a register of local government electors in respect of an address within the police area.”
- (6) Section 52 of that Act (persons entitled to vote) is amended as set out in subsections (7) and (8).
- (7) In subsection (1), after ““a police area”” insert “ in England ”.
- (8) After subsection (1) insert—
- “(1A) A person is entitled to vote as an elector at an election of a police and crime commissioner for a police area in Wales if subsection (1B) or (1C) applies.
  - (1B) This subsection applies if on the date of the poll—
    - (a) the person would be entitled to vote as an elector at a parliamentary election in a constituency wholly or partly comprised in the police area,
    - (b) the address in respect of which the person is registered in the register of parliamentary electors for that constituency is within the police area, and
    - (c) the registration is not in pursuance of an overseas elector's declaration.
  - (1C) This subsection applies if on the date of the poll—
    - (a) the person is disqualified as a peer from voting as an elector at parliamentary elections, or is a relevant citizen of the Union who has attained the age of 18,

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- (b) the person would be entitled to vote as an elector at a local government election in an electoral area wholly or partly comprised in the police area, and
  - (c) the address in respect of which the person is registered in the register of local government electors for that electoral area is within the police area.”
- (9) Section 64 of that Act (disqualification for election as police and crime commissioner) is amended as set out in subsections (10) and (11).
- (10) In subsection (1), after ““a police area”” insert “ in England ”.
- (11) After subsection (1) insert—
- “(1A) A person is disqualified from being elected to the office of police and crime commissioner for a police area in Wales at any election unless—
- (a) the person has attained the age of 18 when nominated as a candidate at the election, and
  - (b) on each relevant day subsection (1B) or (1C) applies.
- (1B) This subsection applies if—
- (a) the person is registered in a register of parliamentary electors in respect of an address within the police area, and
  - (b) the registration is not in pursuance of an overseas elector's declaration.
- (1C) This subsection applies if—
- (a) the person is disqualified as a peer from voting as an elector at parliamentary elections, or is a relevant citizen of the Union, and
  - (b) the person is registered in a register of local government electors in respect of an address within the police area.”
- (12) In section 102 of that Act (interpretation of Part 1), in subsection (1), at the appropriate places insert—
- “““overseas elector's declaration”” has the meaning given by section 2 of the Representation of the People Act 1985;”;
- “““relevant citizen of the Union”” has the meaning given by section 202(1) of the Representation of the People Act 1983;”.

**Commencement Information**

**I6** S. 8 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(b)

*Other provision about legislation by the Assembly*

**9 Super-majority requirement for certain legislation**

In the Government of Wales Act 2006, after section 111 insert—

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### **“111A Bills with protected subject-matter: super-majority requirement**

- (1) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (2) (but not if the provision is incidental to or consequential on another provision of the Bill).
- (2) The matters are—
  - (a) the name of the Assembly,
  - (b) the persons entitled to vote as electors at an election for membership of the Assembly,
  - (c) the system by which members of the Assembly are returned,
  - (d) the specification or number of constituencies, regions or any equivalent electoral area,
  - (e) the number of members to be returned for each constituency, region or equivalent electoral area, and
  - (f) the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.
- (3) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it—
  - (a) decide whether or not, in the view of the Presiding Officer, any provision of the Bill relates to a protected subject-matter, and
  - (b) state that decision.
- (4) If the Presiding Officer decides that any provision of the Bill relates to a protected subject-matter, the Bill is not passed unless the number of Assembly members voting in favour of it at the final stage is at least two-thirds of the total number of Assembly seats.

### **111B Scrutiny of Bills by the Supreme Court (protected subject-matter)**

- (1) The Counsel General or the Attorney General may refer the question whether any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill—
  - (a) at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has decided under section 111A(3) that a provision of the Bill relates to a protected subject-matter, or
  - (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has decided under section 111A(3) that no provision of the Bill relates to a protected subject-matter, unless the number of Assembly members voting in favour of the Bill at its passing is at least two-thirds of the total number of Assembly seats.
- (3) No reference may be made in relation to a Bill—
  - (a) by the Counsel General if the Counsel General has notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or

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(b) by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.

(4) But subsection (3) does not apply if the Bill has, since the notification, been approved or rejected in accordance with standing orders made by virtue of section 111(7).”

#### Commencement Information

**I7** S. 9 in force for specified purposes at 31.3.2017, see s. 71(2)(c)

**I8** S. 9 in force at 1.4.2018 in so far as not already in force by S.I. 2017/1179, reg. 3(c)

### 10 Super-majority requirement: amendments relating to procedure etc

(1) Section 111 of the Government of Wales Act 2006 (proceedings on Bills) is amended as set out in subsections (2) to (5).

(2) In subsection (6), before paragraph (a) insert—

“(za) the Supreme Court decides on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer’s decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter.”

(3) After subsection (6) insert—

“(6A) The standing orders must provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), on a reference made in relation to the Bill under section 111B(2)(a) (reference following Presiding Officer’s decision that Bill contains protected subject-matter), the Supreme Court decides that no provision that is subject to the reference relates to a protected subject-matter.”

(4) For subsection (7) substitute—

“(7) The standing orders must, in particular, ensure that—

(a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (6)(a), (b) or (c), and

(b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (6)(za) or (6A),

is subject to a final stage at which it can be approved or rejected.”

(5) In subsection (8)—

(a) after ““109(5)”” insert “ , 111A(3) and (4), 111B(2)(b) ”;

(b) for ““which has been amended on reconsideration”” substitute “ to which subsection (7)(a) or (b) applies ”.

(6) In section 112 of that Act—

(a) in the heading, at the end insert “ (legislative competence) ”;

(b) in subsection (2)(b) omit ““subsequent””.

(7) In section 114 of that Act (power of Secretary of State to intervene), in subsection (4)

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- (a) in paragraph (b) omit ““subsequent””;
  - (b) in paragraph (c), after ““section”” insert “ 111B or ”.
- (8) In section 115 of that Act (Royal Assent)—
- (a) in subsection (2)(a), after ““section”” insert “ 111B or ”;
  - (b) after subsection (3) insert—

“(3A) The Presiding Officer may not submit a Bill for Royal Assent if the Supreme Court has decided on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer's decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter unless, since the decision, the Bill has been approved in accordance with standing orders made by virtue of section 111(7).”

**Commencement Information**

- I9** S. 10 in force for specified purposes at 31.3.2017, see s. 71(2)(c)
- I10** S. 10 in force at 1.4.2018 in so far as not already in force by S.I. 2017/1179, reg. 3(c)

**11 Introduction of Bills: justice impact assessment**

After section 110 of the Government of Wales Act 2006 insert—

**“110A Introduction of Bills: justice impact assessment**

- (1) The standing orders must include provision requiring the person in charge of a Bill, on or before the introduction of the Bill, to make a written statement setting out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a ““justice impact assessment””).
- (2) The form of the justice impact assessment and the manner in which it is to be made are to be determined under the standing orders.
- (3) The standing orders must provide for the justice impact assessment to be published.”

**Commencement Information**

- I11** S. 11 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(c)

**12 Submission of Bills for Royal Assent: role of Presiding Officer**

- (1) In section 115 of the Government of Wales Act 2006, in subsections (1), (2) and (3), for ““Clerk”” substitute “ Presiding Officer ”.
- (2) In consequence of the amendments made by subsection (1)—
  - (a) in section 112(3) of that Act (scrutiny of Bills by Supreme Court for legislative competence: notification of lack of reference), in paragraphs (a) and (b), for ““Clerk”” substitute “ Presiding Officer ”;
  - <sup>F1</sup>(b) .....

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- (c) in section 114 of that Act (power of Secretary of State to intervene), in subsections (2) and (5), for ““Clerk”” substitute “ Presiding Officer ”.

#### Textual Amendments

- F1** S. 12(2)(b) repealed (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), reg. 1(3), [Sch.](#) (with reg. 9(2))

#### Commencement Information

- I12** S. 12 in force at 1.4.2018 by [S.I. 2017/1179](#), reg. 3(c)

#### *Other provision about the Assembly*

### 13 Financial control, accounts and audit

- (1) Omit section 119 of the Government of Wales Act 2006 (statement of estimated payments).
- (2) In section 124 of that Act (payments out of Welsh Consolidated Fund), after subsection (4) insert—
- “(4A) A sum paid out of the Welsh Consolidated Fund may not be applied for any purpose other than that for which it was charged or (as the case may be) paid out.”
- (3) After section 130 of that Act insert—

#### “130A Financial control, accounts and audit

- (1) Welsh legislation must provide—
- (a) for proper accounts to be prepared by the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and by other persons to whom sums are paid out of the Welsh Consolidated Fund, of their expenditure and receipts,
  - (b) for the Welsh Ministers to prepare an account of payments into and out of the Fund,
  - (c) for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2),
  - (d) for access by persons exercising those functions to such documents as they may reasonably require,
  - (e) for members of the staff of the Welsh Government and Assembly Commission designated for the purpose to be answerable to the Assembly in respect of the expenditure and receipts of each part of the Welsh Government or Assembly Commission, and
  - (f) for the publication of Assembly accounts and of reports on such accounts and for the laying of such accounts and reports before the Assembly.
- (2) The functions referred to in subsection (1)(c) are—
- (a) issuing credits for the payment of sums out of the Fund;



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- (b) examining Assembly accounts (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 124), and certifying and reporting on them;
  - (c) carrying out examinations into the economy, efficiency and effectiveness with which the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and other persons to whom sums are paid out of the Welsh Consolidated Fund have used their resources in discharging their functions.
- (3) Standing orders must provide for the consideration by the Assembly of accounts and reports laid before it in pursuance of subsection (1)(f).
- (4) Welsh legislation may make further provision for the purpose of ensuring that devolved Welsh authorities that receive sums derived from the Fund are accountable.

That provision may, in particular, include provision for a devolved Welsh authority to which subsection (1)(a) does not apply to be accountable for its expenditure and receipts in respect of functions for which it receives sums derived from the Fund.

- (5) Persons (other than the Auditor General for Wales) charged with the exercise of any function mentioned in subsection (2) or other like function conferred by Welsh legislation are not subject, in the exercise of that or any ancillary function, to the direction or control of any member of the Welsh Government or of the Assembly.
- (6) Subsection (2)(b) does not apply to accounts prepared by the Auditor General for Wales.
- (7) This section does not require Welsh legislation to impose any requirement that is imposed by any other legislation.
- (8) In this section—  
“Assembly accounts” means any accounts prepared in pursuance of subsection (1)(a) or (b);  
“Welsh legislation” means provision made by or under an Act of the Assembly, and “other legislation” means provision made by any other enactment.”

- (4) Omit section 136 of that Act (examinations by Comptroller and Auditor General).
- (5) Sections 6 and 7 of the National Audit Act 1983 (value for money studies) do not apply in relation to a devolved Welsh authority.

#### Commencement Information

**I13** S. 13 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(d)

## 14 Composition of Assembly committees

In the Government of Wales Act 2006 omit section 29 (composition of committees).

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## **15 Assembly proceedings: participation by UK Ministers etc**

In the Government of Wales Act 2006—

- (a) omit section 32 (participation by UK Ministers etc);
- (b) omit section 33 (consultation about UK Government's legislative programme).

## **16 Change of name of the Assembly etc: translation of references**

(1) After section 150 of the Government of Wales Act 2006 insert—

### **“150A Change of name of the Assembly etc: translation of references**

- (1) Subsection (2) applies if an Act of the Assembly, or subordinate legislation made under an Act of the Assembly, changes the name of—
- (a) the National Assembly for Wales (Cynulliad Cenedlaethol Cymru),
  - (b) the National Assembly for Wales Commission (Comisiwn Cynulliad Cenedlaethol Cymru), or
  - (c) Acts of the National Assembly for Wales (Deddfau Cynulliad Cenedlaethol Cymru).

(See paragraph 7(2)(a)(i) and (xi) and paragraph 7(2)(c)(i) of Schedule 7B.)

- (2) Unless the context requires otherwise, a reference to the National Assembly for Wales, the National Assembly for Wales Commission or an Act of the National Assembly for Wales (as the case may be), or the Welsh equivalent shown in subsection (1), in—

- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
- (b) any other instrument or document,

is to be read as, or as including, a reference to the new name.”

(2) In section 158 of that Act (interpretation), in subsection (2), after ““116C(2)”” insert “, 150A(2)””.

### *Taxation and borrowing*

## **17 Welsh rates of income tax: removal of referendum requirement**

(1) The Wales Act 2014 is amended as follows.

(2) Omit—

- (a) section 12 and Schedule 1 (referendum about commencement of income tax provisions),
- (b) section 13 (proposal for referendum by Assembly), and
- (c) the italic heading before section 12.

(3) In section 14 (commencement of income tax provisions etc if majority in favour)—

- (a) omit subsection (1);
- (b) in the heading omit ““etc if majority in favour””.

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- (4) In section 23 (reports on the implementation and operation of Part 2) omit subsection (8).
- (5) In section 29 (commencement)—
  - (a) in subsection (2)(b), for ““referendum-related”” substitute “ income tax ”;
  - (b) in subsection (4)—
    - (i) for “ ““referendum-related”” substitute “ ““income tax””;
    - (ii) omit ““(commencement if majority in favour at referendum)””.

## 18 Lending for capital expenditure

In section 122A of the Government of Wales Act 2006 (lending for capital expenditure), in subsections (1) and (3), for ““£500 million”” substitute “ £1,000 million ”.

*Executive competence etc*

## 19 Functions of Welsh Ministers

- (1) After section 58 of the Government of Wales Act 2006 insert—

### “58A Executive ministerial functions

- (1) Executive ministerial functions, so far as exercisable within devolved competence, are exercisable by the Welsh Ministers.
- (2) Executive ministerial functions that are ancillary to a function of the Welsh Ministers exercised outside devolved competence are also exercisable by the Welsh Ministers.
- (3) Functions exercisable by the Welsh Ministers under subsection (1) or (2) are not exercisable by a Minister of the Crown unless they are functions to which subsection (4) applies.

If they are functions to which subsection (4) applies, they are exercisable by the Welsh Ministers concurrently with any relevant Minister of the Crown.

- (4) This subsection applies to—
  - (a) functions ancillary to a function of the Welsh Ministers that is exercisable concurrently or jointly with a Minister of the Crown;
  - (b) functions ancillary to a function of a Minister of the Crown;
  - (c) functions that are not ancillary to another function;
  - (d) functions in relation to observing and implementing obligations under EU law.
- (5) In this section—

““executive ministerial function”” means a function of Her Majesty of a kind that is exercisable on Her behalf by a Minister of the Crown (including a function involving expenditure or other financial matters), but not a function conferred or imposed by or by virtue of any legislation or the prerogative;

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““within devolved competence”” and ““outside devolved competence”” are to be read in accordance with subsections (7) and (8).

(6) For the purposes of this section a function is ““ancillary to”” another function if or to the extent that it is exercisable with a view to facilitating, or in a way that is conducive or incidental to, the exercise of the other function.

(7) It is outside devolved competence—

- (a) to make any provision by subordinate legislation that would be outside the legislative competence of the Assembly if it were included in an Act of the Assembly (see section 108A), or
- (b) to confirm or approve any subordinate legislation containing such provision.

(8) In the case of a function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that a provision of an Act of the Assembly conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly.”

(2) In section 70 of that Act (financial assistance)—

(a) in subsection (1)—

- (i) for ““The Welsh Ministers”” substitute “ The First Minister ”;
- (ii) for ““the Welsh Ministers consider”” substitute “ the First Minister considers ”;
- (iii) for ““they aim”” substitute “ the Minister aims ”;
- (iv) for ““their functions”” substitute “ the Minister's functions ”;

(b) in subsection (2)—

- (i) for ““The Welsh Ministers”” substitute “ The First Minister ”;
- (ii) for ““by them”” substitute “ by the Minister ”;

(c) for subsection (3) substitute—

“(3) This section applies in relation to the Counsel General as in relation to the First Minister.

(As regards the Welsh Ministers, see section 58A.)”

(3) In section 71 of that Act (incidental etc powers of Welsh Ministers etc), for subsection (2) substitute—

“(2) This section applies to the First Minister and the Counsel General.

(As regards the Welsh Ministers, see section 58A.)”

#### Commencement Information

I14 S. 19 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(e)

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### Textual Amendments

- F2** S. 20 repealed (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), reg. 1(3), **Sch.** (with reg. 9(2))

## 21 Transfer of Ministerial functions

- (1) In section 58 of the Government of Wales Act 2006 (transfer of Ministerial functions), in subsection (1)(b), for ““concurrently with the Minister of the Crown,”” substitute “—
- (i) concurrently or jointly with a Minister of the Crown, or  
(ii) only with the agreement of, or after consultation with, a Minister of the Crown.”
- (2) In Part 2 of Schedule 3 to that Act (exercise of transferred functions), in paragraph 6(a) and (b) omit ““in relation to a cross-border body or an English border area””.
- (3) After section 59 of that Act insert—

### “59A Shared powers

Schedule 3A, which sets out functions of Ministers of the Crown and others that are exercisable concurrently or jointly with the Welsh Ministers, has effect.”

- (4) After Schedule 3 to that Act insert the Schedule 3A set out in Schedule 4 to this Act.

### Commencement Information

- I15** S. 21 in force at 8.1.2018 by [S.I. 2017/893](#), reg. 2

## 22 Consultation about cross-border bodies

Omit section 63 of the Government of Wales Act 2006 (consultation about cross-border bodies).

### Commencement Information

- I16** S. 22 in force at 1.4.2018 by [S.I. 2017/1179](#), reg. 3(e)

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## PART 2

### LEGISLATIVE AND EXECUTIVE COMPETENCE: FURTHER PROVISION

#### *Onshore petroleum*

#### 23 Onshore petroleum licensing

- (1) Section 8A of the Petroleum Act 1998 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1A), after paragraph (a) insert—
  - “(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.
- (3) In subsection (2), after paragraph (a) insert—
  - “(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.
- (4) At the end insert—
  - “(5) The Welsh onshore area is the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).
  - (6) In subsection (5) ““Wales”” has the same meaning as in the Government of Wales Act 2006.
  - (7) The English onshore area is the area of England and the sea adjacent to England that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).”

#### Commencement Information

I17 S. 23 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(a)

#### 24 Onshore petroleum: existing licences

- (1) The Secretary of State may make amendments to—
  - (a) any model clause, to the extent that, under Part 1 of the Petroleum Act 1998, it is incorporated, or has effect as if incorporated, in an existing licence, and
  - (b) any other provision of an existing licence.
- (2) The Secretary of State may exercise the power in subsection (1) only if the Secretary of State considers that it is necessary or expedient to do so in consequence of—
  - (a) the exceptions mentioned in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006 (licensing of and access to petroleum within Welsh onshore area), or
  - (b) section 23.
- (3) In the case of an existing licence granted in respect of an area (““the licence area””) of which part only was within the Welsh onshore area at the time the licence was granted—
  - (a) the Secretary of State may direct that it is to have effect as a licence in respect of an area comprising that part and a separate licence in respect of an area comprising the rest of the licence area, and

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- (b) subsection (1) applies in relation to each of those licences as it applies in relation to the existing licence.
- (4) The power to make amendments under subsection (1)(a) is exercisable by regulations made by statutory instrument.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—
  - “existing licence” means a licence, granted before the day on which section 23 comes into force, under—
    - (a) section 3 of the Petroleum Act 1998, or
    - (b) section 2 of the Petroleum (Production) Act 1934,
  - in respect of an area all or part of which is within the Welsh onshore area;
  - “Welsh onshore area” has the meaning given by Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.

#### Commencement Information

**118** S. 24 in force at 7.3.2018 by S.I. 2017/1069, reg. 2

## 25 Onshore petroleum: right to use deep-level land in Wales

- (1) The Infrastructure Act 2015 is amended as follows.
- (2) In section 45 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy)—
  - (a) in subsection (1), for “the right of use” substitute “—
    - (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and
    - (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;
  - (b) after subsection (1) insert—

“(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right to use deep-level land in Wales for the purposes of exploiting petroleum.”
- (3) In section 46 (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy)—
  - (a) in subsection (1), for “the right of use” substitute “—
    - (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and
    - (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;
  - (b) after subsection (1) insert—

“(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of

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the right to use deep-level land in Wales for the purposes of exploiting petroleum.”

- (4) In section 49 (advice on likely impact of onshore petroleum on the carbon budget)—
- (a) in subsection (1), after ““activity”” insert “ in England ”;
  - (b) in subsection (3), after ““effect”” insert “ in England ”;
  - (c) in subsection (7), for the definition of ““petroleum got through onshore activity”” substitute—

““petroleum got through onshore activity in England”” means petroleum got from the strata in which it exists in its natural condition by activity carried out on land in England (excluding land covered by the sea or any tidal waters);”.

#### Commencement Information

**119** S. 25 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(a)

### Road transport

#### 26 Roads: speed limits, pedestrian crossings and traffic signs

- (1) The Road Traffic Regulation Act 1984 is amended as follows.
- (2) In section 17 (traffic regulation on special roads), after subsection (3ZA) insert—
- “(3ZAA) The power to make provision of the following kinds by regulations under subsection (2) is exercisable by the Welsh Ministers—
- (a) provision with respect to a particular special road in Wales;
  - (b) provision for regulating the speed of vehicles on special roads in Wales.”
- (3) In section 25 (pedestrian crossing regulations)—
- (a) in subsection (1), for ““national authority”” substitute “ relevant authority ”;
  - (b) after subsection (6) insert—
- “(7) In this section ““relevant authority”” means—
- (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
  - (b) in relation to a function so far as exercisable within devolved competence, within the meaning given by section 58A(7) and (8) of the Government of Wales Act 2006, means the Welsh Ministers;
  - (c) otherwise, means the Secretary of State.”
- (4) In section 64 (general provisions as to traffic signs)—
- (a) for ““national authority””, in each place, substitute “ relevant authority ”;
  - (b) after subsection (6) insert—

“(6A) In this section ““relevant authority”” means—



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- (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
  - (b) in relation to a function so far as exercisable within devolved competence, within the meaning given by section 58A(7) and (8) of the Government of Wales Act 2006, means the Welsh Ministers;
  - (c) otherwise, means the Secretary of State.”
- (5) In section 86 (speed limits for particular classes of vehicles), in subsection (7)—
  - (a) in paragraph (a) omit ““and Wales””;
  - (b) after paragraph (a) insert—
    - “(aa) as respects the driving of vehicles on roads in Wales, is the Welsh Ministers;”.
- (6) In section 87 (exemption of emergency vehicles from speed limits) (as substituted by section 19 of the Road Safety Act 2006)—
  - (a) in subsection (1)(b), for ““national authority”” substitute “ relevant authority ”.
  - (b) after subsection (6) insert—
    - “(7) In this section ““relevant authority””—
      - (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
      - (b) otherwise, means the Secretary of State.”
- (7) In section 88 (temporary speed limits), in subsection (7A)—
  - (a) in paragraph (a) omit ““and Wales””;
  - (b) after paragraph (a) insert—
    - “(aa) in relation to roads in Wales, is the Welsh Ministers;”.
- (8) In section 142(1) (general interpretation), in the definition of ““national authority””, after paragraph (a) insert—
  - “(aa) in relation to Wales, means the Welsh Ministers;”.

#### Commencement Information

**I20** S. 26 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

## 27 Bus service registration and traffic commissioners

- (1) The Transport Act 1985 is amended as set out in subsections (2) to (5).
- (2) In section 6 (registration of local bus services), after subsection (10) insert—
  - “(11) The power to make regulations under subsections (2), (3) and (9), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (3) In section 6A (applications for registration etc where restrictions are in force), after subsection (12) insert—

*Status: Point in time view as at 01/09/2021. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wales Act 2017 is up to date with all changes known to be in force on or before 22 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)*

- “(13) The power to make regulations under subsection (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (4) In section 6B (applications for registration where quality contracts scheme in force), after subsection (8) insert—
- “(9) The power to make regulations under subsections (5) and (7), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (5) In section 7 (application of traffic regulation conditions to local bus services), after subsection (15) insert—
- “(16) The power to make regulations under subsections (6)(d), (9) and (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (6) Section 4C of the Public Passenger Vehicles Act 1981 (power of senior traffic commissioner to give guidance and directions) is amended as set out in subsections (7) and (8).
- (7) In subsection (1), in the second sentence, after ““subsection (5) below”” insert “ and, in relation to Wales, to subsection (6) below ”.
- (8) After subsection (5) insert—
- “(6) The senior traffic commissioner may not give guidance or directions under this section as to the exercise of a function so far as the function could (apart from paragraph 8 of Schedule 7B to the Government of Wales Act 2006) be conferred or imposed by provision falling within the legislative competence of the National Assembly for Wales.”

#### Commencement Information

**I21** S. 27 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

## 28 Taxis: transfer of functions to Welsh Ministers

- (1) The Transport Act 1985 is amended as follows.
- (2) In section 10 (immediate hiring of taxis at separate fares), after subsection (9) insert—
- “(9A) The power to make regulations under subsections (5)(c) and (8), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (3) In section 13 (provisions supplementary to sections 10 to 12), after subsection (4) insert—
- “(5) The power to make an order under subsection (1) for the purpose of supplementing section 10 or 11, so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State); and the reference to the Secretary of State in subsection (4) is to be read accordingly.”

**Status:** Point in time view as at 01/09/2021. This version of this Act contains provisions that are prospective.

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### Commencement Information

**I22** S. 28 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

### *Harbours: transfer of executive functions*

## 29 Welsh harbours

- (1) The functions mentioned in subsection (2) are (so far as not already transferred under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)) transferred to the Welsh Ministers.
- (2) The functions are functions exercisable by a Minister of the Crown under or by virtue of—
  - (a) section 21 of the Sea Fish Industry Act 1951 (fishery harbours);
  - (b) the following provisions of the Harbours Act 1964—
    - (i) section 11 (loans for harbour works);
    - (ii) sections 14 to 17 and Schedule 3 (harbour revision orders, harbour authority appointment orders and harbour empowerment orders);
    - (iii) section 18 and Schedule 4 (harbour reorganisation schemes);
    - (iv) section 19 (compensation for loss of office etc in consequence of harbour orders and schemes);
    - (v) sections 30 and 31 (harbour charges and dues);
    - (vi) section 39(4) (extension of order-making power under section 21(8) of the Sea Fish Industry Act 1951);
    - (vii) sections 41 and 42 (provision of information, accounts etc);
    - (viii) section 60 (power to amend local Acts);
  - (c) the following provisions of the Docks and Harbours Act 1966—
    - (i) section 36 (provision of inland clearance depots);
    - (ii) sections 42 and 43 (further provision about harbour reorganisation schemes);
  - (d) section 1 of the Harbours (Loans) Act 1972;
  - (e) section 5(2) of the Ports (Finance) Act 1985 (orders amending local Acts etc);
  - (f) the following provisions of the Pilotage Act 1987—
    - (i) section 1 (orders about competent harbour authorities);
    - (ii) section 8(3) (directions about pilotage exemption certificates);
    - (iii) section 10(6) (appeals in respect of pilotage charges);
    - (iv) section 12 (information and directions as to joint arrangements);
    - (v) section 13 (resolution of disputes between harbour authorities);
    - (vi) paragraph 4 of Schedule A1 (appeals in relation to decisions on authorisation of EEA pilots);
  - (g) Part 1 of the Ports Act 1991, other than section 11(8);
  - (h) any provision contained in a local Act (including an Act confirming a provisional order);

so far as exercisable in relation to harbours that are wholly in Wales, other than harbours that are reserved trust ports.

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- (3) In determining for the purposes of subsection (2)(b) whether a function is exercisable by a Minister of the Crown under or by virtue of a provision of the Harbours Act 1964, any order made under section 42A of that Act (delegation of functions) is to be ignored.
- (4) Where a function mentioned in subsection (2) relates to two or more harbours, that function is transferred to the Welsh Ministers only to the extent that both or all of the harbours to which it relates are wholly in Wales and are not reserved trust ports.
- (5) This section does not operate to transfer to the Welsh Ministers a function to the extent that, if exercised, it would result in a cross-border harbour being created.
- (6) Sections 34 to 38 make further provision about—
- (a) the exercise, by a Minister of the Crown, of certain functions in relation to cross-border harbours,
  - (b) the exercise of certain functions relating to pilotage by the Secretary of State in relation to waters in Wales, and by the Welsh Ministers in relation to waters in England, and
  - (c) the exercise, by a Minister of the Crown, of certain functions in relation to two or more harbours where at least one of those harbours is wholly in Wales and is not a reserved trust port.
- (7) In this section—
- “cross-border harbour” has the meaning given in section 34;
  - “reserved trust port” has the meaning given in section 32;
  - “Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).

#### Commencement Information

**I23** S. 29 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g) (with transitional provisions and savings in S.I. 2018/278, regs. 1, 2, Sch.)

### 30 Amendments of Harbours Act 1964

- (1) The Harbours Act 1964 is amended as follows.
- (2) In section 17 (harbour orders: procedure), in subsection (2C), for the words from “fishery” to “National Assembly for Wales” substitute “harbour that is wholly in Wales, other than a reserved trust port, as references to the Welsh Ministers”.
- (3) In section 17E (harbour closure orders: devolution)—
- (a) in subsection (1), for “fishery harbours in Wales” substitute “harbours that are wholly in Wales, other than reserved trust ports”;
  - (b) after subsection (1) insert—
 

“(1A) Before making a closure order that transfers functions to a harbour authority for a harbour that is wholly or partly in England or a reserved trust port, the Welsh Ministers must obtain the consent of the Secretary of State.”

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- (4) In section 40A (directions made by harbour authorities in respect of ships), in subsection (4)(a), for ““fishery harbour in Wales”” substitute “harbour that is wholly in Wales other than a reserved trust port”.
- (5) In section 43 (provisions with respect to loans made by Minister)—
- (a) after subsection (1) insert—
- “(1A) Any loans which the Welsh Ministers make under section 11 of this Act shall be repaid to them at such times and by such methods, and interest thereon shall be paid to them at such rates and at such times, as they may from time to time direct.”;
- (b) after subsection (2) insert—
- “(2A) Such sums as are necessary to enable the Welsh Ministers to make loans under section 11 of this Act may be issued to them out of the Welsh Consolidated Fund.”;
- (c) after subsection (4) insert—
- “(4A) Any sums received by the Welsh Ministers under subsection (1A) of this section shall be paid into the Welsh Consolidated Fund.”;
- (d) after subsection (5) insert—
- “(6) The Welsh Ministers shall, as respects each financial year, prepare an account of sums issued to them under this section and of the sums to be paid into the Welsh Consolidated Fund under subsection (4A) and of the disposal by them of those sums respectively, and send it to the Auditor General for Wales not later than the end of November following the year; and the Auditor General for Wales shall examine, certify and report on the account and lay copies of it, together with his report, before the National Assembly for Wales.”;
- (e) in the heading, at the end insert “or the Welsh Ministers”.
- (6) In section 57(1) (interpretation), at the appropriate place insert—
- “““reserved trust port”” has the meaning given in section 32 of the Wales Act 2017;”.
- (7) In Schedule 3 (procedure for making harbour orders), in paragraph 25(6)(a), for subparagraph (ii) substitute—
- “(ii) a harbour that is wholly in Wales other than a reserved trust port, the Welsh Ministers;”.

**Commencement Information**

**124** S. 30 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

**31 Application of general provisions to transfer of functions in sections 29 and 30**

- (1) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under sections 29 and 30 as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act—
- (a) Part 2 of Schedule 3 (exercise of transferred functions);

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- (b) paragraph 13 of Schedule 3 (continued validity of things done);
  - (c) paragraphs 1, 2(2) and 4 of Schedule 4 (transfers of property, rights and liabilities).
- (2) Where a function transferred under section 29 is exercisable by a delegate by virtue of an order made under section 42A of the Harbours Act 1964, the provisions mentioned in subsection (1) are to be read as if references to a Minister of the Crown or to the Secretary of State were, or included, references to the delegate.
- (3) The application by subsection (1)(c) of paragraphs 1 and 2(2) of Schedule 4 to the Government of Wales Act 2006 in relation to the transfer of functions under sections 29 and 30 is subject to any contrary provision made in regulations made by the Secretary of State.
- (4) Regulations under subsection (3) may make—
- (a) different provision for different purposes or cases (including different provision for different harbours or different descriptions of harbour);
  - (b) transitional or saving provision.
- (5) Regulations under subsection (3) must be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I25** S. 31 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

**32 Reserved trust ports**

- (1) A harbour is a reserved trust port if, on the principal appointed day (within the meaning given by section 71), it is a harbour, dock, pier or boatslip that is owned or managed by a harbour authority that—
- (a) is a relevant port authority within the meaning of Part 1 of the Ports Act 1991 (see section 1(3) of that Act), and
  - (b) meets the annual turnover requirement.
- (2) The annual turnover requirement is the turnover requirement set out in section 11 of the Ports Act 1991.
- (3) Section 11 of that Act, in its application for the purposes of this section, has effect as if for subsection (1) there were substituted—
- “(1) A relevant port authority meet the annual turnover requirement if the annual turnover of the authority's port undertaking exceeded the turnover limit in the case of at least two of the last three accounting years of the authority for which accounts have been submitted under section 42(5) of the Harbours Act 1964.”

**Commencement Information**

**I26** S. 32 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

*Status: Point in time view as at 01/09/2021. This version of this Act contains provisions that are prospective.*

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### 33 Development consent

- (1) Section 24 of the Planning Act 2008 (development consent for construction or alteration of harbour facilities) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
  - “(a) will be—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
    - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and will be, or will form part of, a reserved trust port, and”.
- (3) In subsection (2), for paragraph (a) substitute—
  - “(a) the harbour facilities are—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
    - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and are, or form part of, a reserved trust port, and”.
- (4) In subsection (6), after the definition of ““container ship”” insert—

““reserved trust port”” has the meaning given in section 32 of the Wales Act 2017;”.

#### Commencement Information

I27 S. 33 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

#### *Harbours: consultation and consent requirements*

### 34 Exercise of functions in relation to cross-border harbours

- (1) Where—
  - (a) a Minister of the Crown proposes to exercise a relevant function in relation to a cross-border harbour, and
  - (b) the exercise of that function would, in the opinion of the Minister, be likely to have a material effect in Wales,the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).
- (2) Where a Minister of the Crown proposes to exercise a function under the Harbours Act 1964 in such a way that it would result in a cross-border harbour being created, the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).
- (3) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duties in subsections (1) and (2) apply to the delegate as they apply to a Minister of the Crown.
- (4) The following are ““relevant functions””—



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- (a) making an order under section 21 of the Sea Fish Industry Act 1951;
- (b) making a harbour revision order under section 14 or 15 of the Harbours Act 1964, other than an order of the type described in section 7(5) of the Pilotage Act 1987 (order extending limits of pilotage jurisdiction);
- (c) making an order under any of the following sections of the Harbours Act 1964—
  - (i) section 15A (orders about port appointments);
  - (ii) section 16 (harbour empowerment orders);
  - (iii) section 17A (closure orders);
  - (iv) section 18 (orders for harbour reorganisation schemes);
  - (v) section 40A (orders designating harbour authority);
  - (vi) section 60 (orders amending local Acts);
- (d) making regulations under section 19 of that Act (compensation for loss of office etc);
- (e) approving a charge to which section 31 of that Act applies, or giving directions with respect to such a charge, under section 31(6)(a) or (b) of that Act (harbour dues);
- (f) giving or refusing consent under section 36(1) of the Docks and Harbours Act 1966 (inland clearance depots);
- (g) making an order under section 5(2) of the Ports (Finance) Act 1985 (order amending local enactments in consequence of borrowing powers etc);
- (h) giving or refusing consent under section 5(1) of the Ports Act 1991 (control over issue or disposal of securities etc);
- (i) giving directions under section 5(2) of that Act (directions about issue or disposal of securities etc);
- (j) making a decision under section 9(6) of that Act (decision confirming port transfer scheme);
- (k) giving directions under section 10(2) or (3) of that Act (directions requiring port authority to form a company or submit a scheme);
- (l) making a scheme under section 12(1) of that Act (required port transfer scheme).

(5) In this section—

““cross-border harbour”” means a harbour that is partly in England and partly in Wales;

““England”” includes the sea adjacent to England out as far as—

- (a) the seaward boundary of the territorial sea, or
- (b) if nearer to the land, any boundary between waters that are treated as part of the sea adjacent to Wales and those that are not, as determined by an order made under section 158(3) of the Government of Wales Act 2006;

““Wales”” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).

#### **Commencement Information**

**I28** S. 34 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)



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### 35 Cross-border exercise of pilotage functions

- (1) Where—
- (a) the Secretary of State proposes to exercise a relevant pilotage function, and
  - (b) the function would be exercised in relation to waters in Wales,
- the Secretary of State must first consult the Welsh Ministers (except where section 38(1) applies).
- (2) Where—
- (a) the Welsh Ministers propose to exercise a relevant pilotage function other than a function mentioned in subsection (5)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first obtain the consent of the Secretary of State.
- (3) Where the Secretary of State or the Welsh Ministers have made an order under section 42A of the Harbours Act 1964 delegating the function of making a harbour revision order, the duty in subsection (1) or (2), so far as it relates to the function mentioned in subsection (5)(c), applies to the delegate as it applies to the Secretary of State or the Welsh Ministers.
- (4) Where—
- (a) the Welsh Ministers propose to exercise a function mentioned in subsection (5)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first consult the Secretary of State (except where section 38(1) applies).
- (5) The following are ““relevant pilotage functions””—
- (a) making an order under section 1(3) of the Pilotage Act 1987 (order about exercise of pilotage jurisdiction);
  - (b) making an order under section 1(4) or (4A) of that Act (orders about competent harbour authorities);
  - (c) making an order of the type described in section 7(5) of that Act (harbour revision order extending limits of pilotage jurisdiction of a harbour authority);
  - (d) making a direction under section 8(3) of that Act (pilotage exemption certificates);
  - (e) approving a charge imposed by virtue of section 10 of that Act, or giving directions with respect to such a charge, under section 31(6) of the Harbours Act 1964 as applied by section 10(6) of the Pilotage Act 1987;
  - (f) making directions under section 12(2) or (3) of the Pilotage Act 1987 (joint arrangements);
  - (g) settling a dispute under section 13 of that Act (resolution of dispute between authorities);
  - (h) deciding an appeal under paragraph 4 of Schedule A1 to that Act (decisions on authorisation of EEA pilots).
- (6) In this section ““England”” and ““Wales”” have the same meanings as in section 34.

#### Commencement Information

I29 S. 35 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

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### 36 Exercise of functions in relation to two or more harbours

(1) Where—

- (a) a Minister of the Crown proposes to exercise a relevant function in relation to two or more harbours, and
- (b) at least one of those harbours is a harbour that is wholly in Wales and is not a reserved trust port,

the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).

(2) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duty in subsection (1) applies to the delegate as it applies to a Minister of the Crown.

(3) In this section—

““relevant function”” has the same meaning as in section 34;

““reserved trust port”” has the meaning given in section 32;

““Wales”” has the same meaning as in section 34.

#### Commencement Information

**I30** S. 36 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### 37 Consequential amendments to consent requirements in Harbours Act 1964

(1) In section 42C of the Harbours Act 1964 (consent of Welsh Ministers for certain orders and schemes), after subsection (2) insert—

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.”

(2) In section 42D of that Act (consent of Secretary of State for certain orders and schemes), after subsection (2) insert—

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.”

#### Commencement Information

**I31** S. 37 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### 38 Sections 34 to 37: supplementary

(1) The duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) does not apply in relation to the exercise of a function if it is not reasonably practicable to comply with it in relation to the exercise of the function.

(2) If the duty to consult in section 34(1) or (2), section 35(1) or section 36(1) does not apply in relation to the exercise of a function by reason of subsection (1), the Secretary

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of State must as soon as is reasonably practicable inform the Welsh Ministers of the exercise of the function and of the reasons for its exercise.

- (3) If the duty to consult in section 35(4) does not apply in relation to the exercise of a function by reason of subsection (1), the Welsh Ministers must as soon as is reasonably practicable inform the Secretary of State of the exercise of the function and of the reasons for its exercise.
- (4) A failure to comply with a duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) in relation to the exercise of a function does not affect the validity of its exercise.
- (5) The Secretary of State may make regulations modifying the application of sections 34, 35, 36 and this section in relation to the harbours, or descriptions of harbour, specified in the regulations.
- (6) Before making regulations under subsection (5), the Secretary of State must consult the Welsh Ministers.
- (7) The regulations may in particular—
  - (a) disapply a requirement for a Minister of the Crown to consult the Welsh Ministers before exercising a function;
  - (b) disapply a requirement for the Welsh Ministers to consult or obtain the consent of the Secretary of State before exercising a function;
  - (c) change a requirement to consult into a requirement to obtain consent, and vice versa;
  - (d) provide that a Minister of the Crown must consult, or obtain the consent of, the Welsh Ministers before exercising a function not mentioned in section 34, 35 or 36, in the circumstances set out in the regulations;
  - (e) provide that the Welsh Ministers must consult, or obtain the consent of, the Secretary of State before exercising a function not mentioned in section 35, in the circumstances set out in the regulations.
- (8) Regulations under subsection (5) may make—
  - (a) different provision for different purposes or cases, and
  - (b) consequential, incidental, supplementary, transitional and saving provision.
- (9) Regulations under subsection (5) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I32** S. 38 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### *Planning for electricity generating stations*

#### **39 Development consent for generating stations with 350MW capacity or less**

- (1) Section 15 of the Planning Act 2008 (generating stations) is amended as set out in subsections (2) to (6).

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- (2) In subsection (1), for ““or (3)”” substitute “, (3), (3A) or (3B) ”.
- (3) In subsection (2)(a) omit ““or Wales””.
- (4) After subsection (3) insert—
- “(3A) A generating station is within this subsection if—
- (a) it is in Wales,
- (b) it does not generate electricity from wind, and
- (c) its capacity is more than 350 megawatts.
- (3B) A generating station is within this subsection if—
- (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
- (b) its capacity is more than 350 megawatts.”
- (5) In subsection (4)—
- (a) in paragraph (a) omit ““or Wales””;
- (b) in paragraph (b), after ““except”” insert “ the Welsh zone or ”.
- (6) After subsection (4) insert—
- “(5) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (7) Section 36 of the Electricity Act 1989 (consent required for construction etc of generating stations) is amended as set out in subsections (8) to (11).
- (8) In subsection (1), (4) and (5)(a), for ““Secretary of State”” substitute “ appropriate authority ”.
- (9) In subsection (2)—
- (a) in paragraph (a)—
- (i) at the beginning insert “ in the case of a generating station otherwise than in Wales, ”;
- (ii) at the end omit ““and””;
- (b) in paragraph (b), after ““extended”” insert “ otherwise than in Wales ”;
- (c) after paragraph (b) insert—
- “(c) in the case of a generating station in Wales, does not exceed the devolved capacity, that is to say, 350 megawatts; and
- (d) in the case of a generating station which is to be constructed or extended in Wales, will not exceed the devolved capacity when it is constructed or extended;”
- (10) In subsection (7), for ““the Secretary of State”” substitute—
- “(a) the Welsh Ministers, if they are the appropriate authority, or
- (b) the Secretary of State, in all other cases.”
- (11) After subsection (9) insert—
- “(10) In this section ““appropriate authority”” means—
- (a) the Scottish Ministers, in relation to a generating station in or to be constructed in Scotland;

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- (b) the Welsh Ministers, in relation to a generating station in or to be constructed in Welsh waters that—
    - (i) does not exceed the devolved capacity, that is to say, 350 megawatts;
    - (ii) in the case of a generating station which is to be constructed or extended, will not exceed the devolved capacity when constructed or extended;
  - (c) the Secretary of State, in all other cases.
- (11) In this section—
- ““Scotland”” has the same meaning as in section 32(2) (see section 32(3));
  - ““Welsh waters”” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;
  - ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (12) In section 36C of the Electricity Act 1989 (variation of consents under section 36), in subsection (6)—
- (a) in the definition of ““appropriate authority””—
    - (i) after paragraph (a) insert—
      - “(ab) the Welsh Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts;”;
    - (ii) in paragraph (b), at the end insert “ and does not relate to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts ”;
  - (b) in the definition of ““regulations””, after paragraph (a) insert—
    - “(aa) the Welsh Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350 megawatts;”;
  - (c) in the definition of ““statutory provision””, after ““Scottish Parliament”” insert “ and an Act of the Assembly ”;
  - (d) at the end insert—
    - “““Welsh waters”” has the meaning given in section 36.”
- (13) In section 90 of the Town and Country Planning Act 1990 (development with government authorisation), in subsections (2) and (2ZA), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

#### Commencement Information

**I33** S. 39(4)(6) in force for specified purposes at 31.3.2017, see s. 71(2)(e)

**I34** S. 39 in force at 1.4.2018 for specified purposes by [S.I. 2017/1179](#), [reg. 3\(h\)](#)

**I35** S. 39 in force at 1.4.2019 in so far as not already in force by [S.I. 2017/1179](#), [reg. 5\(a\)](#)

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#### 40 Generating stations and public rights of navigation

- (1) Section 36A of the Electricity Act 1989 (declarations extinguishing etc public rights of navigation) is amended as set out in subsections (2) to (5).
- (2) In subsection (1)—
  - (a) for ““the Secretary of State or the Scottish Ministers”” substitute “ the appropriate authority ”;
  - (b) for ““he or (as the case may be) they”” substitute “ the appropriate authority ”.
- (3) In subsection (2), for ““The Secretary of State or the Scottish Ministers”” substitute “ The appropriate authority ”.
- (4) In subsection (6)—
  - (a) for ““the Secretary of State or the Scottish Ministers”” substitute “ the appropriate authority ”;
  - (b) for ““him or them””, in both places, substitute “ the appropriate authority ”.
- (5) In subsection (7), after ““In this section—”” insert—
 

““appropriate authority”” has the same meaning as in section 36;”.
- (6) Section 36B of that Act (duties in relation to navigation) is amended as set out in subsections (7) to (10).
- (7) In subsection (1)—
  - (a) for ““Neither the Secretary of State nor the Scottish Ministers may”” substitute “ The appropriate authority may not ”;
  - (b) for ““he considers, or (as they case may be) they consider,”” substitute “ the appropriate authority considers ”.
- (8) In subsection (2), for ““both of the Secretary of State and of the Scottish Ministers”” substitute “ of the appropriate authority ”.
- (9) In subsection (3), for ““the Secretary of State or (as the case may be) the Scottish Ministers”” substitute “ the appropriate authority ”.
- (10) In subsection (4)(a), for ““the Secretary of State and the Scottish Minister have exercised or will exercise their powers”” substitute “ the appropriate authority has exercised or will exercise its powers ”.
- (11) Section 100 of the Energy Act 2004 (further provision relating to public rights of navigation) is amended as set out in subsections (12) to (14).
- (12) In subsection (1) omit ““the consenting authority””.
- (13) In subsections (3), (6) and (7), for ““the consenting authority”” substitute “ the appropriate authority ”.
- (14) In subsection (8), after ““In this section—”” insert—
 

““appropriate authority”” has the same meaning as in section 36 of the Electricity Act 1989;”.

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#### Commencement Information

**I36** S. 40 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

### 41 Safety zones around renewable energy installations

(1) Section 95 of the Energy Act 2004 (safety zones around renewable energy installations) is amended as set out in subsections (2) to (5).

(2) In subsection (1A)—

(a) for ““means the Scottish Ministers”” substitute “means—

(a) the Scottish Ministers”;

(b) paragraphs (a) to (c) are renumbered sub-paragraphs (i) to (iii);

(c) in sub-paragraphs (ii) and (iii) (as renumbered), for ““paragraph (a)”” substitute “ sub-paragraph (i) ”;

(d) before ““and otherwise”” insert—

“(b) the Welsh Ministers, in relation to a renewable energy installation which has, or will have, a capacity of 350 megawatts or less and—

(i) which is to be or is in an area of Welsh waters, and is not being proposed to be extended outside those areas,

(ii) to which sub-paragraph (i) has ceased to apply because of an extension or proposed extension, if subsection (1D) applies, or

(iii) to the extent that it is to be or is in an area of Welsh waters, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1D) does not apply.”.

(3) After subsection (1C) insert—

“(1D) This subsection applies if there is an agreement in force between the Secretary of State and the Welsh Ministers providing for the Welsh Ministers to be the appropriate Minister in relation to the whole of the installation.

(1E) Where subsection (1D) applies, the Welsh Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.”

(4) After subsection (4A) insert—

“(4B) Before issuing a notice under this section which relates, wholly or partly, to Welsh waters, the Secretary of State must consult the Welsh Ministers.

(4C) Before issuing a notice under this section which relates, wholly or partly, to an area outside Welsh waters, the Welsh Ministers must consult the Secretary of State.”

(5) In section 96 of that Act (prohibited activities in safety zones), in subsection (8)(a), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

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- (6) In section 104 of that Act (interpretation of Chapter 2 of Part 2), at the end of subsection (1) insert—

““Welsh waters”” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;

““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”

**Commencement Information**

**I37** S. 41 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

**42 Overhead lines associated with devolved Welsh generating stations**

- (1) Section 37 of the Electricity Act 1989 (consent required for overhead lines) is amended as set out in subsection (2) and (3).

- (2) In subsection (1), for ““(2)”” substitute “(2A) ”.

- (3) After subsection (2) insert—

“(2A) Subsection (1) above shall not apply in relation to an electric line that—

- (a) has a nominal voltage of 132 kilovolts or less, and
- (b) is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force.

(2B) ““Devolved Welsh generating station”” means a generating station that—

- (a) is in Wales and—
  - (i) generates electricity from wind, or
  - (ii) has a maximum capacity of 350 megawatts or less; or
- (b) is in Welsh waters and has a maximum capacity of 350 megawatts or less.

(2C) ““Welsh waters”” has the meaning given in section 36 above.”

- (4) In section 16 of the Planning Act 2008 (electric lines), after subsection (3A) insert—

“(3B) The installation of an electric line above ground is not within section 14(1)

- (b) if the line is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force and the nominal voltage of the line is expected to be no greater than 132 kilovolts.

(3C) ““Devolved Welsh generating station”” means a generating station that—

- (a) is in Wales and—
  - (i) generates electricity from wind, or
  - (ii) has a capacity of 350 megawatts or less; or
- (b) is in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh zone and has a capacity of 350 megawatts or less.



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(3D) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”

#### Commencement Information

**I38** S. 42(4) in force for specified purposes at 31.3.2017, see s. 71(2)(e)

**I39** S. 42(1)-(3) in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

**I40** S. 42(4) in force at 1.4.2019 in so far as not already in force by S.I. 2017/1179, reg. 5(a)

### 43 Alignment of associated development consent

(1) Section 115 of the Planning Act 2008 (development for which development consent may be granted) is amended as follows.

(2) In subsection (2)(c), for ““or (4)”” substitute “ , (4) or (4A) ”.

(3) After subsection (4) insert—

“(4A) Development is within this subsection if the development within subsection (1)(a) with which it is associated is—

(a) the construction or extension of a generating station that is or (when constructed or extended) is expected to be within section 15(3A) or (3B), or

(b) the installation of an electric line that is or (when installed) is expected to be within section 14(1)(b).”

#### *Equal opportunities*

### 44 Equal opportunities: public sector equality duty

(1) The Equality Act 2010 is amended as follows.

(2) In section 152 (power to specify public authorities: consultation and consent)—

(a) in subsection (2), for the words after ““must”” substitute “ consult the Commission, and after making such an order they must inform a Minister of the Crown. ”;

(b) in the heading omit ““and consent””.

(3) In section 154 (power to impose specific duties: cross-border authorities), in the second column of the table in subsection (3), for the words ““The Welsh Ministers must consult a Minister of the Crown before”” in both places substitute “ The Welsh Ministers must inform a Minister of the Crown after ”.

#### Commencement Information

**I41** S. 44 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(i)

### 45 Public sector duty regarding socio-economic inequalities

(1) The Equality Act 2010 is amended as follows.

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- (2) In section 1 (public sector duty), in subsection (2A), after paragraph (a) insert—
- “(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers;”.
- (3) In section 2 (power to amend section 1) omit subsections (7), (9) and (10).
- (4) Section 216 (commencement) is amended as follows.
- (5) In subsection (3), for ““subsection (4)”” substitute “ subsections (4) and (6) ”.
- (6) After subsection (5) insert—
- “(6) The following provisions of Part 1 come into force on such day as the Welsh Ministers may by order appoint—
- (a) section 1, so far as it applies to a relevant authority as defined by section 2(6);
- (b) section 2, so far as it confers a power on the Welsh Ministers;
- (c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a).
- (7) Section 209 does not apply to an order under subsection (6).”

#### Commencement Information

**I42** S. 45 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(i)

### *Marine licensing and conservation*

#### **46 Marine licensing in the Welsh offshore region**

- (1) The Marine and Coastal Access Act 2009 is amended as set out in subsections (2) to (5).
- (2) In section 113 (the appropriate licensing authority)—
- (a) in subsection (4), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”;
- (b) in subsection (5), after paragraph (b) insert—
- “(c) in relation to the Welsh offshore region, any activity falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).”
- (3) In section 236 (enforcement of marine licensing regime), in subsection (2)—
- (a) in paragraph (a), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
- (b) after that paragraph insert—
- “(aa) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (4) In section 240 (marine licensing: oil and gas and other reserved matters), in subsection (1)—

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- (a) in paragraph (b), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
  - (b) after that paragraph insert—
    - “(ba) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (5) In section 241 (marine licensing: Northern Ireland), in subsection (3)—
- (a) in paragraph (a), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
  - (b) after that paragraph insert—
    - “(aa) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (6) The Marine Licensing (Exempted Activities) (Wales) Order 2011 (S.I. 2011/559 (W.81)) is amended as set out in subsection (7) to (9).
- (7) In Article 4 (exemption from need for marine licence), in paragraph (1), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”.
- (8) In Article 32 (bored tunnels), in paragraph (4), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”.
- (9) In Article 34 (loading of a vehicle or vessel etc for incineration outside Wales and the Welsh inshore region)—
- (a) in the heading, for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”;
  - (b) in paragraph (1)(b), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”.

#### Commencement Information

**I43** S. 46 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(j)

## 47 Marine conservation zones

- (1) Part 5 of the Marine and Coastal Access Act 2009 is amended as follows.
- (2) In section 116 (marine conservation zones)—
- (a) in subsection (5)(a), after ““Wales”” insert “ or the Welsh offshore region ”;
  - (b) after subsection (5) insert—
    - “(5A) The Welsh Ministers may not designate an area as an MCZ without the agreement of the Secretary of State if any part of the proposed MCZ lies in the Welsh offshore region.”
- (3) In section 119 (consultation before designation)—
- (a) in subsection (6), after ““Wales”” insert “ or the Welsh offshore region ”;
  - (b) omit subsection (9)(a).

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- (4) In section 125 (general duties of public authorities in relation to MCZs), in subsection (11)(a), after ““Wales”” insert “ or the Welsh offshore region ”.

#### Commencement Information

**I44** S. 47 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(j)

### *Water etc*

PROSPECTIVE

#### **48 Water and sewerage**

- (1) In Schedule 7A to the Government of Wales Act 2006 (substituted by this Act), in Section C15 (water and sewerage)—
- (a) omit paragraph 92;
  - (b) in paragraph 93 omit ““and regulation””;
  - (c) omit the two exceptions (and the heading ““Exceptions””);
  - (d) omit the definitions of ““supply system of a water undertaker”” and ““sewerage system of a sewerage undertaker””.
- (2) In section 192B of the Water Industry Act 1991 (annual and other reports)—
- (a) in subsection (1), after ““the Secretary of State”” insert “ and the Welsh Ministers ”;
  - (b) after subsection (5) insert—
    - “(5A) The Welsh Ministers shall—
      - (a) lay a copy of each annual report before the Assembly; and
      - (b) arrange for the report to be published in such manner as they consider appropriate.”;
  - (c) in subsection (7) omit ““the Assembly,””.

#### **49 Modification of water-related functions**

In section 58 of the Government of Wales Act 2006, after subsection (2) insert—

- “(2A) Her Majesty may by Order in Council—
- (a) make provision modifying (by reference to geographical extent or otherwise) a previously conferred or transferred water-related function;
  - (b) provide for such a function to be exercisable—
    - (i) concurrently or jointly with a Minister of the Crown or the Welsh Ministers, or
    - (ii) only with the agreement of, or after consultation with, a Minister of the Crown or the Welsh Ministers.
- (2B) In subsection (2A)—
- ““previously conferred or transferred function”” means a function exercisable by—

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- (a) the Welsh Ministers, the First Minister or the Counsel General,
- (b) a Minister of the Crown, or
- (c) any authority or other body,

by virtue of provision contained in or made under this Act or any other enactment;

“water-related function” means a function exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection.”

#### Commencement Information

I45 S. 49 in force at 8.1.2018 by S.I. 2017/893, reg. 2

## 50 Water protocol

- (1) The Welsh Ministers and the Secretary of State may make an agreement (the “water protocol”) for the purpose of ensuring that—
  - (a) actions or inaction of the Welsh Ministers, or public bodies exercising functions in Wales, do not have a serious adverse impact on water resources in England, water supply in England or the quality of water in England, and
  - (b) actions or inaction of the Secretary of State, or public bodies exercising functions in England, do not have a serious adverse impact on water resources in Wales, water supply in Wales or the quality of water in Wales.
- (2) The water protocol must—
  - (a) provide for a procedure for resolving matters of disagreement between the Welsh Ministers and the Secretary of State;
  - (b) make provision about whether, or to what extent, functions relating to such matters may be exercised pending the outcome of the procedure.
- (3) The water protocol may be revised by agreement of the Welsh Ministers and the Secretary of State.
- (4) The water protocol, and any revised protocol, must be laid before both Houses of Parliament and the National Assembly for Wales.
- (5) The Welsh Ministers and the Secretary of State must exercise their functions in accordance with the provisions of the water protocol, unless it is revoked by agreement of the Welsh Ministers and the Secretary of State.

## 51 Reciprocal cross-border duties in relation to water

- (1) In exercising functions relating to water resources, water supply or water quality—
  - (a) the Welsh Ministers must have regard to the interests of consumers in England;
  - (b) the Secretary of State must have regard to the interests of consumers in Wales.
- (2) In subsection (1) “the interests of consumers” has the same meaning as in section 2 of the Water Industry Act 1991.

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## 52 Repeal of intervention powers relating to water

- (1) In the Government of Wales Act 2006—
  - (a) in section 114 (power to intervene in certain cases) omit paragraph (b) of subsection (1);
  - (b) omit section 152 (intervention in case of functions relating to water).
- (2) Regulations under section 71 bringing this section into force may not be made until an agreement under section 50 has been laid before both Houses of Parliament and the National Assembly for Wales.

### Commencement Information

**I46** S. 52 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(k)

### *Miscellaneous*

## 53 Transfer of functions in relation to fishing vessels

- (1) The functions to which this section applies, so far as exercisable in relation to Welsh fishing boats beyond the seaward limits of the Welsh zone, are transferred to the Welsh Ministers.
- (2) This section applies to—
  - (a) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fish (Conservation) Act 1967,
  - (b) functions of a Minister of the Crown under the Sea Fisheries Act 1968,
  - (c) functions of a Minister of the Crown under Parts 2 to 4 of the Fisheries Act 1981, and
  - (d) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fisheries (Wildlife Conservation) Act 1992.
- (3) But this section does not apply to—
  - (a) functions conferred on the Board of Trade by section 8 of the Sea Fish (Conservation) Act 1967;
  - (b) functions listed in paragraph 2(2) of Schedule 3A to the Government of Wales Act 2006 (inserted by this Act) (functions concurrently exercisable with the Welsh Ministers).
- (4) In this section—
 

““Welsh fishing boat”” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging;

““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.

### Commencement Information

**I47** S. 53 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(l)

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## 54 Transfer of functions in relation to excepted energy buildings

- (1) The functions conferred or imposed on the Secretary of State by or under the Building Act 1984, so far as exercisable in relation to excepted energy buildings in Wales, are transferred to the Welsh Ministers.
- (2) But subsection (1) does not operate to transfer any functions that are reserved by the following provisions of the 2009 TFO—
  - (a) Article 3(b) (functions exercisable by Secretary of State as a Crown authority);
  - (b) Article 3(c) (powers of commencement etc);
  - (c) Article 4 (energy performance requirements and energy assessors for existing buildings).
- (3) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under subsection (1) as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act—
  - (a) Part 2 of Schedule 3 (exercise of functions transferred under section 58);
  - (b) paragraph 1 of Schedule 4 (general transfer of property, rights and liabilities).
- (4) In this section—
  - ““excepted energy building”” has the meaning given in the Schedule to the 2009 TFO;
  - ““the 2009 TFO”” means the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019).

### Commencement Information

**148** S. 54 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

## 55 Renewable energy incentive schemes

- (1) After section 148 of the Government of Wales Act 2006 insert—

*“Consultation with Welsh Ministers*

### **148A Renewable energy incentive schemes**

- (1) The Secretary of State must consult the Welsh Ministers before—
  - (a) establishing a renewable energy incentive scheme that applies in Wales, or
  - (b) amending such a scheme as it relates to Wales.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.
- (3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.



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- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—
- (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);
  - (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).”
- (2) Where, before the commencement of this section, the Secretary of State has consulted, or is consulting, the Welsh Ministers regarding a renewable energy incentive scheme within the meaning of section 148A of the Government of Wales Act 2006 (inserted by subsection (1) above), that consultation is to be treated as fulfilling the obligation in that section.

**Commencement Information**

**149** S. 55 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

**56 Financial assistance for inland waterway and sea freight**

- (1) Section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) So far as it relates to inland waterways that are wholly in Wales, the power conferred by this section is a power of the Welsh Ministers.
- (4A) So far as it relates to—
- (a) the carriage of goods by an inland waterway that is partly in Wales, or
  - (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales,
- the power conferred by this section may be exercised concurrently or jointly by the Secretary of State and the Welsh Ministers.”
- (3) For subsection (6) substitute—
- “(6) In this section—
- “inland waterway” includes both a natural and an artificial inland waterway;
- “sea adjacent to Wales” means the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.
- (7) An order under section 158(3) of the Government of Wales Act 2006 determining, or making provision for determining, any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not applies for the purposes of the definition of “sea adjacent



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to Wales”” in this section as it applies for the purposes of the definition of ““Wales”” in that Act.”

**Commencement Information**

**I50** S. 56 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(I)

**57 Maritime and Coastguard Agency**

(1) In section 1 of the Coastguard Act 1925 (transfer of the coastguard to the Board of Trade), after subsection (4) insert—

“(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to activities of Her Majesty's Coastguard in Wales.

(6) In subsection (5) ““Wales”” has the same meaning as in the Government of Wales Act 2006.”

(2) In section 292 of the Merchant Shipping Act 1995 (general functions of the Secretary of State), after subsection (4) insert—

“(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to the safety standards of ships in Wales and protecting the health and safety of persons on them.

(6) In subsection (5) ““Wales”” has the same meaning as in the Government of Wales Act 2006.”

**Commencement Information**

**I51** S. 57 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(I)

**58 Gaming machines on licensed betting premises**

(1) In section 172 of the Gambling Act 2005 (gaming machines), in subsection (12) (definition of ““appropriate Minister””), after paragraph (a) insert—

“(aa) the Welsh Ministers, so far as, in the case of a betting premises licence in respect of premises in Wales and not in respect of a track, the order varies—

(i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or

(ii) whether such machines are authorised;”.

(2) In section 355 of that Act (regulations, orders and rules)—

(a) in subsection (1), after ““the Secretary of State”” insert “, the Welsh Ministers”;

(b) in subsection (3), after ““the Secretary of State”” insert “ or the Welsh Ministers”;

(c) after subsection (8) insert—

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“(8A) An order of the Welsh Ministers under section 172 shall not be made unless a draft has been laid before and approved by resolution of the National Assembly for Wales.”

- (3) The amendments made by this section do not apply in relation to a betting premises licence issued before this section comes into force.

#### Commencement Information

**I52** S. 58 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

### PART 3

#### WELSH TRIBUNALS

#### 59 The Welsh tribunals

- (1) In this Part ““Welsh tribunal”” means—
- (a) the Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru;
  - (b) the Mental Health Review Tribunal for Wales;
  - (c) a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal);
  - [<sup>F3</sup>(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;]
  - (e) a tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27);
  - (f) a tribunal drawn from the Adjudication Panel for Wales or Panel Dyfarnu Cymru;
  - (g) the Welsh Language Tribunal or Tribiwnlys y Gymraeg.
- (2) Her Majesty may by Order in Council amend subsection (1)—
- (a) so as to remove or revise a paragraph,
  - (b) so as to add or substitute a tribunal whose functions—
    - (i) are exercisable only in relation to Wales, and
    - (ii) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006), or
  - (c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).
- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (4) Subsection (3) does not apply to a statutory instrument containing an Order in Council that only makes—

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- (a) provision for the omission of a paragraph in subsection (1) where the tribunal concerned has ceased to exist,
- (b) provision for the variation of a paragraph in consequence of a change of name or transfer of functions, or
- (c) amendments within subsection (2)(c).

Such an Order in Council is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

**F3** S. 59(1)(d) substituted (1.9.2021) by [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, **10(2)**

#### Commencement Information

**I53** S. 59 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), **reg. 2**

## 60 President of Welsh Tribunals

- (1) The Lord Chief Justice of England and Wales may appoint a person to the office of President of Welsh Tribunals or Llywydd Tribiwnlysoedd Cymru.
- (2) The President of Welsh Tribunals is not a devolved Welsh authority for the purposes of the Government of Wales Act 2006.
- (3) Schedule 5 makes further provision about the President of Welsh Tribunals and about appointments under subsection (1).
- (4) A holder of the office of President of Welsh Tribunals must, in carrying out the functions of that office, have regard to—
  - (a) the need for the Welsh tribunals to be accessible;
  - (b) the need for proceedings before those tribunals—
    - (i) to be fair, and
    - (ii) to be handled quickly and efficiently;
  - (c) the need for members of those tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters;
  - (d) the need to develop innovative methods of resolving disputes that are of a type that may be brought before those tribunals.
- (5) The President of Welsh Tribunals is responsible—
  - (a) for the maintenance of appropriate arrangements for the training, guidance and welfare of members of the Welsh tribunals within the resources made available by the Welsh Ministers;
  - (b) for representing the views of members of the Welsh tribunals to the Welsh Ministers and to other members of the National Assembly for Wales.

#### Commencement Information

**I54** S. 60 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), **reg. 2**

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## 61 Directions as to practice and procedure

- (1) The President of Welsh Tribunals may give directions as to the practice and procedure to be followed by the Welsh tribunals.
- (2) The president or chairman of a Welsh tribunal may give directions as to the practice and procedure to be followed by that tribunal.
- (3) A power under this section to give directions includes—
  - (a) power to vary or revoke directions made in the exercise of the power;
  - (b) power to make different provision for different purposes (including different provision for different areas);
  - (c) (in the case of directions by the President of Welsh Tribunals) power to make different provision for different tribunals.
- (4) Directions under this section may not be given without the approval of the Welsh Ministers.
- (5) Subsection (4) does not apply to directions to the extent that they consist of guidance about any of the following—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the Welsh tribunals.
- (6) Subsection (4) does not apply to directions to the extent that they consist of criteria for determining which members of the Welsh tribunals may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Welsh Ministers.
- (7) Before the President of Welsh Tribunals gives directions under this section he or she must consult the president or chairman of each Welsh tribunal to which the directions relate.
- (8) Before the president or chairman of a Welsh tribunal gives directions under this section he or she must consult the President of Welsh Tribunals.
- (9) A person giving, varying or revoking directions under this section must publish the directions, or the variation or revocation, in whatever way the person thinks appropriate.

### Commencement Information

**I55** S. 61 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351, reg. 2](#)

## 62 Cross-deployment of members of the Welsh tribunals

- (1) In Schedule 9 to the Agriculture Act 1947 (Agricultural Land Tribunal etc), in paragraph 15A, after sub-paragraph (1) insert—
 

“(1A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Agricultural Land Tribunal may, at the request of the Chairman of the Agricultural Land Tribunal and with the approval of the President of Welsh Tribunals, act as a member of the Agricultural Land Tribunal.”

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- (2) In Schedule 10 to the Rent Act 1977 (rent assessment committees), after paragraph 5A insert—

“5B A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of a rent assessment committee in Wales may, at the request of the president or vice-president of the panel and with the approval of the President of Welsh Tribunals, act as a member of such a committee.”

- (3) In Schedule 2 to the Mental Health Act 1983 (Mental Health Review Tribunal for Wales), in paragraph 5—

- (a) after sub-paragraph (1) insert—

“(1A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Tribunal but who is eligible to decide any matter in a case under this Act may, at the request of the President of the Mental Health Review Tribunal for Wales and with the approval of the President of Welsh Tribunals, act as a member of the Mental Health Review Tribunal for Wales.”;

- (b) in sub-paragraph (3), after ““sub-paragraph (1)”” insert “ or (1A) ”.

<sup>F4</sup>(4) .....

- (5) In section 75 of the Local Government Act 2000 (Adjudication Panel for Wales), at the end insert—

“(12) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Adjudication Panel for Wales may, at the request of the president or the deputy president (if any) and with the approval of the President of Welsh Tribunals, act as a member of a tribunal drawn from the Panel.”

- (6) In Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27), in paragraph 1, after sub-paragraph (3) insert—

“(3A) A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of a tribunal constituted to hear an appeal under section 27 may act as a member of such a tribunal at the request of its chairman and with the approval of the President of Welsh Tribunals.”

- (7) In Schedule 11 to the Welsh Language (Wales) Measure 2011 (nawm 1) (the Welsh Language Tribunal)—

- (a) in the Welsh text, after Rhan 2 insert—

## “RHAN 2A

### TRAWS-LEOLI AELODAU'R TRIBIWNLYS

9A

Ar gais y Llywydd a chyda chymeradwyaeth Llywydd Tribiwnlysoedd Cymru, caiff aelod o dribiwnlys sydd wedi'i restru

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- yn adran 59 o Ddeddf Cymru 2017 (Tribiwnlysoedd Cymru), ac nad  
 yw'n aelod o'r Tribiwnlys, weithredu fel aelod o'r Tribiwnlys.”;
- (b) in the English text, after Part 2 insert—

## “PART 2A

### CROSS-DEPLOYMENT OF TRIBUNAL MEMBERS

- 9A A member of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals) who is not a member of the Tribunal may, at the request of the President and with the approval of the President of Welsh Tribunals, act as a member of the Tribunal.”

#### Textual Amendments

- F4** S. 62(4) omitted (1.9.2021) by virtue of [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, **10(3)**

#### Commencement Information

- I56** S. 62 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), **reg. 2**

## 63 Cross-deployment of tribunal members and judges

- (1) A member of a Welsh tribunal may act as a member of the First-tier Tribunal if—
  - (a) the Senior President of Tribunals asks the member to do so, and
  - (b) the President of Welsh Tribunals agrees to the request being made.
- (2) A judge or other member of—
  - (a) the First-tier Tribunal, or
  - (b) the Upper Tribunal,
 may act as a member of a specified Welsh tribunal if the President of Welsh Tribunals asks the member to do so and the Senior President of Tribunals agrees to the request being made.
- (3) Subsection (2) does not apply to a tribunal member who is a relevant judge.
- (4) A relevant judge may act as a member of a specified Welsh tribunal if—
  - (a) the President of Welsh Tribunals asks the judge to do so, and
  - (b) the Lord Chief Justice of England and Wales agrees to the request being made.
- (5) In subsections (2) and (4) “specified” means specified in the request.
- (6) In this section “relevant judge” means—
  - (a) a judge of the Senior Courts;
  - (b) a deputy judge of the High Court;
  - (c) a Circuit judge;
  - (d) a deputy Circuit judge;
  - (e) a recorder;

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- (f) a district judge;
  - (g) a deputy district judge;
  - (h) a District Judge (Magistrates' Courts);
  - (i) a Deputy District Judge (Magistrates' Courts);
  - (j) the holder of an office listed in—
    - (i) the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc), or
    - (ii) column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc).
- (7) A reference in this section to—
  - (a) the President of Welsh Tribunals,
  - (b) the Senior President of Tribunals, or
  - (c) the Lord Chief Justice of England and Wales,includes a reference to an individual designated by that person to exercise the person's functions under this section.
- (8) A designation made by a person under subsection (7) that is in force immediately before the person ceases to hold the office in question continues in force until varied or revoked by a subsequent holder of that office.

#### Commencement Information

**I57** S. 63 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351, reg. 2](#)

## 64 Power to amend section 63

- (1) The Lord Chancellor may by regulations amend subsection (2) of section 63—
  - (a) so as to add a tribunal to those listed,
  - (b) so as to remove or revise a reference to a tribunal added under paragraph (a), or
  - (c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).
- (2) Regulations under this section may not add a tribunal whose functions—
  - (a) are exercisable only in relation to Wales, and
  - (b) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006).
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing regulations that only make—
  - (a) provision for the omission of a reference to a tribunal that has ceased to exist,
  - (b) provision for the variation of a reference in consequence of a change of name or transfer of functions, or
  - (c) amendments within subsection (1)(c).

Such an instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

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#### Commencement Information

**I58** S. 64 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), [reg. 2](#)

## PART 4

### MISCELLANEOUS

#### 65 Provision of information to the Office for Budget Responsibility

After section 66 of the Government of Wales Act 2006 insert—

##### “66A Provision of information to the Office for Budget Responsibility

- (1) The Office for Budget Responsibility has a right of access at any reasonable time to all information held by—
  - (a) the Welsh Ministers, or
  - (b) any devolved Welsh authority within paragraph (a) or (b) of section 157A(1) that is specified in regulations made by the Secretary of State,

that it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).
- (2) The Office is entitled to require from any person holding or accountable for such information any assistance or explanation that the Office reasonably thinks necessary for that purpose.
- (3) No regulations are to be made under subsection (1)(b) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) This section is subject to any enactment or rule of law that operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.”

#### Commencement Information

**I59** S. 65 in force at 1.4.2018 by [S.I. 2017/1179](#), [reg. 3\(m\)](#)

#### 66 Gas and Electricity Markets Authority

- (1) In section 37 of the Government of Wales Act 2006 (witnesses and documents: power to call), after subsection (6) insert—

“(6A) Subsection (1) applies in relation to requirements imposed on a person in connection with the discharge of the functions of the Gas and Electricity Markets Authority in relation to Wales with the omission of the words after paragraph (b).”



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- (2) In section 5 of the Utilities Act 2000 (annual and other reports of Authority)—
- (a) in subsection (5)(aa), after ““the Scottish Ministers”” insert “ and the Welsh Ministers ”;
  - (b) after subsection (5A) insert—  
“(5B) The Welsh Ministers shall lay a copy of each annual report before the National Assembly for Wales.”
- (3) In section 5XA of that Act (laying of accounts before Scottish Parliament)—
- (a) in the heading, after ““Scottish Parliament”” insert “ and Welsh Assembly ”;
  - (b) in subsection (2), after ““the Scottish Ministers”” insert “ and the Welsh Ministers ”;
  - (c) after subsection (3) insert—  
“(3A) The Welsh Ministers must lay a copy of whatever is sent to them under subsection (2) before the National Assembly for Wales.”

**Commencement Information**

**I60** S. 66 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(m)

**67 Licensing of coal-mining operations: approval by Welsh Ministers**

After section 26 of the Coal Industry Act 1994 insert—

**“26A Licences for coal-mining operations in Wales: approval by Welsh Ministers**

- (1) If or to the extent that a licence under this Part authorises coal-mining operations in relation to coal in Wales, it shall have effect only if the Welsh Ministers notify the Authority that they approve the authorisation.
- (2) In this section ““Wales”” has the meaning given in section 158(1) of the Government of Wales Act 2006.”

**Commencement Information**

**I61** S. 67 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(m)

**68 Office of Communications**

- (1) Section 1 of the Office of Communications Act 2002 (the Office of Communications) is amended as set out in subsections (2) to (5).
- (2) In subsection (3), after paragraph (aa) insert—  
“(ab) a member appointed by the Welsh Ministers;”.
- (3) After subsection (3A) insert—  
“(3B) Before appointing a member under subsection (3)(ab) the Welsh Ministers must consult the Secretary of State.”

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- (4) In subsection (5), before ““and (b),”” insert “ , (ab) ”.
- (5) After subsection (11) insert—
- “(12) Paragraphs 1 and 2 of the Schedule apply in relation to the appointment made under subsection (3)(ab) as if—
- (a) any reference to the Secretary of State were to the Welsh Ministers, and
  - (b) after the paragraph 2(7) treated as inserted by subsection (11) there were inserted—
- “(8) Before the Welsh Ministers remove a person from office they must consult the Secretary of State.””
- (6) The Schedule to that Act is amended as set out in subsections (7) and (8).
- (7) In paragraph 11 (accounts and audit)—
- (a) in sub-paragraph (3)(c), after ““the Scottish Ministers”” insert “ and the Welsh Ministers ”;
  - (b) after sub-paragraph (4) insert—
- “(5) The Welsh Ministers shall lay a copy of the statement and report sent to them under sub-paragraph (3) before the National Assembly for Wales.”
- (8) In paragraph 12 (annual report)—
- (a) in sub-paragraph (1), for ““and the Scottish Ministers”” substitute “ , the Scottish Ministers and the Welsh Ministers ”;
  - (b) after sub-paragraph (4) insert—
- “(5) The Welsh Ministers shall lay a copy of every report sent to them under this paragraph before the National Assembly for Wales.”

#### Commencement Information

**I62** S. 68 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(m)

## PART 5

### GENERAL

#### 69 Consequential provision

- (1) Schedule 6 contains minor and consequential amendments.
- (2) The Secretary of State may by regulations make such consequential provision in connection with any provision of this Act as the Secretary of State considers appropriate.
- (3) Regulations under subsection (2) may amend, repeal, revoke or otherwise modify—
  - (a) an enactment contained in primary legislation, or
  - (b) an instrument made under an enactment contained in primary legislation.

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- (4) Regulations under subsection (2) may make—
  - (a) different provision for different purposes or cases;
  - (b) provision generally or for specific cases;
  - (c) provision subject to exceptions;
  - (d) provision for the delegation of functions;
  - (e) transitional or saving provision.
- (5) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (2) that includes provision amending or repealing any provision of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (7) Any other statutory instrument containing regulations under subsection (2), if made without a draft having been approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section ““primary legislation”” means—
  - (a) an Act of Parliament;
  - (b) a Measure or Act of the National Assembly for Wales.

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

**C1** S. 69(2) modified (1.4.2018 for specified purposes, 1.5.2018 for E.W.S.) by [Digital Economy Act 2017 \(c. 30\)](#), [ss. 45\(11\)](#), [118\(4\)\(5\)](#); [S.I. 2018/342](#), [reg. 3\(1\)\(i\)](#); [S.I. 2018/382](#), [reg. 3\(j\)](#)

#### **Commencement Information**

**I63** S. 69(2)-(8) in force for specified purposes at Royal Assent, see. 71(1)(a)

**I64** S. 69(1) in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later, for specified purposes by [S.I. 2017/351](#), [reg. 2](#)

**I65** S. 69(1) in force at 1.4.2018 for specified purposes by [S.I. 2017/1179](#), [reg. 3\(n\)](#)

## **70 Transitional provision and savings**

- (1) Schedule 7 contains transitional provision and savings.
- (2) The Secretary of State may by regulations make any other transitional or saving provision that may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) Regulations under subsection (2) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act.
- (4) Regulations under subsection (2) may make—
  - (a) different provision for different purposes or cases;
  - (b) provision generally or for specific cases;
  - (c) provision subject to exceptions.
- (5) Nothing in Schedule 7 limits the power conferred by subsection (2).

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- (6) Nothing in that Schedule, or in any provision made by virtue of subsection (2), prejudices the operation of sections 16 and 17 of the Interpretation Act 1978.
- (7) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (8) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

## 71 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) section 69(2) to (8);
  - (b) section 70 and Schedule 7;
  - (c) this section;
  - (d) section 72.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - (a) sections 1 and 2;
  - (b) sections 14 and 15;
  - (c) section 16, and sections 9 and 10 so far as relating to a provision of a Bill that would change the name of the Assembly or confer power to do so;
  - (d) sections 17 and 18;
  - (e) section 43, and sections 39(4) and (6) and 42(4) for the purposes of section 43;
  - (f) section 48(2);
  - (g) sections 50 and 51.
- (3) Section 3 and Schedules 1 and 2 come into force on the day appointed by the Secretary of State by regulations under this subsection (“the principal appointed day”).
 

Before making regulations under this subsection the Secretary of State must consult the Welsh Ministers and the Presiding Officer of the National Assembly for Wales.
- (4) The other provisions of this Act come into force on whatever day or days the Secretary of State appoints by regulations.
 

Regulations under subsection (3) may appoint the principal appointed day for any of those provisions.
- (5) The power to make regulations under this section is exercisable by statutory instrument.
- (6) The principal appointed day, or a day appointed under subsection (4), must be after the end of the period of four months beginning with the day on which the regulations appointing that day are made.
- (7) Regulations under this section (other than regulations bringing into force section 3 and Schedules 1 and 2) may appoint different days for different purposes.

## 72 Short title

This Act may be cited as the Wales Act 2017.

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## SCHEDULES

### SCHEDULE 1

Section 3

#### NEW SCHEDULE 7A TO THE GOVERNMENT OF WALES ACT 2006

##### Commencement Information

**I66** Sch. 1 in force at 1.4.2018 by S.I. 2017/1179, reg. 2

This Schedule sets out the new Schedule 7A to the Government of Wales Act 2006, to be substituted (with the new Schedule 7B) for Schedule 7 to that Act—

#### “SCHEDULE 7A

Section 108A

#### RESERVED MATTERS

#### PART 1

#### GENERAL RESERVATIONS

##### *The Constitution*

- 1 The following aspects of the constitution are reserved matters—
  - (a) the Crown, including succession to the Crown and a regency;
  - (b) the union of the nations of Wales and England;
  - (c) the Parliament of the United Kingdom.
- 2 (1) Paragraph 1 does not reserve—
  - (a) Her Majesty's executive functions,
  - (b) functions exercisable by any person acting on behalf of the Crown, or
  - (c) the use of the Welsh Seal.
  - (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate.
  - (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
  - (4) In this paragraph ““executive function”” does not include a function conferred or imposed by or by virtue of any legislation or the prerogative.
- 3 (1) Paragraph 1 does not reserve property belonging—
  - (a) to Her Majesty in right of the Crown,
  - (b) to Her Majesty in right of the Duchy of Lancaster, or
  - (c) to the Duchy of Cornwall.

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- (2) Paragraph 1 does not reserve property belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.
- (3) Sub-paragraphs (1) and (2) do not affect the reservation by paragraph 1 of—
- (a) the hereditary revenues of the Crown,
  - (b) the royal arms and standard, or
  - (c) the compulsory acquisition of property—
    - (i) belonging to Her Majesty in right of the Crown;
    - (ii) belonging to Her Majesty in right of the Duchy of Lancaster;
    - (iii) belonging to the Duchy of Cornwall;
    - (iv) held or used by a Minister of the Crown or government department.
- 4 (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.

*Public service*

- 5 The Civil Service of the State is a reserved matter.

*Political parties*

- 6 The following are reserved matters—
- (a) the registration of political parties;
  - (b) funding of political parties and of their members and officers;
  - (c) accounting requirements in relation to political parties;
- but this is subject to paragraph 7.
- 7 Paragraph 6 does not reserve making payments to any political party for the purpose of assisting members of the Assembly who are connected with the party to perform their Assembly duties.

*Single legal jurisdiction of England and Wales*

- 8 (1) The following are reserved matters—
- (a) courts (including, in particular, their creation and jurisdiction);
  - (b) judges (including, in particular, their appointment and remuneration);
  - (c) civil or criminal proceedings (including, in particular, bail, costs, custody pending trial, disclosure, enforcement of orders of courts, evidence, sentencing, limitation of actions, procedure, prosecutors and remedies);
  - (d) pardons for criminal offences;
  - (e) private international law;
  - (f) judicial review of administrative action.

(See also paragraphs 3 and 4 of Schedule 7B (restrictions on modifying private law and criminal law).)

- (2) The reference to prosecutors in sub-paragraph (1)(c) does not prevent an Act of the Assembly from making provision about responsibility for the prosecution of devolved offences.

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- (3) Sub-paragraph (1) does not reserve—
- (a) welfare advice to courts in respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question;
  - (b) representation in respect of such proceedings;
  - (c) the provision of support (including information and advice), to children ordinarily resident in Wales and their families, in respect of such proceedings;
  - (d) Welsh family proceedings officers.

#### *Tribunals*

- 9 (1) Tribunals, including—
- (a) their membership,
  - (b) the appointment and remuneration of their members,
  - (c) their functions and procedure, and
  - (d) appeals against their decisions,
- are a reserved matter.
- (2) But this paragraph does not apply to a tribunal (a “devolved tribunal”) all of whose functions are functions that—
- (a) are exercisable only in relation to Wales, and
  - (b) do not relate to reserved matters.
- (3) In the case of a tribunal which has functions that do not relate to reserved matters, sub-paragraph (1) does not reserve any function of deciding an appeal or application which—
- (a) relates to a matter that is not a reserved matter, and
  - (b) is not an appeal against the decision of a tribunal (other than a devolved tribunal),
- but it does reserve the tribunal's procedure in relation to that function.
- (4) In determining for the purposes of this paragraph whether functions of a tribunal are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (5) Where the question whether this paragraph applies to a particular tribunal is relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for deciding the question is the time when the Act is passed.

#### *Foreign affairs etc*

- 10 (1) International relations, regulation of international trade, and international development assistance and co-operation are reserved matters.
- (2) In sub-paragraph (1) “international relations” includes—
- (a) relations with territories outside the United Kingdom;
  - (b) relations with the EU and its institutions;

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- (c) relations with other international organisations.
- (3) But sub-paragraph (1) does not reserve—
  - (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under EU law, or
  - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.
- (4) In this paragraph ““the Human Rights Convention”” means—
  - (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and
  - (b) the Protocols to the Convention,
 as they have effect for the time being in relation to the United Kingdom.

### *Defence*

- 11 The following are reserved matters—
- (a) the defence of the realm;
  - (b) the naval, military or air forces of the Crown, including reserve forces;
  - (c) visiting forces;
  - (d) international headquarters and defence organisations;
  - (e) trading with the enemy and enemy property.

## PART 2

### SPECIFIC RESERVATIONS

#### *Preliminary*

- 12 The matters to which any of the Sections in this Part apply are reserved matters.
- 13 A Section applies to any matter described or referred to in it when read with any exceptions or interpretation provisions in that Section.
- 14 Any exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading ““Exceptions”” does not affect any other Section).

### *RESERVATIONS*

#### *Head A—Financial and Economic Matters*

##### *Section A1A1 Fiscal, economic and monetary policy*

- 15 Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

#### *Exceptions*

Devolved taxes, including their collection and management.

Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates).

##### *Section A2A2 The currency*



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16 Coinage, legal tender and bank notes.

Section A3A3 *Financial services*

17 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

Section A4A4 *Financial markets*

18 Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

Section A5A5 *Dormant accounts*

19 Distribution of money from dormant bank and building society accounts.

### *Head B—Home Affairs*

Section B1B1 *Elections*

#### ***(A) Elections for membership of the House of Commons and the European Parliament***

20 Elections for membership of the House of Commons and the European Parliament, including the subject-matter of existing elections Acts so far as they apply, or may be applied, in respect of such membership.

#### ***(B) Elections for membership of the Assembly and local government elections in Wales***

21 The subject-matter of sections 3(1A) and 13A of this Act (coincidence of Assembly elections and reserved elections).

22 The subject-matter of section 37ZA(2) of the Representation of the People Act 1983 (coincidence of local government elections and Assembly elections).

23 The combination of—

- (a) polls at elections or referendums that are outside the legislative competence of the Assembly with polls at—
  - (i) elections of Assembly members,
  - (ii) local government elections in Wales, or
  - (iii) referendums held under Part 2 of the Local Government Act 2000 (arrangements in respect of executives etc), and
- (b) polls at ordinary general elections of Assembly members with polls at ordinary local government elections in Wales.

24 Any digital service provided by a Minister of the Crown for the registration of electors.

25 The subject-matter of the following provisions of the Political Parties, Elections and Referendums Act 2000 in relation to elections of Assembly members and local government elections in Wales—

in Part 1 (Electoral Commission)—

- (a) section 1, except in relation to—
  - (i) financing the Commission,
  - (ii) preparation, laying and publication by it of reports about the performance of its functions, and
  - (iii) provision by it of copies of regulations made by it or notice of the alteration or revocation of such regulations;

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(b) sections 2 to 4 and 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs);

(c) sections 12 and 21;

Parts 2 to 4A (registration of parties, accounting, donations, loans etc);

section 140A (gifts received by unincorporated associations);

in Part 10 (miscellaneous and general)—

(a) section 149, except in relation to the register kept under section 89;

(b) sections 155 and 156 except in relation to Parts 5 and 6;

(c) sections 157 and 159 to 163.

26 The subject-matter of Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) where a limit applies to expenditure in relation to a period determined by reference to both—

(a) the date of the poll for an election of Assembly members or a local government election in Wales, and

(b) the date of the poll at an election for membership of the House of Commons or the European Parliament.

27 The subject-matter of sections 145 to 148 and 150 to 154 of the Political Parties, Elections and Referendums Act 2000 (enforcement and offences) as they apply for the purposes of any provision, so far as the subject-matter of the provision is reserved by paragraph 25 or 26.

#### *Interpretation*

““Existing elections Acts”” means—

(a) the Representation of the People Act 1983,

(b) the Representation of the People Act 1985,

(c) the Parliamentary Constituencies Act 1986,

(d) the Representation of the People Act 2000,

(e) the Political Parties, Elections and Referendums Act 2000,

(f) the European Parliamentary Elections Act 2002,

(g) the Electoral Administration Act 2006, and

(h) the Electoral Registration and Administration Act 2013.

““Local government elections in Wales”” includes mayoral elections in Wales.

#### *Section B2B2 Nationality and immigration*

28 Nationality.

29 Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens.

30 Free movement of persons within the European Economic Area.

31 Travel documents.

#### *Section B3B3 National security and official secrets*

32 National security.

33 Special powers, and other special provisions, for dealing with terrorism.

34 The subject-matter of the Official Secrets Acts 1911 to 1989.

#### *Section B4B4 Interception of communications, communications data and surveillance*

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- 35 Interception of communications.
- 36 Communications data.
- 37 Covert surveillance by persons exercising public functions.
- 38 Use of surveillance systems.

*Interpretation*

“Covert surveillance” includes the use of covert human intelligence sources.

Section B5B5 *Crime, public order and policing*

- 39 The prevention, detection and investigation of crime.
- 40 The maintenance of public order.
- 41 Policing.
- 42 Police and crime commissioners.

*Exception*

Powers of entry, search and seizure relating to the detection or investigation of an offence of a kind provision for the creation of which is within the Assembly's legislative competence.

Section B6B6 *Anti-social behaviour*

- 43 The subject-matter of Parts 1 to 4 and 6 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 44 Dangerous dogs and dogs dangerously out of control.

Section B7B7 *Modern Slavery*

- 45 The subject-matter of the Modern Slavery Act 2015.

Section B8B8 *Prostitution*

- 46 Prostitution.

Section B9B9 *Emergency powers*

- 47 Emergency powers.

Section B10B10 *Extradition*

- 48 Extradition.

Section B11B11 *Rehabilitation of offenders*

- 49 The subject-matter of the Rehabilitation of Offenders Act 1974.

Section B12B12 *Criminal records*

- 50 Criminal records, including disclosure and barring.

Section B13B13 *Dangerous items*

- 51 The subject-matter of the Firearms Acts 1968 to 1997.
- 52 The subject-matter of the Poisons Act 1972.
- 53 Knives.

*Interpretation*

“Knives” includes—

- (a) knife blades and razor blades;
- (b) axes;
- (c) swords.

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Section B14B14 *Misuse of and dealing in drugs or psychoactive substances*

54 Misuse of and dealing in drugs or psychoactive substances.

*Interpretation*

“Psychoactive substances” has the meaning given in section 2 of the Psychoactive Substances Act 2015.

Section B15B15 *Private security*

55 Private security.

Section B16B16 *Entertainment and late night refreshment.*

56 Classification of films and video recordings (including video games).

57 Licensing of—

- (a) the provision of entertainment, and
- (b) late night refreshment.

Section B17B17 *Alcohol*

58 The sale and supply of alcohol.

Section B18B18 *Betting, gaming and lotteries*

59 Betting, gaming and lotteries.

*Exception*

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).

Section B19B19 *Hunting*

60 Hunting with dogs.

Section B20B20 *Scientific and educational procedures on live animals*

61 Procedures on live animals for scientific or educational purposes.

Section B21B21 *Lieutenancies*

62 Lieutenancies.

Section B22B22 *Charities and fund-raising*

63 Charities.

64 Raising funds for charitable, benevolent or philanthropic purposes.

*Interpretation*

“Funds” includes property other than money.

*Head C—Trade and Industry*

Section C1C1 *Business associations and business names*

65 The creation, operation, regulation and dissolution of types of business association.

66 The regulation of the name under which an individual or business association carries on business.

*Exception*

The creation, operation, regulation and dissolution of particular public bodies, or public bodies of a particular type, established by or under any enactment.

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### *Interpretation*

““Business association”” means any entity, whether or not a legal person, that is not an individual (including a body corporate, partnership or other unincorporated association) and is established for the purpose of carrying on any kind of business, whether or not for profit.

““Business”” includes the provision of benefits to the members of an association.

#### Section C2C2 *Insolvency and winding up*

67 Insolvency.

68 Winding up solvent business associations.

### *Interpretation*

““Business association”” has the same meaning as in Section C1.

#### Section C3C3 *Competition*

69 Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

#### Section C4C4 *Intellectual property*

70 Intellectual property.

### *Exception*

Plant varieties and seeds.

#### Section C5C5 *Import and export control*

71 Prohibition and regulation of imports and exports

### *Exceptions*

Prohibition and regulation of movement into and out of Wales of food, plants, animals and related things for the purposes of—

- (a) protecting human, animal or plant health, animal welfare or the environment, or
- (b) observing or implementing obligations under the Common Agricultural Policy.

Prohibition and regulation of movement into and out of Wales of animal feeding stuffs, fertilisers or pesticides (or things treated by virtue of an enactment as pesticides) for the purposes of protecting human, animal or plant health or the environment.

But prohibition and regulation for the purposes of protecting endangered species of plants and animals is not excepted.

### *Interpretation*

““Food”” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

““Plants”” includes plant parts and derivatives and goods appearing to contain plant parts or derivatives (and the reference to endangered species of plants includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

““Animals”” includes animal parts and derivatives and goods appearing to contain animal parts or derivatives (and the reference to endangered species of animals includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

#### Section C6C6 *Consumer protection*

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- 72 Regulation of—
- (a) the sale and supply of goods and services to consumers,
  - (b) guarantees in relation to such goods and services,
  - (c) hire-purchase, including the subject-matter of Part 3 of the Hire-Purchase Act 1964 (title to motor vehicles on hire-purchase or conditional sale),
  - (d) trade descriptions,
  - (e) advertising and price indications,
  - (f) auctions and mock auctions of goods and services, and
  - (g) hallmarking and gun barrel proofing.
- 73 Safety of, and liability for, services supplied to consumers.
- 74 The regulation of—
- (a) estate agents,
  - (b) timeshares, and
  - (c) package travel and package holidays.
- 75 The regulation of—
- (a) unsolicited goods and services, and
  - (b) trading schemes.
- 76 The subject-matter of Part 8 of the Enterprise Act 2002 (enforcement of certain consumer legislation).

*Exceptions*

Food, food products and food contact materials.

Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

*Interpretation*

““Food”” has the same meaning as in Section C5.

““Food contact materials”” means materials and articles to which Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC applies.

““Food products”” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

Section C7C7 *Product standards, safety and liability*

- 77 Technical standards and requirements in relation to products in pursuance of an obligation under EU law.
- 78 The national accreditation body and the accreditation of bodies that certify or assess conformity to technical standards in relation to products or environmental management systems.
- 79 Product safety and liability.
- 80 Product labelling.

*Exceptions*

Food, food products and food contact materials.

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Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

*Interpretation*

““Food”” has the same meaning as in Section C5.

““Food contact materials”” and ““food products”” have the same meaning as in Section C6.

““National accreditation body”” means the body appointed for the purposes of Article 4(1) of Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93.

Section C8C8 *Weights and measures*

81 Units and standards of weight and measurement.

82 Regulation of trade so far as involving weighing, measuring and quantities.

Section C9C9 *Telecommunications and wireless telegraphy*

83 Telecommunications and wireless telegraphy (including electromagnetic disturbance).

84 Internet services.

85 Electronic encryption.

Section C10C10 *Post*

86 Postal services, post offices, the original holding company and any Post Office company.

*Exception*

Financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices.

*Interpretation*

““The original holding company”” and ““Post Office company”” have the same meaning as in Part 1 of the Postal Services Act 2011.

Section C11C11 *Research Councils*

87 Research Councils within the meaning of the Science and Technology Act 1965, and the subject-matter of section 5 of that Act (funding of scientific research) so far as relating to those Councils.

88 The Arts and Humanities Research Council within the meaning of Part 1 of the Higher Education Act 2004, and the subject-matter of section 10 of that Act (research in arts and humanities) so far as relating to that Council.

Section C12C12 *Industrial development*

89 The subject-matter of—

- (a) section 1 of the Industrial Development Act 1982 (assisted areas),
- (b) section 8(5) and (7) of that Act (limits on financial assistance to industry), and
- (c) section 13A of that Act (grants for improvement of electronic communications networks and services etc),

and the Industrial Development Advisory Board.

Section C13C13 *Protection of trading and economic interests*

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- 90 The subject-matter of—
- (a) Part 2 of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and
  - (b) the Protection of Trading Interests Act 1980.

Section C14C14 *Assistance in connection with exports of goods and services etc*

91 The Export Credits Guarantee Department.

Section C15C15 *Water and sewerage*

92 Appointment and regulation of a water or sewerage undertaker whose area is not wholly or mainly in Wales.

93 Licensing and regulation of a water supply or sewerage licensee.

*Exceptions*

Regulation of a water supply licensee in relation to licensed activities that use the supply system of a water undertaker whose area is wholly or mainly in Wales.

Regulation of a sewerage licensee in relation to licensed activities that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.

*Interpretation*

““Sewerage licensee”” and ““water supply licensee”” have the same meaning as in the Water Industry Act 1991.

““Supply system of a water undertaker”” has the meaning given in section 17B of that Act.

““Sewerage system of a sewerage undertaker”” has the meaning given in section 17BA of that Act.

Section C16C16 *Pubs Code Adjudicator and the Pubs Code*

94 The subject-matter of Part 4 of the Small Business, Enterprise and Employment Act 2015.

Section C17C17 *Sunday trading*

95 Sunday trading.

*Head D—Energy*

Section D1D1 *Electricity*

96 Generation, transmission, distribution and supply of electricity.

Section D2D2 *Oil and gas*

97 Oil and gas, including—

- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas,
- (b) pipelines and offshore installations,
- (c) marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to oil and gas exploration and exploitation,
- (d) restrictions on navigation, fishing and other activities to ensure safe operation of offshore activities,
- (e) liquefaction and regasification of gas,
- (f) the manufacture or production of gas, and
- (g) the conveyance, shipping and supply of gas.

*Exceptions*



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The granting and regulation of licences to search and bore for and get petroleum that, at the time of the grant of the licence, is within the Welsh onshore area, except for any consideration payable for such licences.

Access to land for the purpose of searching or boring for or getting petroleum under such a licence.

Marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to searching or boring for or getting petroleum under such a licence.

#### *Interpretation*

““Petroleum”” means petroleum within the meaning given by section 1 of the Petroleum Act 1998 in its natural state in strata.

““Welsh onshore area”” means the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

#### *Section D3D3 Coal*

- 98 Coal, including—
- (a) the ownership and exploitation of coal,
  - (b) deep and opencast coal mining,
  - (c) subsidence relating to coal mining, and
  - (d) water discharge from coal mines.

#### *Exception*

Land restoration.

#### *Section D4D4 Nuclear energy*

- 99 Nuclear energy and nuclear installations, including—
- (a) nuclear safety, security and safeguards, and
  - (b) liability for nuclear occurrences.

100 The Office for Nuclear Regulation.

#### *Section D5D5 Heat and cooling*

101 Production, distribution and supply of heat and cooling.

#### *Exceptions*

Heat and cooling networks, but not the regulation of them.

Schemes providing incentives to generate or produce, or to facilitate the generation or production of, heat or cooling from sources of energy other than fossil fuel or nuclear fuel.

#### *Interpretation*

““Heat and cooling network”” means a system or network by which steam, hot water or chilled liquid is distributed from a central source for supplying heat or cooling to various consumers or premises.

#### *Section D6D6 Energy conservation*

102 Energy conservation.

#### *Exception*

The encouragement of energy efficiency otherwise than by prohibition or regulation.

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### *Head E—Transport*

#### *Section E1E1 Road transport*

- 103 Road freight transport services in the United Kingdom (including goods vehicles operator licensing).
- 104 Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads.
- 105 Road traffic offences.
- 106 Driver licensing (including training, testing and certification).
- 107 Driving instruction.
- 108 Drivers' hours.
- 109 Traffic regulation on special roads, other than regulation relating to speed limits or traffic signs.
- 110 Exemptions from speed limits.
- 111 The application of traffic signs or pedestrian crossings to vehicles being used for a purpose that gives rise to an exemption from speed limits in Wales.
- 112 International road transport services for passengers or goods.
- 113 Public service vehicle operator licensing.
- 114 Documents relating to vehicles and drivers for the purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.
- 115 Vehicle insurance and vehicle registration.
- 116 The subject-matter of Parts 2 and 3 of the Severn Bridges Act 1992 so far as relating to the second Severn crossing.

#### *Exceptions*

The subject-matter of Part 6 of the Traffic Management Act 2004 (civil enforcement of traffic contraventions).

Regulation relating to trunk road charging schemes.

Regulation relating to the descriptions of motor vehicles and trailers that 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.

Regulation of the carriage of animals in motor vehicles or trailers for the purposes of protecting human, animal or plant health, animal welfare or the environment.

Licensing of taxis, taxi drivers, private hire vehicles, private hire vehicle drivers and private hire vehicle operators (but not enforcement by means of penalty points).

#### *Interpretation*

““Second Severn crossing”” means the bridge referred to as the new bridge in the Severn Bridges Act 1992.

““Trunk road charging schemes”” means schemes for imposing charges in respect of the use or keeping of vehicles on trunk roads in Wales (other than schemes in relation to the second Severn crossing).

#### *Section E2E2 Rail transport*

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117 Railway services.

118 The subject-matter of the Channel Tunnel Act 1987.

#### *Exception*

Financial assistance so far as relating to railway services; but this exception does not apply in relation to—

- (a) financial assistance relating to the carriage of goods,
- (b) financial assistance made in connection with a railway administration order, or
- (c) financial assistance 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.

#### *Interpretation*

“Railway services” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “railway” given by section 81(2) of that Act).

Section E3E3 *Marine and waterway transport etc*

119 Navigational rights and freedoms.

120 Shipping and technical and safety standards of vessels that are not ships (whether or not capable of navigation), including the subject-matter of—

- (a) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
- (b) the Dangerous Vessels Act 1985, and
- (c) the Merchant Shipping Act 1995.

121 Reserved trust ports and harbours not wholly in Wales.

122 Pilotage other than devolved pilotage.

123 Coastguard services and maritime search and rescue.

124 Hovercraft.

#### *Exceptions*

The reference to navigational rights and freedoms does not reserve the regulation of works that may obstruct or endanger navigation apart from works in relation to, or for constructing, reserved trust ports or harbours not wholly in Wales.

The reference to maritime search and rescue does not reserve participation by Welsh fire and rescue authorities in maritime search and rescue responses.

Financial assistance for shipping services to, from or within Wales.

Regulation of the carriage of animals on vessels for the purposes of protecting human, animal or plant health, animal welfare or the environment.

#### *Interpretation*

“Devolved pilotage” means pilotage that —

- (a) relates to a harbour wholly in Wales that is not a reserved trust port, and
- (b) is provided in a pilotage jurisdiction that does not extend beyond Wales.

“Pilotage jurisdiction” means an area in relation to which the duty of a competent harbour authority under section 2(1) of the Pilotage Act 1987 is exercisable.

“Reserved trust port” has the meaning given by section 32 of the Wales Act 2017.

Section E4E4 *Air transport*

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125 Aviation, air transport, airports and aerodromes.

*Exceptions*

Financial assistance to providers or proposed providers of air transport services or airport facilities or services.

Strategies by the Welsh Ministers or local or other public authorities about provision of air services.

Regulation of the carriage of animals on aircraft for the purposes of protecting human, animal or plant health, animal welfare or the environment.

Section E5E5 *Transport security*

126 Transport security.

*Exception*

Regulation of transport security relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training.

Section E6E6 *Other matters*

127 Technical specifications for public passenger transport for disabled persons, including the subject-matter of—

- (a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State's guidance and consultation with the Disabled Persons Transport Advisory Committee), and
- (b) Part 12 of the Equality Act 2010 (disabled persons: transport).

128 Technical specifications for fuel or other energy sources or processes for use in road, rail, marine, waterway or air transport.

129 Carriage of dangerous goods (including transport of radioactive material).

*Interpretation*

““Radioactive material”” means any material having a specific activity in excess of—

- (a) 0.1 kilobecquerels per kilogram, or
- (b) such other specific activity (not exceeding 70 kilobecquerels per kilogram) as may be specified in regulations made by the Secretary of State.

*Head F—Social Security, Child Support, Pensions and Compensation*

Section F1F1 *Social security schemes*

130 Social security schemes supported from public funds.

131 Requiring persons—

- (a) to establish and administer, or make payments to or in respect of, social security schemes, and
- (b) to keep records and supply information in connection with social security schemes.

*Exceptions*

The provision by a local authority of financial assistance to or in respect of an individual in respect of costs of meeting his or her needs for care or support that the authority would otherwise meet in some other way (for example, by providing accommodation, facilities or services).

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The deferral of payment due to a local authority from an individual in respect of costs of, or financial assistance for, meeting that or another individual's needs for care or support.

*Interpretation*

““Social security schemes”” means schemes providing financial assistance for social security purposes to or in respect of individuals, including, in particular, providing such assistance to or in respect of individuals—

- (a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,
- (b) who qualify by reason of low income, or
- (c) in relation to their housing costs.

““Payments to or in respect of social security schemes”” includes national insurance contributions.

*Section F2F2 Child Support*

132 Child support maintenance.

133 Collection and enforcement of—

- (a) periodical payments, other than child support maintenance, that are payable for the benefit of a child (““other maintenance””), and
- (b) periodical payments, other than child support maintenance or other maintenance, that are—
  - (i) payable to or for the benefit of any person, and
  - (ii) collected or enforced where child support maintenance or other maintenance is also collected.

*Section F3F3 Occupational and Personal Pensions*

134 Occupational and personal pensions.

*Exception*

Occupational and personal pension schemes for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and
- (b) members of local authorities,

but pensions regulation in relation to such schemes is not excepted.

*Interpretation*

““Local authority”” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

““Occupational and personal pensions”” includes pension protection.

““Pension”” includes gratuities and allowances.

““Pensions regulation”” means the regulation of occupational and personal pensions, including regulation in respect of members, employers, trustees or managers.

*Section F4F4 Public sector compensation*

135 Compensation for or in respect of public sector workers in respect of—

- (a) incapacity or death as a result of injury or illness,
- (b) loss of office or employment, or
- (c) loss or diminution of emoluments.

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- 136 Regulation of amounts payable, or paid, to or in respect of public sector workers in consequence of leaving office or employment (including requirements that such amounts be repaid).

*Exception*

Schemes for the payment of compensation, and regulation of amounts as mentioned in paragraph 136, for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and
- (b) members of local authorities.

*Interpretation*

““Compensation”” includes pensions, grants, allowances, supplements and gratuities.

““Local authority”” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

““Public sector worker”” means a person holding office or employed in the public sector.

*Section F5F5 Armed forces compensation etc*

- 137 Compensation for or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in respect of—

- (a) injury, illness or death in consequence of or whilst in service,
- (b) ceasing to be a member of the forces, or
- (c) loss or diminution of emoluments.

- 138 Regulation of amounts payable, or paid, to or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in consequence of ceasing to be a member of the forces (including requirements that such amounts be repaid).

- 139 The subject-matter of any scheme under the Personal Injuries (Emergency Provisions) Act 1939, sections 3 to 5 and 7 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or section 1 of the Polish Resettlement Act 1947.

*Interpretation*

““Compensation”” includes pensions, grants, allowances, supplements and gratuities.

*Head G—Professions*

*Section G1G1 Architects, auditors, health professionals and veterinary surgeons*

- 140 Regulation of—

- (a) the profession of architect,
- (b) the profession of auditor,
- (c) health professions, and
- (d) the profession of veterinary surgeon.

*Exceptions*

Regulation of the social care profession.

Regulation of the social work profession.

*Interpretation*

““Health professions”” means—

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- (a) the professions regulated by the following—  
the Medical Act 1983;  
the Dentists Act 1984;  
the Opticians Act 1989;  
the Osteopaths Act 1993;  
the Chiropractors Act 1994;  
the Nursing and Midwifery Order 2001 (S.I. 2002/253);  
the Health and Social Work Professions Order 2001 (S.I. 2002/254);  
the Pharmacy Order 2010 (S.I. 2010/231);
- (b) any other profession concerned with the physical or mental health of individuals.

### *Head H—Employment*

#### *Section H1H1 Employment and industrial relations*

- 141 Employment rights and duties and industrial relations, including the subject-matter of—
- (a) the Employers' Liability (Compulsory Insurance) Act 1969,
  - (b) the Employment Agencies Act 1973,
  - (c) the Pneumoconiosis etc (Workers' Compensation) Act 1979,
  - (d) the Trade Union and Labour Relations (Consolidation) Act 1992,
  - (e) the Employment Tribunals Act 1996,
  - (f) the Employment Rights Act 1996,
  - (g) the National Minimum Wage Act 1998,
  - (h) the Working Time Regulations 1998 (S.I. 1998/1833),
  - (i) the Employment Relations Act 1999,
  - (j) the Transnational Information and Consultation of Employees Regulations 1999 (S.I. 1999/3323),
  - (k) the Employment Act 2002,
  - (l) the Gangmasters (Licensing) Act 2004,
  - (m) the Employment Relations Act 2004,
  - (n) the Work and Families Act 2006,
  - (o) the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),
  - (p) the Agency Workers Regulations 2010 (S.I. 2010/93), and
  - (q) Part 2 of the Enterprise and Regulatory Reform Act 2013.

#### *Exception*

The subject-matter of the Agricultural Sector (Wales) Act 2014.

#### *Section H2H2 Industrial training boards*

- 142 The following boards—
- (a) the Construction Industry Training Board;
  - (b) the Engineering Construction Industry Training Board;
  - (c) the Film Industry Training Board for England and Wales.

#### *Section H3H3 Job search and support*

- 143 Arrangements for assisting persons to select, train for, obtain and retain employment, and to obtain suitable employees.

#### *Exceptions*

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Education.  
 Vocational, social and physical training.  
 Careers services.

*Interpretation*

““Employment”” includes—

- (a) work on a person's own account, and
- (b) employment of a disabled person (including work on the disabled person's own account) under special conditions;

and ““disabled person”” here has the same meaning as it has in the Equality Act 2010 as at the principal appointed day.

““Employees”” includes partners and other business associates.

*Head J—Health, Safety and Medicines*

Section J1J1 *Abortion*

144 Abortion.

Section J2J2 *Xenotransplantation*

145 Xenotransplantation.

Section J3J3 *Embryology, surrogacy and genetics*

146 Human genetics, human fertilisation, human embryology and surrogacy arrangements.

Section J4J4 *Medicines, medical supplies, biological substances etc*

147 Medicinal products, including manufacture, authorisations for use and regulation of prices.

148 Regulation of prices of other medical supplies.

149 Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).

150 Veterinary medicinal products, including manufacture, authorisations for use and regulation of prices.

151 Specified feed additives.

152 Animal feeding stuffs, in relation to—

- (a) the incorporation in them of veterinary medicinal products or specified feed additives;
- (b) matters arising in consequence of such incorporation.

153 Vaccine damage payments.

*Interpretation*

““Medical supplies”” has the same meaning as in section 260 of the National Health Service Act 2006.

““Medicinal products”” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916).

““Specified feed additives”” has the same meaning as in Schedule 5 to the Veterinary Medicines Regulations 2013 (S.I. 2013/2033).

““Veterinary medicinal products”” has the same meaning as in those Regulations.

Section J5J5 *Welfare foods*



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154 Schemes established by regulations under section 13 of the Social Security Act 1988 (benefits under schemes for improving nutrition: pregnant women, mothers and children).

Section J6J6 *Health and safety*

155 The subject-matter of Part 1 of the Health and Safety at Work etc. Act 1974.

156 The Health and Safety Executive and the Employment Medical Advisory Service.

157 Protection of the public from radiation.

*Interpretation*

For the purposes of the reservation of the subject-matter of Part I of the Health and Safety at Work etc. Act 1974—

- (a) ““work”” and ““at work”” in that Part are to be taken to have the meaning they have on the principal appointed day;
- (b) that subject-matter includes—
  - (i) process fire precautions,
  - (ii) fire precautions in relation to petroleum and petroleum spirit, and
  - (iii) fire safety on ships and hovercraft, in mines and on offshore installations,but does not include any other aspect of fire safety.

*Head K—Media, Culture and Sport*

Section K1K1 *Media*

158 Broadcasting and other media.

159 The British Broadcasting Corporation.

Section K2K2 *Public lending right*

160 Public lending right.

Section K3K3 *Government Indemnity Scheme*

161 Government indemnities for objects on loan.

Section K4K4 *Property accepted in satisfaction of tax*

162 Payments to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax and the disposal of such property.

Section K5K5 *Sports grounds*

163 Safety of sports grounds.

*Head L—Justice*

Section L1L1 *The legal profession, legal services and claims management services*

164 The legal profession and legal services.

165 Claims management services.

Section L2L2 *Legal aid*

166 Legal aid.

Section L3L3 *Coroners*

167 The subject-matter of Part 1 of the Coroners and Justice Act 2009.

Section L4L4 *Arbitration*

168 Arbitration.

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Section L5L5 *Mental capacity*

169 The subject-matter of the Mental Capacity Act 2005.

Section L6L6 *Personal data*

170 Protection of personal data.

Section L7L7 *Information rights*

171 Public access to information held by a public authority.

*Exception*

Public access to information held by—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Government, or
- (d) any Welsh public authority,

unless supplied by a Minister of the Crown or government department and held in confidence.

*Interpretation*

““Public authority”” and ““held by a public authority””—

- (a) in relation to environmental information, have the same meaning as in the Environmental Information Regulations 2004 (S.I. 2004/3391);
- (b) otherwise, have the meaning given by section 3 of the Freedom of Information Act 2000.

““Welsh public authority”” has the meaning given by section 83 of that Act, but does not include a reserved authority within the meaning given by paragraph 8 of Schedule 7B to this Act.

Section L8L8 *Public sector information*

172 The subject-matter of—

- (a) the INSPIRE Regulations 2009 (S.I. 2009/3157);
- (b) the Re-use of Public Sector Information Regulations 2015 (S.I. 2015/1415).

Section L9L9 *Public records*

173 The subject-matter of the Public Records Act 1958.

Section L10L10 *Compensation for persons affected by crime and miscarriages of justice*

174 Compensation for—

- (a) persons affected by crime;
- (b) miscarriages of justice.

Section L11 *Section L11 Prisons and offender management*

175 (1) Prisons and other institutions for the detention of persons charged with or convicted of offences (““relevant institutions””).

(2) The management of—

- (a) persons charged with or convicted of offences (whether or not detained in a relevant institution);
- (b) other persons required to be detained in a relevant institution.

(3) This reservation includes probation, escort functions, transfers of persons between relevant institutions and the subject-matter of—

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- (a) sections 47 to 49 of the Mental Health Act 1983 (transfer to hospital of prisoners) and the provisions of that Act relating to persons who are restricted patients within the meaning given by section 79 of that Act;
- (b) sections 37 to 42 of the Crime and Disorder Act 1998 (youth justice).

#### *Exceptions*

Accommodation provided by or on behalf of a local authority for the purpose of restricting the liberty of children or young persons.

The provision of health care, social care, education, training or libraries.

#### *Interpretation*

The reference to conviction in sub-paragraph (2) includes a finding in criminal proceedings that a person has committed an offence or done the act or made the omission charged.

““Escort functions”” includes functions of the kind mentioned in section 80(1) of the Criminal Justice Act 1991.

““Probation”” includes matters of the kind mentioned in section 1(1)(a) to (f) of the Offender Management Act 2007.

#### Section L12L12 *Family relationships and children*

- 176 Marriage, civil partnership and cohabitation.
- 177 Parenthood, parental responsibility, child arrangements and adoption.
- 178 Proceedings and orders under Part 4 or 5 of the Children Act 1989 or otherwise relating to the care or supervision of children.
- 179 Civil remedies in respect of domestic violence, domestic abuse and female genital mutilation.

#### *Exceptions*

Services and facilities relating to adoption, adoption agencies and their functions, other than functions of the Central Authority under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Parental discipline.

#### *Interpretation*

““Child arrangements”” includes the subject-matter of Part 2 of the Children Act 1989.

#### Section L13L13 *Gender recognition*

- 180 Gender recognition.

#### Section L14L14 *Registration of births, deaths and places of worship*

- 181 Registration of births and deaths and of places of worship.

### *Head M—Land and Agricultural Assets*

#### Section M1M1 *Registration of land*

- 182 Registration of—
  - (a) estates, interests and charges in or over land, and
  - (b) associated actions, proceedings, writs and orders.

#### *Exception*

Fees for the registration of local land charges.

#### Section M2M2 *Registration of agricultural charges and debentures*

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183 The subject-matter of sections 9 and 14 of, and the Schedule to, the Agricultural Credits Act 1928.

*Section M3M3 Development and buildings*

184 Planning (including the subject-matter of Parts 2 to 8 of the Planning Act 2008) but only in relation to—

- (a) relevant nationally significant infrastructure projects,
- (b) overhead electric lines other than devolved associated lines, and
- (c) railways other than railways that start, end and remain in Wales,

except this does not affect the reservation of the subject-matter of sections 14 and 16 of the Harbours Act 1964 by paragraph 121.

185 Compensation in respect of—

- (a) the interference with rights in land by exercise of a statutory power;
- (b) depreciation in the value of land as a result of works or land provided or used in the exercise of a statutory power.

186 The regulation of—

- (a) the design and construction of buildings,
- (b) the demolition of buildings, and
- (c) services, fittings and equipment provided in or in connection with buildings,

but only in relation to specified Crown land and specified undertaker land.

*Interpretation*

““Devolved associated line”” means an overhead line that—

- (a) is associated with a generating station that is or (when constructed or extended) is expected to be—
  - (i) in Wales or the Welsh zone, but
  - (ii) not within section 15(3A) or (3B) of the Planning Act 2008, and
- (b) has or will (when installed) have a nominal voltage no greater than 132 kilovolts.

““Railway”” has the meaning given by section 67(1) of the Transport and Works Act 1992.

““Relevant nationally significant infrastructure project”” means a project falling within paragraph (a), (c), (g) or (j) of section 14(1) of the Planning Act 2008.

““Specified Crown land”” means land—

- (a) belonging to Her Majesty in right of the Crown;
- (b) belonging to Her Majesty in right of the Duchy of Lancaster;
- (c) belonging to the Duchy of Cornwall;
- (d) held or used by a Minister of the Crown or a government department.

““Specified undertaker land”” means land held or used by a statutory undertaker in the exercise of a statutory power that relates to a matter in paragraph 96, 97(f) and (g), 99, 117, 121 or 125.

*Head N—Miscellaneous*

*Section N1N1 Equal opportunities*

187 Equal opportunities.

*Exceptions*

The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.

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Imposing duties on any devolved Welsh authority to make arrangements with a view to securing that its functions are carried out with due regard to the need to meet the equal opportunity requirements.

Equal opportunities so far as relating to the inclusion of persons with particular protected characteristics in non-executive posts on boards of devolved Welsh authorities.

Equal opportunities in relation to the functions of any devolved Welsh authority, other than a function that relates to the inclusion of persons in non-executive posts on boards of devolved Welsh authorities. The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include—

- (a) provision that supplements or is otherwise additional to provision made by that Act;
- (b) in particular, provision imposing a requirement to take action which that Act does not prohibit;
- (c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.

#### *Interpretation*

“Board” includes any other equivalent management body.

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions, but not including language.

“Equal opportunity requirements” means the requirements of the law for the time being relating to equal opportunities.

“Non-executive post”, in relation to an authority, means any position the holder of which is not an employee of the authority.

“Protected characteristic” has the same meaning as in the Equality Act 2010.

The references to the Equality Act 2010 and any subordinate legislation made under that Act are to be read as references to those enactments, as at the principal appointed day, but treating any provision of them that is not yet in force on that day as if it were in force.

#### *Section N2N2 Control of weapons*

188 Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

#### *Section N3N3 Ordnance Survey*

189 Ordnance Survey.

#### *Section N4N4 Time*

190 Timescales, time zones, the subject-matter of the Summer Time Act 1972, units of time, the calendar, bank holidays and the date of Easter.

#### *Exception*

The computation of periods of time.

#### *Section N5N5 Outer space*

191 Activities connected with outer space.

#### *Section N6N6 Antarctica*

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192 Activities connected with Antarctica.

*Interpretation*

“Antarctica” has the meaning given in section 1 of the Antarctic Act 1994.

Section N7N7 *Deep sea bed mining*

193 Activities for the purposes of deep sea bed mining operations.

*Interpretation*

“Deep sea bed mining operations” has the meaning given in section 17 of the Deep Sea Mining Act 1981.

### PART 3

#### GENERAL PROVISIONS

##### *Devolved Welsh authorities etc*

194 (1) This Schedule does not reserve—

- (a) the constitution of an authority that has reserved functions,
- (b) conferring or imposing (or giving power to confer or impose) accounting or public procurement functions on such an authority,
- (c) modifying or removing (or giving power to modify or remove) any accounting or public procurement functions of such an authority, or
- (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to such an authority,

if the authority is a devolved Welsh authority.

(2) For the purposes of this paragraph—

- (a) “authority” means a body, office or holder of an office that has functions of a public nature (but does not include a court);
- (b) “reserved functions” are functions that relate to reserved matters;
- (c) the constitution of an authority includes the authority's establishment and dissolution, its assets and liabilities and its funding and receipts;
- (d) a function specifically exercisable in relation to an authority does not include a function specifically exercisable in relation to a particular reserved function of the authority.

(3) Where the question whether an authority is a devolved Welsh authority is relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for deciding the question is the time when the Act is passed.

195 (1) Paragraph 1 of this Schedule does not reserve an authority if—

- (a) its functions are exercisable only in relation to Wales, or
- (b) it is a devolved Welsh authority (whether or not its functions are exercisable only in relation to Wales),

and it has no reserved functions.

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- (2) In this paragraph ““authority”” and ““reserved functions”” have the same meaning as in paragraph 194.
- (3) In determining for the purposes of this paragraph whether functions of an authority are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in sub-paragraph (1) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- 196 Paragraph 194 applies in relation to a devolved tribunal (within the meaning of paragraph 9(2)) as it applies in relation to a devolved Welsh authority.

#### *Particular authorities*

- 197 (1) The reservation of an authority to which this paragraph applies has effect to reserve—
- (a) its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts;
  - (b) conferring or imposing (or giving power to confer or impose) functions on it;
  - (c) modifying or removing (or giving power to modify or remove) any of its functions;
  - (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to it.
- (2) This paragraph applies to—
- (a) a body reserved by name by Part 2 of this Schedule;
  - (b) any of the companies reserved by Section C10 of that Part;
  - (c) each of the councils reserved by Section C11 of that Part;
  - (d) a police and crime commissioner;
  - (e) the Commission for Equality and Human Rights.
- (3) This paragraph is subject to paragraphs 198 and 199.

#### *Welsh language functions*

- 198 (1) This Schedule does not reserve—
- (a) conferring or imposing (or giving power to confer or impose) a Welsh language function on a person other than a court;
  - (b) modifying or removing (or giving power to modify or remove) any Welsh language function of a person other than a court.
- (2) ““Welsh language function”” means a function in relation to the Welsh language.

#### *Council tax precepts*

- 199 This Schedule does not reserve council tax precepts.

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### *Interpretation of Schedule*

- 200 (1) References in this Schedule to the subject-matter of any enactment are to be read as references to the subject-matter of that enactment as it has effect on the principal appointed day or, if it ceased to have effect at any time within the period ending with that day and beginning with the passing of the Wales Act 2017, as it had effect immediately before that time.
- (2) For the purposes of sub-paragraph (1), any provision of an enactment that is not yet in force on the principal appointed day is treated as if it were in force on that day.
- (3) In this Schedule “the principal appointed day” has the same meaning as in section 71 of the Wales Act 2017.”

## SCHEDULE 2

Section 3

### NEW SCHEDULE 7B TO THE GOVERNMENT OF WALES ACT 2006

#### **Commencement Information**

**I67** [Sch. 2](#) in force at 1.4.2018 by [S.I. 2017/1179](#), [reg. 2](#)

This Schedule sets out the new Schedule 7B to the Government of Wales Act 2006, to be substituted (with the new Schedule 7A) for Schedule 7 to that Act—

### “SCHEDULE 7B

Section 108A

#### GENERAL RESTRICTIONS

#### PART 1

#### GENERAL RESTRICTIONS

#### *The law on reserved matters*

- 1 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law on reserved matters.
- (2) “The law on reserved matters” means—
- (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of Parliament or subordinate legislation under an Act of Parliament, and
  - (b) any rule of law which is not contained in an enactment and the subject-matter of which is a reserved matter,
- and in this sub-paragraph “Act of Parliament” does not include this Act.
- 2 (1) Paragraph 1 does not apply to a modification that—
- (a) is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters, and



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- (b) has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision.
- (2) In determining what is necessary for the purposes of this paragraph, any power to make laws other than the power of the Assembly is disregarded.

#### *Private law*

- 3 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the private law.
- (2) ““The private law”” means the law of contract, agency, bailment, tort, unjust enrichment and restitution, property, trusts and succession.
- (3) In sub-paragraph (2) the reference to the law of property does not include intellectual property rights relating to plant varieties or seeds but does include the compulsory acquisition of property.
- (4) Sub-paragraph (1) does not apply to a modification that has a purpose (other than modification of the private law) which does not relate to a reserved matter.

#### *Criminal law*

- 4 (1) A provision of an Act of the Assembly cannot—
- (a) make modifications of, or confer power by subordinate legislation to make modifications of, an offence in a listed category;
  - (b) create, or confer power by subordinate legislation to create, an offence in a listed category.
- (2) The listed categories of offences are—
- (a) treason and related offences;
  - (b) homicide offences (including offences relating to suicide) and other offences against the person (including offences involving violence or threats of violence) that are triable only on indictment;
  - (c) sexual offences (including offences relating to indecent or pornographic images);
  - (d) offences of a kind dealt with by the Perjury Act 1911.
- (3) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law about—
- (a) criminal responsibility and capacity,
  - (b) the meaning of intention, recklessness, dishonesty and other mental elements of offences,
  - (c) inchoate and secondary criminal liability, or
  - (d) sentences and other orders and disposals in respect of defendants in criminal proceedings, or otherwise in respect of criminal conduct, and their effect and operation.
- (4) For the purposes of this paragraph, a modification of the law relating to defences to an offence is a modification of the offence.
- (5) This paragraph does not affect the reservation, by virtue of Schedule 7A, of the creation or modification of offences in relation to reserved matters.

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(See also paragraph 8 of that Schedule (single legal jurisdiction of England and Wales).)

*Enactments other than this Act*

- 5 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the table below—

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972	The whole Act.
Government of Wales Act 1998	Section 144(7).
Human Rights Act 1998	The whole Act.
Civil Contingencies Act 2004	The whole Act.
Energy Act 2008	Section 100 and regulations under that section.

- (2) A provision of an Act of the Assembly cannot, unless it is an oversight provision, make modifications of—
- (a) section 146A(1) of the Government of Wales Act 1998, or
  - (b) sections 2(1) to (3), 3(2) to (4) or 6(2) and (3) of the Public Audit (Wales) Act 2013 (anaw 3),
- or confer power by subordinate legislation to do so.
- (3) A provision of an Act of the Assembly cannot, unless it is an oversight provision and also a non-governmental committee provision—
- (a) make modifications of section 8(1) of the Public Audit (Wales) Act 2013 so far as that section relates to the Auditor General's exercise of functions free from the direction or control of the Assembly or Welsh Government, or
  - (b) confer power by subordinate legislation to do so.
- (4) An “oversight provision” is a provision of an Act of the Assembly that—
- (a) relates to the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions, or
  - (b) is ancillary to a provision falling within paragraph (a).
- (5) A “non-governmental committee provision” is a provision conferring functions on a committee of the Assembly that—
- (a) does not consist of or include members of the Welsh Government, and
  - (b) is not chaired by an Assembly member who is a member of a political group with an executive role,
- or a provision conferring power by subordinate legislation to do so.
- (6) A person designated under section 46(5) to exercise the functions of the First Minister is treated as a member of the Welsh Government for the purposes of sub-paragraph (5)(a).
- 6 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.

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*This Act*

- 7 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- (2) Sub-paragraph (1) does not apply to—
- (a) the following provisions in Part 1 (the Assembly)—
    - (i) in section 1(1), the words from ““the National Assembly for Wales”” to the end;
    - (ii) section 1(2) to (5);
    - (iii) section 2;
    - (iv) section 3(1), (1B) and (2) to (4);
    - (v) sections 4 to 20;
    - (vi) section 22;
    - (vii) section 23(2), (6) and (7);
    - (viii) section 24;
    - (ix) section 25(1)(b) and (2) to (15);
    - (x) section 26(2) to (4);
    - (xi) in section 27(1), the words from ““the National Assembly for Wales Commission”” to the end;
    - (xii) section 27(2) to (4), (6) and (7);
    - (xiii) section 28;
    - (xiv) section 30;
    - (xv) section 34(1) and (2);
    - (xvi) sections 35 and 36;
    - (xvii) sections 38 to 43;
    - (xviii) section 51;
    - (xix) paragraphs 1, 2, 3(1), (2) and (4) to (7), 4 and 7 to 11 of Schedule 2;
  - (b) the following provisions in Part 2 (the Welsh Government)—
    - (i) sections 53 and 54;
    - (ii) sections 60 and 61;
    - (iii) sections 72 to 75;
    - (iv) sections 77 to 79;
    - (v) section 91;
  - (c) the following provisions in Part 4 (Acts of the Assembly)—
    - (i) in section 107(1), the words from ““Acts of the National Assembly for Wales”” to the end;
    - (ii) section 110;
    - (iii) section 111(1)(a) and (b), (2), (3) and (5);
  - (d) the following provisions in Part 5 (finance)—
    - (i) section 120(2);
    - (ii) sections 125 to 130;
    - (iii) sections 131 to 135;
    - (iv) sections 137 to 143;
    - (v) any provision of Schedule 8;
  - (e) the following provisions in Part 6 (miscellaneous and supplementary)—
    - (i) sections 146 to 148;

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- (ii) section 156(2) to (5).
- (3) Sub-paragraph (1) does not apply to any provision—
- (a) making modifications of so much of any enactment as is modified by this Act, or
  - (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Act of the Assembly.
- (4) Sub-paragraph (1) does not apply to any provision that is consequential on or incidental to provision made by virtue of—
- (a) sub-paragraph (2)(a)(i) (change of name of the Assembly),
  - (b) sub-paragraph (2)(a)(xi) (change of name of the Assembly Commission), or
  - (c) sub-paragraph (2)(c)(i) (change of name of Acts of the Assembly).
- (5) Sub-paragraph (1), so far as it applies in relation to a provision of Part 5 not listed in sub-paragraph (2)(d), or section 159, does not apply to a provision of an Act of the Assembly if the provision is incidental to, or consequential on, a provision of an Act of the Assembly relating to budgetary procedures or devolved taxes.
- (6) In sub-paragraph (5) ““budgetary procedures”” are procedures for a financial year relating to—
- (a) the authorisation of the amount of resources that may be used or retained in that year by relevant persons or pursuant to a relevant enactment,
  - (b) the authorisation of the amount that may be paid out of the Welsh Consolidated Fund in that year to relevant persons or for use pursuant to a relevant enactment, or
  - (c) the scrutiny of the use of the amounts so authorised under paragraph (a) or (b) or of the exercise of borrowing powers by the Welsh Ministers.
- (7) In sub-paragraph (6)—
- (a) the reference to the use of resources is a reference to their expenditure, consumption or reduction in value;
  - (b) ““relevant persons”” means—
    - (i) the Welsh Ministers,
    - (ii) the First Minister,
    - (iii) the Counsel General,
    - (iv) the Assembly Commission,
    - (v) the Wales Audit Office, and
    - (vi) the Public Service Ombudsman for Wales;
  - (c) ““relevant enactment”” means an enactment that provides for payment out of the Welsh Consolidated Fund.
- (8) Sub-paragraph (1) does not apply in relation to a provision to which paragraph 5(3) applies.

*Ministers of the Crown, government departments and other reserved authorities*

- 8 (1) A provision of an Act of the Assembly cannot—
- (a) confer or impose, or confer power by subordinate legislation to confer or impose, any function on a reserved authority,

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- (b) make modifications of, or confer power by subordinate legislation to make modifications of, the constitution of a reserved authority, including modifications relating to its assets and liabilities and its funding and receipts, or
  - (c) confer, impose, modify or remove, or confer power by subordinate legislation to confer, impose, modify or remove, functions specifically exercisable in relation to a reserved authority,unless the appropriate Minister consents to the provision.
- (2) Sub-paragraph (1) is subject to the exceptions in paragraph 9.
- (3) In this paragraph ““reserved authority”” means—
  - (a) a Minister of the Crown or government department;
  - (b) any other public authority apart from a devolved Welsh authority.
- (4) In this paragraph ““public authority”” means a body, office or holder of an office that has functions of a public nature.
- (5) In this paragraph the ““appropriate Minister”” means—
  - (a) where the authority in question is Her Majesty's Revenue and Customs, the Treasury;
  - (b) otherwise, the Secretary of State.
- 9 (1) This paragraph contains exceptions to paragraph 8.
- (2) Paragraph 8(1)(a) does not apply in relation to—
  - (a) the Electoral Commission;
  - (b) the Food Standards Agency;
  - (c) the Water Services Regulation Authority;
  - (d) the Joint Committee on Vaccination and Immunisation;
  - (e) the Human Tissue Authority;
  - (f) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (g) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG;
  - (h) the Open University.
- (3) Paragraph 8(1)(a) does not apply to the conferral or imposition on the traffic commissioners of a function relating to—
  - (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) Paragraph 8(1)(a) does not apply to—
  - (a) the conferral or imposition on a court of a devolved function (within the meaning of paragraph 6 of Schedule 7A);
  - (b) the conferral or imposition on a tribunal of a function involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) Paragraph 8(1)(c) does not apply to a provision to which paragraph 8(1)(a) applies or would apply but for sub-paragraph (2) of this paragraph.
- (6) Paragraph 8(1) does not apply in relation to—
  - (a) a water or sewerage undertaker;
  - (b) the Consumer Council for Water;

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- (c) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality).
- (7) Paragraph 8(1) does not apply in relation to the funding of police and crime commissioners through council tax precepts.
- 10 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a public authority other than a devolved Welsh authority, unless the appropriate Minister consents to the provision.
- (2) This paragraph does not apply in relation to—
- (a) a Minister of the Crown (as to which, see paragraph 11);
  - (b) the Electoral Commission;
  - (c) the Food Standards Agency;
  - (d) the Water Services Regulation Authority;
  - (e) a water or sewerage undertaker;
  - (f) the Consumer Council for Water;
  - (g) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality);
  - (h) the Joint Committee on Vaccination and Immunisation;
  - (i) the Human Tissue Authority;
  - (j) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (k) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG;
  - (l) the Open University.
- (3) This paragraph does not apply to the removal or modification of a function of the traffic commissioners relating to—
- (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) This paragraph does not apply to—
- (a) the removal or modification of a devolved function (within the meaning of paragraph 6 of Schedule 7A) of a court;
  - (b) the removal or modification of a function of a tribunal involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) This paragraph does not apply in relation to the funding of police and crime commissioners through council tax precepts.
- (6) In this paragraph ““public authority”” and ““appropriate Minister”” have the same meaning as in paragraph 8.
- 11 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify—
- (a) any function of a Minister of the Crown that relates to a qualified devolved function,
  - (b) any function of a Minister of the Crown exercisable in relation to the Welsh language,

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- (c) any function of a Minister of the Crown exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection,
    - (d) any function of a Minister of the Crown under Chapter 1 of Part 3, or section 58, of the Marine and Coastal Access Act 2009,
    - (e) any power of the Secretary of State under section 6 of the Railways Act 2005 (financial assistance relating to railway services etc), or
    - (f) any function of the Treasury under section 138(2) or 141(4),unless the appropriate Minister consents to the provision.
  - (2) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown not falling within sub-paragraph (1) unless the Welsh Ministers have consulted the appropriate Minister about the provision.
  - (3) In this paragraph ““qualified devolved function”” means a function that—
    - (a) is conferred or imposed on or transferred to the Welsh Ministers, the First Minister or the Counsel General by any Act (whenever passed) or by an instrument made under any Act (whenever made), and
    - (b) is to any extent exercisable—
      - (i) concurrently or jointly with a Minister of the Crown, or
      - (ii) only with the consent or agreement of, or after consultation with, a Minister of the Crown.
  - (4) For the purposes of sub-paragraph (1)(a)—
    - (a) the functions of a Minister of the Crown that ““relate to”” qualified devolved functions within sub-paragraph (3)(b)(i) are the qualified devolved functions so far as exercisable by the Minister;
    - (b) the functions of a Minister of the Crown that ““relate to”” qualified devolved functions within sub-paragraph (3)(b)(ii) are those concerning consent or agreement to, or consultation about, the exercise of the qualified devolved functions.
  - (5) In this paragraph ““appropriate Minister”” has the same meaning as in paragraph 8.
- 12 (1) In any enactment (whenever passed or made) not contained in this Act —
- (a) a reference to provision within the legislative competence of the Assembly does not include provision that could be made in an Act of the Assembly only with the consent of a Minister of the Crown (under paragraph 8, 10 or 11 or otherwise);
  - (b) a reference to provision outside that competence includes provision that could be made in an Act of the Assembly only with such consent.
- (2) But paragraph 11(2) is to be ignored for the purposes of any such references.

*Status: Point in time view as at 01/09/2021. This version of this Act contains provisions that are prospective.*

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## PART 2

### GENERAL EXCEPTIONS FROM PART 1

#### *Restatement*

- 13 (1) Part 1 does not prevent an Act of the Assembly—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
  - (b) repealing or revoking any spent enactment, or conferring power by subordinate legislation to do so.
- (2) For the purposes of paragraph 1, the law on reserved matters includes any restatement in an Act of the Assembly or an Assembly Measure, or subordinate legislation under such an Act or Measure, of the law on reserved matters if the subject-matter of the restatement is a reserved matter.

#### *Subordinate legislation*

- 14 Part 1 does not prevent an Act of the Assembly making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised;
  - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject;
  - (c) applying any enactment comprised in or made under an Act of the Assembly relating to the documents by which such powers may be exercised.”

## SCHEDULE 3

Section 4

### NEW SCHEDULE 9A TO THE GOVERNMENT OF WALES ACT 2006

#### **Commencement Information**

**I68** Sch. 3 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(o)

This Schedule sets out the new Schedule 9A to the Government of Wales Act 2006, to be inserted after Schedule 9 to that Act—

#### “SCHEDULE 9A

Section 157A

#### DEVOLVED WELSH AUTHORITIES

The Adjudication Panel for Wales or Panel Dyfarnu Cymru.

An admission appeal panel, constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998, for schools in Wales.

The advisory committee for Wales established under section 5 of the Food Standards Act 1999.



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The Advisory Panel on Substance Misuse or Panel Cynghori ar Gamddefnyddio Sylweddau.

The Advisory Panel to the Welsh Language Commissioner or Panel Cynghori Comisiynydd y Gymraeg.

The Agricultural Advisory Panel for Wales or Panel Cynghori ar Amaethyddiaeth Cymru.

The Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru.

The All-Wales Medicines Strategy Group or Grŵp Strategaeth Meddyginiaethau Cymru Gyfan.

The Arts Council for Wales or Cyngor Celfyddydau Cymru.

The Assembly Commission or Comisiwn y Cynulliad.

The Auditor General for Wales or Archwilydd Cyffredinol Cymru.

The Board of Community Health Councils in Wales or Bwrdd Cynghorau Iechyd Cymuned Cymru.

The Children's Commissioner for Wales or Comisiynydd Plant Cymru.

The Commissioner for Older People in Wales or Comisiynydd Pobl Hyn Cymru.

A Community Health Council in Wales.

The Counsel General or Cwnsler Cyffredinol.

A county council, county borough council or community council in Wales.

The Education Workforce Council or Cyngor y Gweithlu Addysg.

An exclusion appeal panel, constituted in accordance with regulations under section 52 of the Education Act 2002, for schools in Wales.

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.

The First Minister or Prif Weinidog.

The Flood and Coastal Erosion Committee or Pwyllgor Llifogydd ac Erydu Arfordirol.

The Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau'r Dyfodol Cymru.

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru.

Hybu Cig Cymru or Meat Promotion Wales.

The Independent Groundwater Complaints Administrator.

The Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol.

A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.

The Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

The Mental Health Review Tribunal for Wales.

The National Assembly for Wales Commissioner for Standards or Comisiynydd Safonau ar gyfer Cynulliad Cenedlaethol Cymru.

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The National Assembly for Wales Remuneration Board or Bwrdd Taliadau Cynulliad Cenedlaethol Cymru.

The National Independent Safeguarding Board or Bwrdd Diogelu Annibynnol Cenedlaethol.

The National Library of Wales or Llyfrgell Genedlaethol Cymru.

The National Museum of Wales or Amgueddfa Genedlaethol Cymru.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.

The Natural Resources Body for Wales or Corff Adnoddau Naturiol Cymru.

An NHS Trust established under section 18 of the National Health Service (Wales) Act 2006.

A panel constituted under regulation 9 of the Independent Review of Determinations (Adoption) (Wales) Regulations 2006.

A panel established under regulation 21 of the Social Services Complaints Procedure (Wales) Regulations 2005.

The person appointed by the Welsh Ministers under section 3 of the Local Government and Housing Act 1989.

The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

Qualifications Wales or Cymwysterau Cymru.

A regulated institution within the meaning of the Higher Education (Wales) Act 2015 (ignoring section 26 of that Act) other than an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).

A rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal).

The Royal Commission on the Ancient and Historical Monuments of Wales or Comisiwn Brenhinol Henebion Cymru.

Social Care Wales or Gofal Cymdeithasol Cymru.

The Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru.

The Sports Council for Wales or Cyngor Chwaraeon Cymru.

A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004.

A tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27).

The Valuation Tribunal for Wales or Tribiwnlys Prisio Cymru.

The Wales Audit Office or Swyddfa Archwilio Cymru.

The Welsh Dental Committee or Pwyllgor Deintyddol Cymru.

The Welsh Language Commissioner or Comisiynydd y Gymraeg.

The Welsh Language Partnership Council or Gyngor Partneriaeth y Gymraeg.

The Welsh Language Tribunal or Tribiwnlys y Gymraeg.

The Welsh Medical Committee or Pwyllgor Meddygol Cymru.

The Welsh Ministers or Gweinidogion Cymru.

The Welsh Nursing and Midwifery Committee or Pwyllgor Nyrsio a Bydwreigiaeth Cymru.

The Welsh Optometric Committee or Pwyllgor Optegol Cymru.

The Welsh Pharmaceutical Committee or Pwyllgor Fferyllol Cymru.

The Welsh Revenue Authority or Awdurdod Cyllid Cymru.

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The Welsh Scientific Advisory Committee or Pwyllgor Ymgynghorol Gwyddonol Cymru.  
The Welsh Therapies Advisory Committee or Pwyllgor Cynghorol Therapiau Cymru.”

## SCHEDULE 4

Section 21

### NEW SCHEDULE 3A TO THE GOVERNMENT OF WALES ACT 2006

#### Commencement Information

**I69** Sch. 4 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(p)

This Schedule sets out the new Schedule 3A to the Government of Wales Act 2006, to be inserted after Schedule 3 to that Act—

#### “SCHEDULE 3A

Section 59A

#### FUNCTIONS OF MINISTERS OF CROWN ETC EXERCISABLE CONCURRENTLY OR JOINTLY WITH WELSH MINISTERS

##### *Functions exercisable concurrently with Welsh Ministers*

- 1 (1) Functions specified in the table below, so far as exercisable in relation to Wales (or, in the case of functions under the Sea Fish (Conservation) Act 1967 or the Sea Fisheries Act 1968, the Welsh zone), are exercisable concurrently with the Welsh Ministers.
- (2) A function specified in the table that is exercisable subject to a requirement for the approval or consent of the Treasury or the Minister for the Civil Service is exercisable by the Welsh Ministers subject to that requirement except as noted in the table.
- 2 (1) The functions listed in sub-paragraph (2), so far as exercisable in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone, are exercisable concurrently with the Welsh Ministers.
- (2) The functions are—
  - (a) functions of a Minister of the Crown under the following provisions of the Sea Fish (Conservation) Act 1967—
    - (i) section 1(3), (4) and (6) (size limits for fish carried by fishing boat);
    - (ii) section 3(1), (3) and (4) (regulation of nets and other fishing gear);
    - (iii) section 5 (power to restrict fishing for sea fish);
    - (iv) section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act);
  - (b) functions of a Minister of the Crown or the Marine Management Organisation under the following provisions of the Sea Fish (Conservation) Act 1967—
    - (i) section 4 (licensing of fishing boats);
    - (ii) section 4A (licensing of vessels receiving trans-shipped fish);
  - (c) functions of a Minister of the Crown under the following provisions of the Sea Fisheries Act 1968—
    - (i) section 5(1) and (2)(a) (regulation of conduct of fishing operations);
    - (ii) section 7(1)(g) and (2) (appointment of British sea-fishery officers);

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- (d) functions of a Minister of the Crown under the following provisions of the Fisheries Act 1981—
    - (i) section 15 (schemes of financial assistance);
    - (ii) section 16 (administration schemes by Sea Fish Industry Authority);
  - (e) functions of a Minister of the Crown under section 30(2) of the Fisheries Act 1981 (enforcement of Community rules).
- (3) Any provision of section 4 or 4A of the Sea Fish (Conservation) Act 1967 requiring the consent of the Treasury to the exercise of a function does not apply in relation to the exercise of the function by the Welsh Ministers by virtue of this paragraph.
- (4) In this paragraph ““Welsh fishing boat”” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging.
- 3 (1) The powers to make regulations under sections 10ZC, 10ZD and 53 of the Representation of the People Act 1983 (registration of electors), so far as they are exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, are exercisable by the Welsh Ministers concurrently with that Minister.
- (2) In sub-paragraph (1)—
- ““elections in Wales”” means—
    - (a) an election of Assembly members, or
    - (b) a local government election (within the meaning given by section 203 of the Representation of the People Act 1983) in Wales;
  - ““UK digital service”” means a digital service provided by a Minister of the Crown for the registration of electors.

*Functions exercisable jointly with Welsh Ministers*

- 4 Functions specified in the table below are exercisable jointly with the Welsh Ministers.

*Functions exercisable concurrently or jointly with Welsh Ministers*

- 5 Functions of the Secretary of State under section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) so far as they relate to—
- (a) the carriage of goods by an inland waterway that is partly in Wales, or
  - (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales (within the meaning of that section),
- are exercisable concurrently or jointly with the Welsh Ministers.

*Interpretation*

- 6 For the purposes of the entry relating to the Inheritance Tax Act 1984 in the table in paragraph 1—
- (a) a Welsh interest exists where—
    - (i) the property in question is located in Wales, or
    - (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Wales or disposed of or transferred to a body or institution in Wales;

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- (b) another interest exists where—
  - (i) the property in question is located outside Wales, or
  - (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed outside Wales or disposed of or transferred to a body or institution outside Wales.”

## SCHEDULE 5

Section 60

### PRESIDENT OF WELSH TRIBUNALS

#### PART 1

##### APPOINTMENT

###### *Duty to fill vacancies*

- 1 (1) If there is a vacancy in the office of President of Welsh Tribunals, the Lord Chief Justice must appoint a person to that office.
- (2) Sub-paragraph (1) does not apply to a vacancy while the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers all agree that it may remain unfilled.
- (3) In this Schedule “the Lord Chief Justice” means the Lord Chief Justice of England and Wales.

#### Commencement Information

**I70** Sch. 5 para. 1 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), [reg. 2](#)

###### *The two routes to appointment: agreement under this paragraph or selection under Part 2*

- 2 (1) The Lord Chief Justice, before he or she may appoint a person to the office of President of Welsh Tribunals, must consult—
  - (a) the Lord Chancellor, and
  - (b) the Welsh Ministers.
- (2) Sub-paragraphs (3) and (4) apply if—
  - (a) the outcome of consultation under sub-paragraph (1) is agreement between the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers as to the person to be appointed, and
  - (b) the person holds or has held office as—
    - (i) an ordinary judge of the Court of Appeal in England and Wales, or
    - (ii) a puisne judge of the High Court.
- (3) The Lord Chief Justice must appoint the person to the office of President of Welsh Tribunals, subject to sub-paragraph (4).

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- (4) Where the person—
- (a) declines to be appointed, or does not agree within a time specified to him or her for that purpose, or
  - (b) is otherwise not available within a reasonable time to be appointed,
- the Lord Chief Justice must, instead of appointing the person, consult afresh under sub-paragraph (1).
- (5) If the Lord Chief Justice has consulted under sub-paragraph (1) but sub-paragraphs (3) and (4) do not apply following that consultation, he or she must make a request to the Judicial Appointments Commission (“the Commission”) for a person to be selected for appointment to the office of President of Welsh Tribunals.

**Commencement Information**

**I71** Sch. 5 para. 2 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

**PART 2**

SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

*Eligibility for selection*

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if he or she satisfies the judicial-appointment eligibility condition on a 7-year basis.

**Commencement Information**

**I72** Sch. 5 para. 3 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*The selection process*

- 4 (1) On receiving a request from the Lord Chief Justice under paragraph 2(5) the Commission must appoint a selection panel.
- (2) The panel must have an odd number of members not less than five.
- (3) The members of the panel must include—
- (a) at least two who are non-legally-qualified,
  - (b) at least two judicial members, and
  - (c) at least two members of the Commission.

Contributions to meeting more than one of the requirements may be made by the same person's membership of the panel.

- (4) The panel must —
- (a) determine the selection process to be applied;
  - (b) apply the selection process;

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- (c) make a selection accordingly.
- (5) As part of the selection process the panel must consult—
  - (a) the Lord Chancellor;
  - (b) the Welsh Ministers.
- (6) One person only must be selected for the appointment to which a request relates.
- (7) Sub-paragraph (4) applies to selection under this paragraph and to selection under regulations made under paragraph 7.
- (8) A selection panel is a committee of the Commission.

#### Commencement Information

**I73** Sch. 5 para. 4 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Merit and good character*

- 5
- (1) This paragraph applies to any selection by a selection panel appointed under paragraph 4.
  - (2) Selection must be solely on merit.
  - (3) A person must not be selected unless the selection panel body is satisfied that he or she is of good character.
  - (4) Neither “solely” in sub-paragraph (2), nor Part 5 of the Equality Act 2010 (public appointments etc), prevents the selection panel, where two persons are of equal merit, from preferring one of them over the other for the purpose of increasing diversity within—
    - (a) the group of persons who hold offices for which there is selection by panels appointed by the Commission, or
    - (b) a sub-group of that group.

#### Commencement Information

**I74** Sch. 5 para. 5 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Encouragement of diversity*

- 6
- (1) A selection panel appointed under paragraph 4, in performing its functions under this Part, must have regard to the need to encourage diversity in the range of persons available for selection.
  - (2) This paragraph is subject to paragraph 5.

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### Commencement Information

**I75** Sch. 5 para. 6 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

### *Regulations about selection*

- 7 (1) The Lord Chancellor must by regulations made with the agreement of the Lord Chief Justice and the Welsh Ministers—
- (a) make further provision about the process to be applied in a case where the Commission receives a request under paragraph 2(5);
  - (b) make further provision about—
    - (i) membership of selection panels appointed under paragraph 4, and
    - (ii) the process that is to be applied in a case where a selection panel is required to be appointed under that paragraph;
  - (c) secure, subject to paragraph 8 and any provision within sub-paragraph (2)(d) that is included in the regulations, that in every case referred to paragraph (a) or (b)(ii) there will come a point in the process when a selection has to be accepted, either unconditionally or subject only to matters such as the selected person's willingness and availability, by or on behalf of the Lord Chief Justice.
- (2) The regulations may in particular—
- (a) provide for process additional to the selection process applied under paragraph 4(4), including post-acceptance process;
  - (b) make provision as to things that are, or as to things that are not, to be done—
    - (i) as part of the selection process applied under paragraph 4(4), or
    - (ii) in determining what that process is to be;
  - (c) provide for paragraph 4(4)(c) not to apply where, or to the extent that, the Commission decides that the selection process applied under paragraph 4(4) has not identified candidates of sufficient merit for it to comply with paragraph 4(4)(c);
  - (d) give powers to the Lord Chief Justice, including—
    - (i) power to require a selection panel to reconsider a selection under paragraph 4(4) or any subsequent selection,
    - (ii) power to reject a selection under paragraph 4(4) or any subsequent selection, and
    - (iii) power to require the reconsideration of a decision mentioned in paragraph (c);
  - (e) provide for particular action to be taken by the Commission or a selection panel after the panel has complied with paragraph 4;
  - (f) provide for the dissolution of a selection panel appointed under paragraph 4;
  - (g) provide for a person to cease to be a member of such a panel where the person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;
  - (h) provide for a person to become a member of such a panel where another person ceases to be a member of the panel or where another person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;



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- (i) make provision for or in connection with assessments, whether pre-acceptance or post-acceptance, of the health of persons selected;
- (j) provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise functions given to the Lord Chief Justice by the regulations;
- (k) make provision as to the meaning of ““non-legally-qualified”” and ““judicial member”” in paragraph 4(3).

(3) Regulations under this paragraph—

- (a) may make different provision for different purposes;
- (b) may make transitory, transitional or saving provision.

(4) The power to make regulations under this paragraph is exercisable by statutory instrument.

A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(5) This paragraph is subject to paragraph 8.

#### Commencement Information

**I76** Sch. 5 para. 7 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Withdrawal and modification of requests*

- 8 (1) The Lord Chief Justice may withdraw a request under paragraph 2(5)—
- (a) with the agreement of the Welsh Ministers, or
  - (b) if, after consulting Welsh Ministers, the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.
- (2) The Lord Chief Justice may modify a request under paragraph 2(5) with the agreement of the Welsh Ministers.
- (3) If a request is withdrawn in part or modified, the selection panel may, if it thinks it appropriate because of the withdrawal or modification, change any selection already made pursuant to the request, except a selection already accepted.
- (4) The Lord Chief Justice may not withdraw a request under sub-paragraph (1)(b) if a selection made pursuant to the request—
- (a) has been accepted unconditionally or subject only to matters such as the selected person's willingness and availability, or
  - (b) in exercise of power conferred by regulations under paragraph 7, has been rejected or required to be reconsidered.
- (5) Any withdrawal or modification of a request must be by notice in writing to the Commission.
- (6) In the case of a withdrawal of a request, the notice must state whether it is under sub-paragraph (1)(a) or (b).

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- (7) In the case of a withdrawal under sub-paragraph (1)(b), the notice must state why the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.
- (8) If or to the extent that a request is withdrawn—
- (a) the preceding provisions of this Part of this Schedule cease to apply in relation to it;
  - (b) any selection made on it is to be disregarded.
- (9) Withdrawal of a request to any extent does not affect the power of the Lord Chief Justice to make another request in the same or different terms.

#### Commencement Information

**I77** Sch. 5 para. 8 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Effect of acceptance of selection*

- 9 (1) Subject to the following provisions of this paragraph, where the Lord Chief Justice accepts a selection made under paragraph 4(4) he or she must appoint the person selected.
- (2) Before making the appointment the Lord Chief Justice may direct the Commission to make arrangements in accordance with the direction—
- (a) for any assessment of the health of the person selected that the Lord Chief Justice considers appropriate, and
  - (b) for a report of the assessment to be made to the Lord Chief Justice.
- (3) Sub-paragraph (4) applies in any of the following circumstances—
- (a) the Lord Chief Justice notifies the Commission that he or she is not satisfied on the basis of a report under sub-paragraph (2)(b), having consulted the Welsh Ministers, that the health of the person selected is satisfactory for the purposes of the appointment;
  - (b) the person selected declines to be appointed, or does not agree within a time specified to him for that purpose;
  - (c) the person selected is otherwise not available within a reasonable time to be appointed.
- (4) Where this sub-paragraph applies—
- (a) the selection accepted and any previous selection for the appointment are to be disregarded;
  - (b) the request pursuant to which the selection was made continues to have effect;
  - (c) any subsequent selection pursuant to that request may be made in accordance with the same or a different selection process.

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#### Commencement Information

**I78** [Sch. 5 para. 9](#) in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), [reg. 2](#)

### PART 3

#### TERMS OF OFFICE

##### *Tenure, removal, resignation etc*

- 10 (1) If—
- (a) a person is appointed to the office of President of Welsh Tribunals on terms that provide for him or her to retire from the office at a particular time specified in those terms (“the end of the fixed term”), and
  - (b) the end of the fixed term is earlier than the time at which the person is required by the 1993 Act to retire from the office,
- the person shall, if still holding the office at the end of the fixed term, vacate the office at the end of the fixed term.
- (2) Subject to sub-paragraph (1) (and to the 1993 Act), a person appointed to the office of President of Welsh Tribunals holds that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (3) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under sub-paragraph (2).
- (4) In this paragraph “the 1993 Act” means the Judicial Pensions and Retirement Act 1993.

#### Commencement Information

**I79** [Sch. 5 para. 10](#) in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), [reg. 2](#)

- 11 A person who holds the office of President of Welsh Tribunals may at any time resign that office by giving the Lord Chief Justice notice in writing to that effect.

#### Commencement Information

**I80** [Sch. 5 para. 11](#) in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by [S.I. 2017/351](#), [reg. 2](#)

- 12 (1) The Lord Chief Justice, if satisfied by means of a medical certificate that a person holding the office of President of Welsh Tribunals—
- (a) is disabled by permanent infirmity from the performance of the duties of the office, and
  - (b) is for the time being incapacitated from resigning the office,

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may, subject to sub-paragraph (2), by instrument under his or her hand declare the person to have vacated the office; and the instrument has the equivalent effect for all purposes as if the person had on the date of the instrument resigned the office.

- (2) A declaration under sub-paragraph (1) with respect to a person is of no effect unless it is made with the concurrence of—
- (a) the Lord Chancellor, and
  - (b) the Welsh Ministers.

#### Commencement Information

**I81** Sch. 5 para. 12 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Remuneration, allowances and expenses*

- 13 The Welsh Ministers may pay to the President of Welsh Tribunals whatever amounts they determine in respect of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

#### Commencement Information

**I82** Sch. 5 para. 13 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

#### *Oaths*

- 14 (1) A person appointed to the office of President of Welsh Tribunals must take the required oaths in the presence of—
- (a) the Lord Chief Justice, or
  - (b) another holder of high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005) who is nominated by the Lord Chief Justice for the purpose of taking the oaths from the person.
- (2) Sub-paragraph (1) applies whether or not the person has previously taken the required oaths after accepting another office.
- (3) In this paragraph “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.

#### Commencement Information

**I83** Sch. 5 para. 14 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

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## SCHEDULE 6

Section 69

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS OF THE GOVERNMENT OF WALES ACT 2006

1 The Government of Wales Act 2006 is amended as follows.

**Commencement Information**

**I84** Sch. 6 para. 1 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

2 Omit sections 103 to 106A (commencement of Assembly Act provisions) and the italic heading before section 103.

**Commencement Information**

**I85** Sch. 6 para. 2 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

3 (1) Section 109 (legislative competence: supplementary) is amended as follows.

(2) In subsection (1), for ““Schedule 7”” substitute “ Schedule 7A or 7B ”.

(3) In subsection (4), for paragraphs (a) and (b) substitute “ has been laid before, and approved by a resolution of, each House of Parliament and the Assembly. ”

(4) For subsection (5) substitute—

“(5) Any alteration of Schedule 7A or 7B, whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise, does not (unless an enactment provides otherwise) affect—

(a) the validity of an Act of the Assembly passed before the alteration takes effect, or

(b) the previous or continuing operation of such an Act of the Assembly.”

**Commencement Information**

**I86** Sch. 6 para. 3 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

4 In section 114 (power to intervene in certain cases), in subsection (1)(a), for the words from ““any matter”” to the end substitute “ a reserved matter ”.

**Commencement Information**

**I87** Sch. 6 para. 4 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

5 (1) Section 116 (Welsh Seal and Letters Patent) is amended as follows.

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- (2) In the heading, for ““and Letters Patent”” substitute “ : Letters Patent and proclamations ”.
- (3) In subsection (3), at the end insert “ and all royal proclamations under section 4(2) and section 5(4), which have passed under the Welsh Seal ”.

**Commencement Information**

**I88** Sch. 6 para. 5 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

- 6 In section 116B (status of officials of body that collects and manages devolved taxes), in subsection (3), for the words from ““treated”” to the end substitute “ not to be regarded as falling outside the Assembly's legislative competence by virtue of section 108A(2)(b) or (c) ”.

**Commencement Information**

**I89** Sch. 6 para. 6 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

- 7 In section 116M (duty to disclose information on Welsh land transactions to HMRC), in subsection (1), for ““A person who is a member of the Welsh Government”” substitute “ The Welsh Revenue Authority ”.

**Commencement Information**

**I90** Sch. 6 para. 7 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

- 8 (1) Section 157 (orders and directions) is amended as follows.
- (2) In the heading, after ““Orders”” insert “ , regulations ”.
- (3) In subsection (1), after ““an order”” insert “ or regulations ”.

**Commencement Information**

**I91** Sch. 6 para. 8 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

- 9 In section 158 (interpretation), in subsection (1), at the appropriate place insert—  
““property”” includes rights and interests of any description.”.

**Commencement Information**

**I92** Sch. 6 para. 9 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

- 10 (1) Section 159 (index of defined expressions) is amended as follows.
- (2) Omit the entry for ““the Assembly Act provisions””.
- (3) In the entry for ““Assembly's legislative competence (in relation to Acts of the Assembly)””, for ““section 108”” substitute “ section 108A ”.
- (4) Insert at the appropriate places—

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“ancillary (in relation to a provision)”	section 108A(7)”
“property”	section 158(1)”
“reserved matters”	Schedule 7A”
“devolved Welsh authority”	section 157A”.

**Commencement Information**

**I93** Sch. 6 para. 10 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

11 In section 161 (commencement) omit subsection (7).

**Commencement Information**

**I94** Sch. 6 para. 11 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

12 In Schedule 3 (transfer etc of functions: further provision), in paragraph 3(2), for ““section 58”” substitute “ section 58(1) ”.

**Commencement Information**

**I95** Sch. 6 para. 12 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

13 Omit Schedule 6 (referendums on commencement of Assembly Act provisions).

**Commencement Information**

**I96** Sch. 6 para. 13 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

14 In Schedule 10 (minor and consequential amendments) omit paragraphs 14, 15, 16 and 17.

**Commencement Information**

**I97** Sch. 6 para. 14 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(q)

## PART 2

### AMENDMENTS RELATING TO ONSHORE PETROLEUM

#### *Petroleum Act 1998 (c. 17)*

15 (1) Section 4 of the Petroleum Act 1998 (licences: further provisions) is amended as follows.

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(2) In subsections (1A), (1B) and (1C), after ““Scottish Ministers”” insert “ or the Welsh Ministers ”.

(3) After subsection (3A) insert—

“(3B) Any regulations made by the Welsh Ministers shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(4) After subsection (4A) insert—

“(4B) As soon as practicable after granting a licence under section 3, the Welsh Ministers shall publish notice of the fact in such manner as they think appropriate stating—

- (a) the name of the licensee; and
- (b) the situation of the area in respect of which the licence has been granted.”

#### Commencement Information

**I98** Sch. 6 para. 15 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

16 (1) Section 4A of that Act (onshore hydraulic fracturing: safeguards) is amended as follows.

(2) In subsection (1), after ““well consent”” insert “ for a well situated in the English onshore area ”.

(3) After subsection (1) insert—

“(1A) The Welsh Ministers must not issue a well consent for a well situated in the Welsh onshore area that is required by an onshore licence for England or Wales unless the well consent imposes—

- (a) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
- (b) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Welsh Ministers' consent for it to take place (a ““hydraulic fracturing consent””).”

(4) In subsection (3), after ““made”” insert “ to the Secretary of State ”.

(5) After subsection (3) insert—

“(3A) Where an application is made to the Welsh Ministers, the Welsh Ministers may not issue a hydraulic fracturing consent unless—

- (a) they are satisfied that—
  - (i) the conditions in column 1 of the following table are met, and
  - (ii) the conditions in subsection (6) are met, and
- (b) they are otherwise satisfied that it is appropriate to issue the consent.”



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(6) In subsections (4) and (5), after ““Secretary of State”” insert “ or the Welsh Ministers ”.

(7) In subsection (7), for ““which the Secretary of State thinks appropriate”” substitute “ thought to be appropriate by the Secretary of State or the Welsh Ministers ”.

#### Commencement Information

**I99** Sch. 6 para. 16 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

17 (1) Section 4B of that Act (section 4A: supplementary provision) is amended as follows.

(2) In subsection (4)(a) and (b), after ““areas”” insert “ in the English onshore area ”.

(3) In subsection (7)—

- (a) in paragraph (a) omit ““in relation to England””;
- (b) omit paragraph (b).

(4) After subsection (7) insert—

“(7A) The Welsh Ministers may, by regulations made by statutory instrument, specify—

- (a) the descriptions of areas in the Welsh onshore area that are ““protected groundwater source areas””, and
- (b) the descriptions of areas in the Welsh onshore area that are ““other protected areas””,

for the purposes of section 4A.

(7B) A statutory instrument that contains regulations under subsection (7A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

(7C) Before making regulations under subsection (7A)(a), the Welsh Ministers must consult the Natural Resources Body for Wales.”

(5) In subsection (8)—

- (a) in paragraph (a) of the definition of ““relevant environmental regulator””, for ““England”” substitute “ the English onshore area ”;
- (b) in paragraph (b) of that definition, for ““Wales”” substitute “ the Welsh onshore area ”;
- (c) in the definition of ““well consent””, after ““OGA”” insert “ or the Welsh Ministers ”.

(6) In subsection (9)—

- (a) after ““this section”” insert “ (as it applies to the English onshore area) ”;
- (b) after ““of the power”” insert “ by the Secretary of State ”.

(7) After subsection (9) insert—

“(9A) The power of the Welsh Ministers to make regulations under section 4 includes power to make such amendments of the definition of ““onshore licence for England and Wales”” in this section (as it applies to the Welsh onshore area) as they consider appropriate in consequence of any exercise by them of the power under section 4.”

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(8) In subsection (10)(a), after ““appropriate”” insert “ as regards an application for a hydraulic fracturing consent in relation to land in the English onshore area ”.

(9) At the end insert—

“(12) The Welsh Ministers may, by regulations made by statutory instrument—

- (a) make such amendments of column 2 of the table in section 4A as the Welsh Ministers consider appropriate as regards an application for a hydraulic fracturing consent in relation to land in the Welsh onshore area, and
- (b) make such other amendments of section 4A or this section as the Welsh Ministers consider appropriate in consequence of provision made under paragraph (a).

(13) A statutory instrument that contains regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

**Commencement Information**

**I100** Sch. 6 para. 17 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

18 In section 7(2)(d) of that Act (ancillary rights)—

- (a) omit ““and”” at the end of sub-paragraph (i);
- (b) after sub-paragraph (i) insert—

“(ia) the Welsh Ministers, in relation to licences granted in relation to the Welsh onshore area, and”.

**Commencement Information**

**I101** Sch. 6 para. 18 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Oil Taxation Act 1975 (c. 22)*

19 (1) Section 12 of the Oil Taxation Act 1975 (interpretation of Part 1) is amended as follows.

(2) In subsection (1), in paragraph (b) of the definition of ““licensee””, for ““the OGA”” substitute “—

- (i) the Welsh Ministers, where the rights relate to oil in the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), or
- (ii) the OGA, where the rights relate to oil elsewhere.”.

(3) In subsection (1A)(a)(ii) (authorities that can revoke licences), after ““Scottish Ministers”” insert “ , the Welsh Ministers ”.

**Commencement Information**

**I102** Sch. 6 para. 19 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

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- 20 In Schedule 1 to that Act (determination of oil fields), in paragraph 1(2), after paragraph (ab) insert—
- “(ac) is the Welsh Ministers if the area is such that licences can be granted by the Welsh Ministers for all of it under Part 1 of the Petroleum Act 1998;
  - (ad) is the OGA and the Welsh Ministers acting jointly if the area is such that licences can be granted for part of it by the OGA and for part of it by the Welsh Ministers;”.

**Commencement Information**

**I103** Sch. 6 para. 20 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Taxation of Chargeable Gains Act 1992 (c. 12)*

- 21 (1) Section 196 of the Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In subsection (1)(a) and (b), for ““Oil and Gas Authority”” substitute “ appropriate authority ”.
- (3) Omit subsection (3).
- (4) In subsection (5), after ““section—”” insert—
- ““appropriate authority””, in relation to a UK licence means—
- (a) in the case of a licence under Part 1 of the Petroleum Act 1998—
    - (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
    - (ii) otherwise, the Oil and Gas Authority;
  - (b) in the case of a licence under the Petroleum (Production) Act (Northern Ireland) 1964, the Department for the Economy;”.

**Commencement Information**

**I104** Sch. 6 para. 21 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Finance Act 1993 (c. 34)*

- 22 (1) Section 185 of the Finance Act 1993 (abolition of petroleum revenue tax for oil fields with development consent on or after 16 March 1993) is amended as follows.
- (2) In subsection (1C)(a) and (b), for ““OGA”” substitute “ appropriate authority ”.
- (3) In subsection (2)(b), for ““OGA”” substitute “ appropriate authority ”.
- (4) After subsection (2) insert—
- “(2A) In subsections (1C) and (2), ““the appropriate authority”” means—
- (a) in relation to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
  - (b) otherwise, the OGA.”

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**Commencement Information**

**I105** Sch. 6 para. 22 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Capital Allowances Act 2001 (c. 2)*

- 23 In section 556(2)(a) of the Capital Allowances Act 2001 (definition of ““relevant authority””), for ““, the Oil and Gas Authority”” substitute “—
- (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
  - (ii) otherwise the Oil and Gas Authority, and”.

**Commencement Information**

**I106** Sch. 6 para. 23 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Energy Act 2004 (c. 20)*

- 24 In section 188 of the Energy Act 2004 (power to impose charges to fund energy functions), at the end insert—
- “(13) This section applies in relation to the Welsh Ministers as it applies in relation to the Secretary of State, and in its application to the Welsh Ministers it is to be read as if—
- (a) for subsections (6) and (7) there were substituted—
    - “(6) Regulations under this section must be made by statutory instrument and are subject to annulment in pursuance of a resolution of the National Assembly for Wales.
    - (7) Section 192(4) applies in relation to the power of the Welsh Ministers to make regulations under subsection (6) as it applies in relation to an order or regulations made by the Secretary of State or the Treasury.
    - (7A) The references in this section to relevant energy functions are references to the functions of the Welsh Ministers under Part 1 of the Petroleum Act 1998.”, and
  - (b) the reference in subsection (11) to the Consolidated Fund were a reference to the Welsh Consolidated Fund.”

**Commencement Information**

**I107** Sch. 6 para. 24 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Corporation Tax Act 2010 (c. 4)*

- 25 (1) Section 332DA of the Corporation Tax Act 2010 (restriction where field qualified for field allowance as new field) is amended as follows.
- (2) In subsection (5), for ““OGA”” substitute “ relevant national authority ”.

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(3) After subsection (5) insert—

“(5A) The relevant national authority” is—

- (a) where the relevant project relates to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
- (b) otherwise, the OGA.”

**Commencement Information**

**I108** Sch. 6 para. 25 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

26 In section 356IB of that Act (authorisation of development: oil fields), in subsection (2), in the definition of “national authority”—

- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (a) insert—  
“(aa) the Welsh Ministers, or”.

**Commencement Information**

**I109** Sch. 6 para. 26 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

27 In section 356J of that Act (authorisation of development: drilling and extraction sites), in subsection (4), in the definition of “national authority”—

- (a) omit “or” or at the end of paragraph (a);
- (b) after paragraph (a) insert—  
“(aa) the Welsh Ministers, or”.

**Commencement Information**

**I110** Sch. 6 para. 27 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Infrastructure Act 2015 (c. 7)*

28 (1) Section 45 of the Infrastructure Act 2015 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.

(2) In subsection (4)—

- (a) for “The regulations” substitute “Regulations under subsection (1)”;
- (b) in paragraph (a), at the end insert “to which the regulations relate”;
- (c) in paragraph (b), for “this section” substitute “subsection (1)”.

(3) After subsection (4) insert—

“(4A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—

- (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;

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(b) the making of payments in accordance with regulations under subsection (1A).”

(4) In subsection (5), for ““this section”” substitute “ subsection (1) ”.

(5) At the end insert—

“(6) Before making any regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”

#### Commencement Information

**I111** Sch. 6 para. 28 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

29 (1) Section 46 of that Act (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.

(2) In subsection (3), in paragraph (b), at the end insert “ to which the regulations relate ”.

(3) In subsection (5)—

(a) for ““The regulations”” substitute “ Regulations under subsection (1) ”;

(b) in paragraph (a), at the end insert “ to which the regulations relate ”;

(c) in paragraph (b), for ““this section”” substitute “ subsection (1) ”.

(4) After subsection (5) insert—

“(5A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—

(a) the proposed exercise, or exercise, of the right of use to which the regulations relate;

(b) the giving of notice in accordance with regulations under subsection (1A).”

(5) In subsection (6), for ““this section”” substitute “ subsection (1) ”.

(6) After subsection (6) insert—

“(6A) Before making regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”

#### Commencement Information

**I112** Sch. 6 para. 29 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

30 (1) Section 47 of that Act (payment and notice schemes: supplementary provision) is amended as follows.

(2) In subsection (2), after ““Regulations”” insert “ made by the Secretary of State ”.

(3) After subsection (2) insert—

“(2A) Regulations made by the Welsh Ministers under section 45 or 46 may confer a function on—

(a) the Welsh Ministers, or

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- (b) any other person apart from a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).”
- (4) In subsection (5), after ““review of”” insert “ the Secretary of State's powers under ”.
- (5) In subsection (6)—
  - (a) in paragraph (a), for ““45””, in both places, substitute “ 45(1) ”;
  - (b) in paragraph (b), for ““46””, in both places, substitute “ 46(1) ”.
- (6) In subsection (7)—
  - (a) for ““45”” substitute “ 45(1) ”;
  - (b) for ““46”” substitute “ 46(1) ”.

#### Commencement Information

**I113** Sch. 6 para. 30 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

- 31 (1) Section 48 of that Act (interpretation) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Secretary of State may make regulations setting out the definition of ““landward area”” as it applies in relation to—
    - (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and
    - (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.
  - (1B) The Welsh Ministers may make regulations setting out the definition of ““landward area”” as it applies in relation to the right to use deep-level land in Wales for the purposes of exploiting petroleum within the Welsh onshore area.
  - (1C) Until regulations are made under subsection (1A) or (1B), ““landward area”” means those parts of the landward area, within the meaning of the 2014 Regulations, that are in England and Wales.”
- (3) In subsection (2)—
- (a) before the definition of ““deep geothermal energy”” insert—
    - ““the 2014 Regulations”” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 (S.I. 2014/1686), as in force on the day on which subsections (1A) to (1C) come into force;”;
  - (b) after the definition of ““deep-level land”” insert—
    - ““England”” includes the sea adjacent to England out as far as—
      - (a) the seaward boundary of the territorial sea, or
      - (b) if nearer to the land, any boundary between waters that are treated as part of the sea adjacent to Wales and those that are not, as determined by an order made under section 158(3) of the Government of Wales Act 2006;”;
  - (c) omit the definition of ““landward area””;
  - (d) at the end insert—

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““Wales”” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act);

““Welsh onshore area”” has the same meaning as in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.”

(4) Omit subsection (3).

**Commencement Information**

**I114** Sch. 6 para. 31 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

32 (1) Section 55 of that Act (regulations and orders) is amended as follows.

(2) In subsection (4)—

- (a) in the opening words, after ““instrument”” insert “ made by the Secretary of State ”;
- (b) in paragraph (c), after ““47”” insert “ , 48 ”.

(3) After subsection (5) insert—

“(5A) A statutory instrument made by the Welsh Ministers containing regulations under section 45, 46 or 48 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

(4) In subsection (6)(b), after ““(4)”” insert “ or (5A) ”.

**Commencement Information**

**I115** Sch. 6 para. 32 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

**PART 3**

OTHER AMENDMENTS

*National Audit Act 1983 (c. 44)*

33 (1) Section 6 of the National Audit Act 1983 (public departments etc) is amended as follows.

(2) In subsection (3) omit paragraphs (aa) and (ab).

(3) In subsection (3)(b) omit the words ““, Schedule 9 to the National Health Service (Wales) Act 2006””.

(4) Omit subsection (3A).

**Commencement Information**

**I116** Sch. 6 para. 33 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)



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- 34 (1) Section 8 of that Act (right to obtain documents and information) is amended as follows.
- (2) In subsection (1) omit the words ““and except in relation to an examination under section 6 above in respect of the Welsh Ministers or the National Assembly for Wales Commission””.
- (3) Omit subsections (3), (4) and (5).

**Commencement Information**

**I117** Sch. 6 para. 34 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 35 In section 9 of that Act (reports to House of Commons) omit subsection (2).

**Commencement Information**

**I118** Sch. 6 para. 35 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Road Traffic Regulation Act 1984 (c. 27)*

- 36 (1) Section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) is amended as follows.
- (2) After subsection (3ZC) insert—
- “(3ZCA) In relation to special roads in Wales, that power of the Secretary of State is exercisable only after consultation with the Welsh Ministers.”
- (3) After subsection (3A) insert—
- “(3B) Before making regulations under subsection (2), the Welsh Ministers must consult the National Park authority for any National Park that would be affected by the regulations.”

**Commencement Information**

**I119** Sch. 6 para. 36 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 37 (1) Section 65 of that Act (powers of traffic authorities as to placing of traffic signs) is amended as follows.
- (2) For ““national authority””, in each place, substitute “ relevant authority ”.
- (3) In subsection (3), after ““Secretary of State”” insert “ or the Welsh Ministers ”.
- (4) In subsection (3ZB), after ““with”” insert “ the Welsh Ministers and ”.
- (5) In subsection (3ZC), for the words from ““giving”” to ““Ministers”” substitute “ the Welsh Ministers or the Scottish Ministers give a general direction under subsection (1) they ”.
- (6) After subsection (4) insert—
- “(5) In this section ““relevant authority”” means—

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- (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
- (b) in relation to a function so far as exercisable within devolved competence, within the meaning given by section 58A(7) and (8) of the Government of Wales Act 2006, means the Welsh Ministers;
- (c) otherwise, means the Secretary of State.”

**Commencement Information**

**I120** Sch. 6 para. 37 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 38 In section 72 of that Act (powers exercisable by parish or community councils), in subsection (4), after ““by the highway authority”” insert “ , the Welsh Ministers ”.

**Commencement Information**

**I121** Sch. 6 para. 38 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 39 (1) Section 81 of that Act (general speed limit for restricted roads) is amended as follows.
- (2) In subsection (3), after paragraph (a) insert—
- “(aa) if made by the Welsh Ministers, is to be made by statutory instrument and approved by a resolution of the National Assembly for Wales;”.
- (3) In subsection (4), after ““with”” insert “ the Welsh Ministers and ”.
- (4) In subsection (5), for the words from ““making”” to ““Ministers”” substitute “ the Welsh Ministers or the Scottish Ministers make an order under subsection (2) they ”.

**Commencement Information**

**I122** Sch. 6 para. 39 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 40 In section 83 of that Act (provisions as to directions under section 82(2)), after subsection (3) insert—
- “(4) The power of the Welsh Ministers to make an order under subsection (1) is exercisable by statutory instrument.”

**Commencement Information**

**I123** Sch. 6 para. 40 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 41 (1) Section 85 of that Act (traffic signs for indicating speed restrictions) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) The power of the Welsh Ministers to give general directions under subsection (2) is exercisable by statutory instrument.”
- (3) In subsection (9), after ““with”” insert “ the Welsh Ministers and ”.

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- (4) In subsection (10), for the words from ““giving”” to ““Ministers”” substitute “the Welsh Ministers or the Scottish Ministers give any general directions under subsection (2) they”.

**Commencement Information**

**I124** Sch. 6 para. 41 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 42 (1) Section 88 of that Act (temporary speed limits) is amended as follows.
- (2) After subsection (8) insert—
- “(8A) The first order to be made under subsection (1)(b) by the Welsh Ministers is not to be made until a draft of the order has been laid before and approved by a resolution of the National Assembly for Wales.”
- (3) After subsection (11) insert—
- “(11A) The power of the Welsh Ministers to make an order under subsection (4) is exercisable by statutory instrument.
- (11B) A statutory instrument containing an order made by the Welsh Ministers under subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

**Commencement Information**

**I125** Sch. 6 para. 42 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 43 (1) Section 134 of that Act (regulations) is amended as follows.
- (2) After subsection (3A) insert—
- “(3B) Before making regulations under section 25 or 64 the Secretary of State must consult with the Welsh Ministers.”
- (3) After subsection (8) insert—
- “(9) Any power conferred by this Act on the Welsh Ministers to make regulations is exercisable by statutory instrument.
- (10) Before making regulations under a provision of this Act (except sections 103(1), 108 to 110, Schedule 4, Schedule 8 and Schedule 12), the Welsh Ministers must consult with such representative organisations as they think fit.
- (11) A statutory instrument containing regulations made by the Welsh Ministers under this Act (except section 86) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations made by the Welsh Ministers under section 86 do not have effect unless approved by a resolution of the National Assembly for Wales.
- (13) Before making regulations under section 25 or 64 the Welsh Ministers must consult with the Secretary of State.”

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**Commencement Information**

**I126** Sch. 6 para. 43 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Transport Act 1985 (c. 67)*

44 In section 134 of the Transport Act 1985 (regulations, rules and orders), after subsection (5) insert—

“(6) Regulations made by the Welsh Ministers under any of the specified provisions may make different provision for different cases to which the regulations apply, and may in particular—

- (a) make different provision as respects different areas; and
- (b) make different provision as respects different classes or descriptions of vehicles or as respects the same class or description of vehicles in different circumstances.

(7) The ““specified provisions”” are—

- (a) section 6(2), (3) and (9);
- (b) section 6A(11);
- (c) section 6B(5) and (7);
- (d) section 7(6)(d), (9) and (11);
- (e) section 10(5)(c) and (8).

(8) An order made by the Welsh Ministers under section 13(1) may make different provision for different cases to which the order applies, and may in particular make different provision as respects different areas.”

**Commencement Information**

**I127** Sch. 6 para. 44 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

45 In section 135 of that Act (procedure for making regulations, rules and orders), after subsection (4) insert—

“(5) The power of the Welsh Ministers to make regulations or an order under any of the specified provisions (see subsection (8)) is exercisable by statutory instrument.

(6) A statutory instrument containing regulations or an order made by the Welsh Ministers under any of the specified provisions is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(7) The Welsh Ministers must consult such representative organisations as they think fit before making regulations under any of the specified provisions.

(8) The ““specified provisions”” are—

- (a) section 6(2), (3) and (9);
- (b) section 6A(11);
- (c) section 6B(5) and (7);
- (d) section 7(6)(d), (9) and (11);
- (e) section 10(5)(c) and (8);

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(f) section 13(1).”

**Commencement Information**

**I128** Sch. 6 para. 45 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Road Traffic Act 1988 (c. 52)*

- 46 In section 36 of the Road Traffic Act 1988 (offence of failing to comply with traffic sign)—
- (a) in subsections (1)(b) and (3)(a), for ““national authority”” substitute “ relevant authority ”;
  - (b) in subsection (6), after ““with”” insert “ the Welsh Ministers and ”;
  - (c) in subsection (7), for the words from ““making”” to ““Ministers”” substitute “ the Welsh Ministers or the Scottish Ministers make regulations under subsection (5) they ”;
  - (d) in subsection (8)—
    - (i) for ““ “national authority””” substitute “ “relevant authority” ”;
    - (ii) for ““section 142(1)”” substitute “ section 64(6A) ”.

**Commencement Information**

**I129** Sch. 6 para. 46 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Electricity Act 1989 (c. 29)*

- 47 In section 36 of the Electricity Act 1989 (consents required for construction etc of generating stations), after subsection (8) insert—
- “(8A) The Welsh Ministers may by regulations make provision about the grant of consents under section 36 in relation to generating stations in respect of which they are the appropriate authority, including in particular provision about—
- (a) the making and withdrawal of applications;
  - (b) fees;
  - (c) publicity and consultation requirements;
  - (d) rights to make representations;
  - (e) public inquiries;
  - (f) consideration of applications.
- (8B) The Welsh Ministers may by regulations make provision for applications in respect of which they are the appropriate authority to be determined by a person appointed by them for that purpose.”

**Commencement Information**

**I130** Sch. 6 para. 47 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

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48 In section 36C of that Act (variation of consents under section 36), after subsection (5) insert—

“(5A) Regulations may provide that, where the Welsh Ministers are the appropriate authority, applications under this section are to be determined by a person appointed by the Welsh Ministers for that purpose.”

**Commencement Information**

**I131** Sch. 6 para. 48 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

49 In section 106 of that Act (regulations and orders)—

(a) after subsection (1A) insert—

“(1B) Any power of the Welsh Ministers to make orders under section 36 or 36C or paragraph 1(4) of Schedule 9 is exercisable by statutory instrument.”;

(b) after subsection (2) insert—

“(2A) Any statutory instrument containing regulations or an order made by the Welsh Ministers under section 36 or 36C or paragraph 1(4) of Schedule 9 shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

**Commencement Information**

**I132** Sch. 6 para. 49 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

50 (1) Schedule 8 to that Act (consents under sections 36 and 37) is amended as follows.

(2) In the heading, after ““consents”” insert “ of the Secretary of State and the Scottish Ministers ”.

(3) In paragraph 8 (supplemental), after sub-paragraph (1) insert—

“(1A) In this Schedule references to applications for consent shall not include applications to the Welsh Ministers.”

**Commencement Information**

**I133** Sch. 6 para. 50 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

51 In paragraph 1 of Schedule 9 to that Act (preservation of amenity and fisheries)—

(a) in sub-paragraph (2)—

(i) for ““his”” substitute “ its ”;

(ii) for ““Secretary of State”” substitute “ appropriate authority ”;

(b) in sub-paragraph (3), before “““building””” insert—

“““appropriate authority”” has the meaning given by section 36(10)(b) or (c) of this Act;”;

(c) in sub-paragraph (4), for ““Secretary of State”” substitute “ appropriate authority ”.

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**Commencement Information**

**I134** Sch. 6 para. 51 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

*Human Fertilisation and Embryology Act 1990 (c. 37)*

- 52 In section 45A of the Human Fertilisation and Embryology Act 1990 (power to make consequential provision), in subsection (4), for the words from ““a Measure”” to ““an Act of the Assembly”” substitute “ an Act of the Assembly ”.

**Commencement Information**

**I135** Sch. 6 para. 52 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 53 In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (retirement provisions: the relevant offices), after the entry for the Senior President of Tribunals insert— “ President of Welsh Tribunals ”.

**Commencement Information**

**I136** Sch. 6 para. 53 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Government of Wales Act 1998 (c. 38)*

- 54 In section 145 of the Government of Wales Act 1998 (examinations into use of resources) omit subsection (6).

**Commencement Information**

**I137** Sch. 6 para. 54 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 55 In Schedule 6 to that Act (Her Majesty's Chief Inspector of Education and Training in Wales) omit paragraph 9.

**Commencement Information**

**I138** Sch. 6 para. 55 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Care Standards Act 2000 (c. 14)*

- 56 In Schedule 2 to the Care Standards Act 2000 (the Children's Commissioner for Wales) omit paragraph 12.

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**Commencement Information**

**I139** Sch. 6 para. 56 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Local Government Act 2000 (c. 22)*

- 57 In section 7 of the Local Government Act 2000 (power to modify enactments concerning plans etc: Wales), in subsection (9), for the words after ““For the purposes of subsection (8),”” substitute “ section 108A of the Government of Wales Act 2006 (legislative competence) has effect as if subsection (2)(c) of that section and paragraph 1 of Schedule 7B to that Act were omitted. ”

**Commencement Information**

**I140** Sch. 6 para. 57 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 58 In section 77 of that Act (adjudications) omit subsection (5).

**Commencement Information**

**I141** Sch. 6 para. 58 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Female Genital Mutilation Act 2003 (c. 31)*

- 59 (1) Section 5C of the Female Genital Mutilation Act 2003 (guidance) is amended as follows.
- (2) In subsection (4)(a), for ““a body exercising devolved Welsh functions”” substitute “ a devolved Welsh authority ”.
- (3) For subsection (5) substitute—
- “(5) In subsection (4)(a) ““devolved Welsh authority”” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

**Commencement Information**

**I142** Sch. 6 para. 59 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Energy Act 2004 (c. 20)*

- 60 (1) Section 192 of the Energy Act 2004 (powers exercisable by statutory instrument) is amended as follows.
- (2) In subsection (1), after ““the Secretary of State”” insert “ , the Welsh Ministers ”.
- (3) In subsection (2)(a), after ““regulations”” insert “ made by the Secretary of State or the Treasury ”.
- (4) After subsection (2) insert—



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“(2A) Where —

- (a) this Act provides for an order or regulations made by the Welsh Ministers to be subject to the negative resolution procedure, and
- (b) a draft of the order or regulations has not been required, in accordance with this or any other enactment, to be laid before and approved by a resolution of the National Assembly for Wales,

the statutory instrument containing the order or regulations shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

(5) In subsection (3), for ““the power”” substitute “ a power of the Secretary of State or the Treasury ”.

(6) In subsection (4), after ““the Secretary of State”” insert “ , the Welsh Ministers ”.

**Commencement Information**

I143 Sch. 6 para. 60 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

61 In Schedule 16 to that Act (applications and proposals for notices under section 95), in paragraph 9(a), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

**Commencement Information**

I144 Sch. 6 para. 61 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

*Constitutional Reform Act 2005 (c. 4)*

62 In section 109 of the Constitutional Reform Act 2005 (disciplinary powers: interpretation), in subsection (5), after paragraph (da) insert—

“(db) President of Welsh Tribunals;”.

**Commencement Information**

I145 Sch. 6 para. 62 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

63 In Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (appointment etc) omit paragraph 20.

**Commencement Information**

I146 Sch. 6 para. 63 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

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*Commissioners for Revenue and Customs Act 2005 (c. 11)*

- 64 In section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality), in subsection (2)(j), for ““the Welsh Ministers”” substitute “ the Welsh Revenue Authority ”.

**Commencement Information**

**I147** Sch. 6 para. 64 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Commissioner for Older People (Wales) Act 2006 (c. 30)*

- 65 In Schedule 1 to the Commissioner for Older People (Wales) Act 2006 (the Commissioner) omit paragraph 14.

**Commencement Information**

**I148** Sch. 6 para. 65 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Legislative and Regulatory Reform Act 2006 (c. 51)*

- 66 (1) Section 24 of the Legislative and Regulatory Reform Act 2006 (functions to which sections 21 and 22 apply) is amended as follows.
- (2) Omit the definition of ““Welsh regulatory function”” in subsection (10).
- (3) After that subsection insert—
- “(11) For the purposes of this section a regulatory function is a ““Welsh regulatory function”” if or to the extent that it is exercisable in relation to Wales and is a function which—
- (a) could be conferred by provision falling within the legislative competence of the National Assembly for Wales (see section 108A of the Government of Wales Act 2006), or
- (b) relates to matters in respect of which functions are exercisable by the Welsh Ministers.”

**Commencement Information**

**I149** Sch. 6 para. 66 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 67 In section 27 of that Act (power to make orders, rules and schemes), in subsection (6), for paragraph (c) substitute—
- “(c) so far as they are powers that—
- (i) could be conferred by provision falling within the legislative competence of the National Assembly for Wales, or
- (ii) are exercisable in relation to matters in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government,

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shall also be exercisable by the Welsh Ministers.”

**Commencement Information**

**I150** Sch. 6 para. 67 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Tribunals, Courts and Enforcement Act 2007 (c. 15)*

- 68 (1) Section 47 of the Tribunals, Courts and Enforcement Act 2007 (co-operation in relation to judicial training, guidance and welfare) is amended as follows.
- (2) In subsection (4)(a) and (b), after ““the Senior President of Tribunals”” insert “ or the President of Welsh Tribunals ”.
- (3) In subsection (5)(c)—
- (a) omit ““or”” at the end of sub-paragraph (iii);
  - (b) at the end insert “, or
  - (v) a judge, or other member, of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals).”

**Commencement Information**

**I151** Sch. 6 para. 68 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Statistics and Registration Service Act 2007 (c. 18)*

- 69 In section 66 of the Statistics and Registration Service Act 2007 (devolved statistics), for subsection (3) substitute—
- “(3) In this Part ““Welsh devolved statistics”” means statistics which relate to the exercise of functions by a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006), other than statistics produced by a person acting on behalf of—
- (a) the Crown, or
  - (b) a public authority,
- in the exercise of functions that could not be conferred by provision falling within the legislative competence of the National Assembly for Wales (see section 108A of that Act).”

**Commencement Information**

**I152** Sch. 6 para. 69 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Consumers, Estate Agents and Redress Act 2007 (c. 17)*

- 70 In section 37 of the Consumers, Estate Agents and Redress Act 2007 (extension of the functions of Citizens Advice etc), in subsection (5), for the words from ““a Measure”” to ““an Act of the Assembly”” substitute “ an Act of the Assembly ”.

*Status: Point in time view as at 01/09/2021. This version of this Act contains provisions that are prospective.*

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**Commencement Information**

**I153** Sch. 6 para. 70 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Regulatory Enforcement and Sanctions Act 2008 (c. 13)*

- 71 In section 74 of the Regulatory Enforcement and Sanctions Act 2008 (general interpretation), in paragraph (a) of the definition of ““devolved Welsh matter””, for ““section 108”” substitute “ section 108A ”.

**Commencement Information**

**I154** Sch. 6 para. 71 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Human Fertilisation and Embryology Act 2008 (c. 22)*

- 72 In section 64 of the Human Fertilisation and Embryology Act 2008 (power to make consequential and transitional provision etc), in subsection (6), for the words from ““a Measure”” to ““an Act of the Assembly”” substitute “ an Act of the Assembly ”.

**Commencement Information**

**I155** Sch. 6 para. 72 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Climate Change Act 2008 (c. 27)*

- 73 In section 70 of the Climate Change Act 2008 (interpretation), in subsections (4)(b) and (6)(b), for ““relating to matters within”” substitute “ capable of being conferred by provision falling within ”.

**Commencement Information**

**I156** Sch. 6 para. 73 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Planning Act 2008 (c. 29)*

- 74 In section 149A of the Planning Act 2008 (deemed consent under a marine licence), in subsection (3)(b), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

**Commencement Information**

**I157** Sch. 6 para. 74 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 75 Omit section 202 of that Act (powers of National Assembly for Wales).

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**Commencement Information**

**I158** Sch. 6 para. 75 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 76 In Schedule 5 to that Act (provision relating to, or to matters ancillary to, development), in paragraphs 30A and 30B, after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

**Commencement Information**

**I159** Sch. 6 para. 76 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Marine and Coastal Access Act 2009 (c. 23)*

- 77 In section 12 of the Marine and Coastal Access Act 2009 (certain consents under section 36 of the Electricity Act 1989), in subsection (3)—
- (a) in paragraph (a) omit ““or””;
  - (b) after paragraph (b) insert—
    - “(c) any area of the Welsh inshore region, or
    - (d) any area of the Welsh offshore region.”

**Commencement Information**

**I160** Sch. 6 para. 77 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

- 78 In section 13 of that Act (safety zones: functions under section 95 of the Energy Act 2004), in subsection (3)—
- (a) in paragraph (a) omit ““or””;
  - (b) after paragraph (b) insert—
    - “(c) any area of the Welsh inshore region, or
    - (d) any area of the Welsh offshore region.”

**Commencement Information**

**I161** Sch. 6 para. 78 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

- 79 In section 60 of that Act (meaning of ““retained functions”” etc), in subsection (4), in paragraph (c) of the definition of ““secondary devolved Welsh functions””, for ““relating to matters within”” substitute “ they are capable of being conferred by provision falling within ”.

**Commencement Information**

**I162** Sch. 6 para. 79 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 80 (1) Section 78 of that Act (special procedure for applications relating to harbour works) is amended as follows.
- (2) In subsection (5), after ““subsection (6)(c) or (d)”” insert “ or (6A)(b) ”.

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(3) In subsection (6), at the beginning insert “ Subject to subsection (6B), ”.

(4) After that subsection insert—

“(6A) The Welsh Ministers may by regulations—

- (a) make provision falling within subsection (7) for cases where—
  - (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
  - (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
  - (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
  - (ii) they have concluded that one of the applications is not going to be made.

(6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the harbour order authority.”

#### Commencement Information

**I163** Sch. 6 para. 80 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

81 (1) Section 79 of that Act (special procedure for applications relating to certain electricity works) is amended as follows.

(2) In subsection (5), after ““subsection (6)(c) or (d)”” insert “ or (6A)(b) ”.

(3) In subsection (6), at the beginning insert “ Subject to subsection (6B), ”.

(4) After that subsection insert—

“(6A) The Welsh Ministers may by regulations—

- (a) make provision falling within subsection (7) for cases where—
  - (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
  - (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
  - (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
  - (ii) they have concluded that one of the applications is not going to be made.

(6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the generating station authority.”

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(5) In subsection (9), in the definition of “generating station authority”, at the end insert—

“(c) the Welsh Ministers, in any case where the generating station application falls (or would fall) to be determined by the Welsh Ministers;”.

**Commencement Information**

**I164** Sch. 6 para. 81 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(b)

*Welfare Reform Act 2009 (c. 24)*

82 In section 45 of the Welfare Reform Act 2009 (the appropriate authority by which regulations under section 41 are made), in subsection (2)(b), for the words from “a Measure” to “an Act of the Assembly” substitute “an Act of the Assembly”.

**Commencement Information**

**I165** Sch. 6 para. 82 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Equality Act 2010 (c. 15)*

83 (1) Section 2 of the Equality Act 2010 (power to amend section 1) is amended as follows.  
(2) In subsection (6), for the words from “an authority” to “correspond” substitute “a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) whose functions correspond”.  
(3) In subsection (11) omit paragraph (b).

**Commencement Information**

**I166** Sch. 6 para. 83 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

84 (1) Section 157 of that Act (interpretation) is amended as follows.

(2) For subsection (2) substitute—

“(2) A relevant Welsh authority is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) other than the Assembly Commission.”

(3) For subsection (5) substitute—

“(5) A function is a devolved Welsh function if—

- (a) it relates to a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (b) provision conferring the function would be within the legislative competence of the National Assembly for Wales.”

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**Commencement Information**

**I167** Sch. 6 para. 84 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Flood and Water Management Act 2010 (c. 29)*

- 85 In section 28 of the Flood and Water Management Act 2010 (power to make further amendments), in subsection (3), for paragraph (a) substitute—
- “(a) the Welsh Ministers, where the amendment—
- (i) relates to a matter in respect of which functions may be exercised by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (ii) would be within the legislative competence of the National Assembly for Wales if contained in an Act of the Assembly, and”.

**Commencement Information**

**I168** Sch. 6 para. 85 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Budget Responsibility and National Audit Act 2011 (c. 4)*

- 86 In Schedule 5 to the Budget Responsibility and National Audit Act 2011 (consequential amendments relating to Part 2) omit paragraphs 26 to 28.

**Commencement Information**

**I169** Sch. 6 para. 86 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 87 Omit Schedule 6 to that Act (amendments of Schedules 5 and 7 to the Government of Wales Act 2006).

**Commencement Information**

**I170** Sch. 6 para. 87 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Police Reform and Social Responsibility Act 2011 (c. 13)*

- 88 In Schedule 16 to the Police Reform and Social Responsibility Act 2011 (minor and consequential amendments) omit paragraph 353.

**Commencement Information**

**I171** Sch. 6 para. 88 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)



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*Localism Act 2011 (c. 20)*

- 89 In section 51 of the Localism Act 2011 (meaning of “public authority” and related terms), in subsection (6)(c), for “section 108” substitute “section 108A”.

**Commencement Information**

**I172** Sch. 6 para. 89 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 90 In section 61 of that Act (meaning of “Welsh public authority” and related terms), in subsection (4), for “section 108” substitute “section 108A”.

**Commencement Information**

**I173** Sch. 6 para. 90 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 91 In Schedule 13 to that Act (Infrastructure Planning Commission: transfer of functions to Secretary of State) omit paragraph 79.

**Commencement Information**

**I174** Sch. 6 para. 91 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Welsh Language (Wales) Measure 2011 (nawm 1)*

- 92 In the Welsh Language (Wales) Measure 2011 omit section 124 (practice directions).

**Commencement Information**

**I175** Sch. 6 para. 92 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Protection of Freedoms Act 2012 (c. 9)*

- 93 In Schedule 3 to the Protection of Freedoms Act 2012 (corresponding code of practice for Welsh devolved powers of entry), in paragraph 1(1), for the words after paragraph (a) substitute—  
“(b) associated powers.

The code may only contain provision that would be within the legislative competence of the National Assembly for Wales if contained in an Act of the Assembly.”

**Commencement Information**

**I176** Sch. 6 para. 93 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

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*The Special Educational Needs Tribunal for Wales Regulations 2012 (S.I. 2012/ 322 (W.53))*

- 94 In the Special Educational Needs Tribunal for Wales Regulations 2012 omit regulation 28 (general powers).

**Commencement Information**

**I177** Sch. 6 para. 94 in force at 10.7.2017 or the first day on which regulations made under 2017 c. 4, Sch. 5 para. 7(1) come into force, whichever is the later by S.I. 2017/351, reg. 2

*Energy Act 2013 (c. 32)*

- 95 In Schedule 12 to the Energy Act 2013 (minor and consequential amendments) omit paragraph 90.

**Commencement Information**

**I178** Sch. 6 para. 95 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Public Audit (Wales) Act 2013 (anaw 3)*

- 96 In Schedule 4 to the Public Audit (Wales) Act 2013 (minor and consequential amendments) omit paragraph 78.

**Commencement Information**

**I179** Sch. 6 para. 96 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)*

- 97 In Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 (minor and consequential amendments) omit paragraph 43.

**Commencement Information**

**I180** Sch. 6 para. 97 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Water Act 2014 (c. 21)*

- 98 In Schedule 7 to the Water Act 2014 (further amendments) omit paragraph 135.

**Commencement Information**

**I181** Sch. 6 para. 98 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Wales Act 2014 (c. 29)*

- 99 In section 6 of the Wales Act 2014 (taxation: introductory) omit subsections (3) and (7) to (9).

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**Commencement Information**

**I182** Sch. 6 para. 99 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

100 In section 7 of that Act (amendments relating to the Commissioners for Revenue and Customs) omit subsection (14).

**Commencement Information**

**I183** Sch. 6 para. 100 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

101 Omit section 22 of that Act (budgetary procedures).

**Commencement Information**

**I184** Sch. 6 para. 101 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Counter-Terrorism and Security Act 2015 (c. 6)*

102 In section 29 of the Counter-Terrorism and Security Act 2015 (power to issue guidance), in subsection (4)(a), for ““a Welsh authority”” substitute “ a devolved Welsh authority ”.

**Commencement Information**

**I185** Sch. 6 para. 102 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

103 In section 30 of that Act (power to give directions: general), in subsection (3), for ““a Welsh authority”” substitute “ a devolved Welsh authority ”.

**Commencement Information**

**I186** Sch. 6 para. 103 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

104 (1) Section 35 of that Act (Chapter 1: interpretation) is amended as follows.

(2) For subsection (4) substitute—

“(4) Devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

(3) For subsection (5) substitute—

“(5) A function is a ““devolved Welsh function”” if—

- (a) it relates to a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (b) provision conferring the function would be within the legislative competence of the National Assembly for Wales.”

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**Commencement Information**

**I187** Sch. 6 para. 104 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Deregulation Act 2015 (c. 20)*

- 105 (1) Section 109 of the Deregulation Act 2015 (functions to which section 108 of that Act applies) is amended as follows.
- (2) In subsection (3)(c), for ““relates to matters which are devolved Welsh matters”” substitute “ could be conferred by provision falling within the legislative competence of the National Assembly for Wales ”.
- (3) In subsection (6) omit the definition of ““devolved Welsh matter””.

**Commencement Information**

**I188** Sch. 6 para. 105 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Small Business, Enterprise and Employment Act 2015 (c. 26)*

- 106 In section 18 of the Small Business, Enterprise and Employment Act 2015 (power to specify regulatory functions), in subsection (5)(c), for ““section 108”” substitute “ section 108A ”.

**Commencement Information**

**I189** Sch. 6 para. 106 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 107 In section 22 of that Act (meaning of ““qualifying regulatory provisions”” etc), in subsection (7)(c), for ““section 108”” substitute “ section 108A ”.

**Commencement Information**

**I190** Sch. 6 para. 107 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 108 In section 39 of that Act (regulations about procurement), in subsection (4)—
- (a) after ““if”” insert “ it is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) or if”;
  - (b) in paragraph (b) omit ““or””;
  - (c) omit paragraph (c).

**Commencement Information**

**I191** Sch. 6 para. 108 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

- 109 (1) Section 153C of that Act (power to relax restriction on public sector exit payments) is amended as follows.

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(2) In subsections (5)(b), (8)(a) and (8)(b), for ““relevant Welsh authority”” substitute ““devolved Welsh authority””.

(3) In subsection (9), for the definition of ““relevant Welsh authority”” substitute—  
““devolved Welsh authority”” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

**Commencement Information**

**I192** Sch. 6 para. 109 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

110 In section 157 of that Act (power of Secretary of State to waive repayment requirement), in subsection (6)(b), for the words after ““responsible authorities who”” substitute ““are devolved Welsh authorities within the meaning given by section 157A of the Government of Wales Act 2006””.

**Commencement Information**

**I193** Sch. 6 para. 110 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Housing and Planning Act 2016 (c. 22)*

111 (1) Section 207 of the Housing and Planning Act 2016 (engagement with public authorities in relation to proposals to dispose of land) is amended as follows.

(2) In subsection (6)—

- (a) omit ““or”” at the end of paragraph (a);
- (b) omit paragraph (b).

(3) After that subsection insert—

“(6A) Regulations under subsection (3) may not be made so to require a devolved Welsh authority to carry out engagement under subsection (2).”

(4) In subsection (7), at the end insert—

““devolved Welsh authority”” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

**Commencement Information**

**I194** Sch. 6 para. 111 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

112 (1) Section 208 of that Act (duty of public authorities to prepare report of surplus land holdings) is amended as follows.

(2) For subsection (10) substitute—

“(10) Regulations may not specify a devolved Welsh authority for the purposes of subsection (1).”

(3) In subsection (12), at the end insert—

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““devolved Welsh authority”” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

**Commencement Information**

**I195** Sch. 6 para. 112 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

*Immigration Act 2016 (c. 19)*

- 113 In section 78 of the Immigration Act 2016 (meaning of ““public authority””), in subsection (5), for ““functions relate to a matter which is outside”” substitute ““functions are functions that could not be conferred by provision falling within ””.

**Commencement Information**

**I196** Sch. 6 para. 113 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(r)

SCHEDULE 7

Section 70

TRANSITIONAL PROVISIONS

*Main transitional provisions about the Assembly's legislative competence*

- 1 The amendments made by this Act do not affect—
- (a) the validity of an Act of the National Assembly for Wales passed before the amendments come into force, or
  - (b) the previous or continuing operation of such an Act of the Assembly.
- 2 (1) The amendments made by section 3 and Schedules 1 and 2 apply to an Act of the National Assembly for Wales only if the vote by the Assembly agreeing to the general principles of the Bill for the Act took place on or after the principal appointed day.
- (2) In this paragraph ““the principal appointed day”” has the same meaning as in section 71.

*Power to alter name of the Assembly etc; financial control, accounts and audit*

- 3 (1) After the period of two months beginning with the day on which this Act is passed, and before the principal appointed day, paragraph 5(2) in Part 2 of Schedule 7 to the Government of Wales Act 2006 (provisions of that Act which the Assembly may modify) has effect as if it contained references to the following—
- (a) in section 1(1) of that Act, the words from ““the National Assembly for Wales”” to the end;
  - (b) in section 27(1) of that Act, the words from ““the National Assembly for Wales Commission”” to the end;
  - (c) in section 107(1) of that Act, the words from ““Acts of the National Assembly for Wales”” to the end;
  - (d) section 30;

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- (e) sections 129 and 130;
- (f) sections 131 to 143.

(2) In this paragraph “the principal appointed day” has the same meaning as in section 71.

*Repeals of sections 105 and 106 of the 2006 Act*

- 4 (1) The repeal by this Act of section 105 of the Government of Wales Act 2006 does not affect the continuing operation of any amendment of an enactment made by an order under subsection (2) of that section.
- (2) That is subject to any amendment or repeal of such an enactment made by this Act.
- 5 (1) The repeal by this Act of section 106(2) of the Government of Wales Act 2006 does not affect the continuing operation of the saving made by that provision.
- (2) That saving is that the ceasing to have effect of Part 3 of the Government of Wales Act 2006 on 5 May 2011 does not affect—
- (a) the continuing operation, on and after that date, of any Assembly Measure enacted before that date, or
  - (b) the continuing operation, after the enactment of the Measure, of any Assembly Measure enacted in accordance with section 106A of that Act (before its repeal by this Act).

*Transfer of functions*

- 6 (1) Nothing in a provision of this Act affects the validity of anything done by or in relation to a Minister of the Crown or other public authority before the provision comes into force.
- (2) Anything (including legal proceedings) that is in the process of being done by or in relation to a Minister of the Crown or other public authority at the time when a provision of this Act comes into force may, so far as it relates to a function transferred to the Welsh Ministers by virtue of that provision, be continued by or in relation to the Welsh Ministers.
- (3) Anything done (or having effect as if done) by or in relation to a Minister of the Crown or other public authority—
- (a) which is in force when a provision of this Act comes into force, and
  - (b) which was done for the purposes of or in connection with a function transferred by virtue of that provision,
- has effect as if done by or in relation to the Welsh Ministers, so far as that is required for continuing its effect.
- (4) This paragraph—
- (a) does not apply in relation to a transfer of functions under sections 29 and 30 or section 54(1);
  - (b) applies subject to any provision made by regulations under section 70(2).
- (5) In this paragraph “public authority” means a body, office or holder of an office that has functions of a public nature.

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*Changes to legislation:* Wales Act 2017 is up to date with all changes known to be in force on or before 22 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)

### *Water Act 2014*

- 7 Until section 1 of the Water Act 2014 comes into force for all purposes, Section C15 in Part 2 of Schedule 7A to the Government of Wales Act 2006 has effect as if references to a water supply licensee included references to a licensed water supplier within the meaning given by section 17B(9) of the Water Industry Act 1991.

### *Development consent for generating stations*

- 8 (1) The amendments made by sections 39 to 42 and paragraphs 47, 50 and 51 of Schedule 6 do not apply in relation to the determination of an application that is made before the date on which section 39 of this Act comes into force.
- (2) For the purposes of paragraph (1)—
- (a) an application under section 37 of the Planning Act 2008 is not made until its acceptance has been notified to the applicant under section 55 of that Act;
  - (b) an application under section 36 of the Electricity Act 1989 is not made until the requirements in paragraph 1(1) of Schedule 8 to that Act (as modified by paragraph 7A(3) of that Schedule) are met;
  - (c) an application under section 36C of the Electricity Act 1989 is not made until the appropriate authority (as defined in section 36C(6)) has given notice under regulation 4(6) of the Electricity Generating Stations (Variation of Consent) (England and Wales) Regulations 2013 (S.I. 2013/648).
- (3) Schedule 6 to the Planning Act 2008 has effect in relation to orders granting development consent for devolved Welsh generating stations as if—
- (a) references to the Secretary of State were references to the Welsh Ministers;
  - (b) the following were omitted—
    - (i) paragraph 2(11);
    - (ii) paragraph 3(5A);
    - (iii) paragraph 4(9);
    - (iv) the references to the Lands Tribunal for Scotland in paragraphs 6(6)(a) and 7(3)(d).
- (4) In this paragraph ““devolved Welsh generating station”” means a generating station that—
- (a) is in Wales and—
    - (i) generates electricity from wind, or
    - (ii) has a capacity of 350 megawatts or less; or
  - (b) is in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh zone (within the meaning of the Government of Wales Act 2006), and has a capacity of 350 megawatts or less.

### *Marine licensing in the Welsh offshore region*

- 9 (1) The amendments made by section 46 do not apply in relation to the determination of an application for a marine licence where the application is made before the commencement date (even if it is determined later).
- (2) For the purposes of sub-paragraph (1), an application is not made until an applicant has supplied such information or produced such articles as in the opinion of the



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Secretary of State may be necessary or expedient to enable the Secretary of State to determine the application.

- (3) The amendments made by section 46 do not apply in relation to the determination of an appeal against—
- (a) a decision under section 71 of the Marine and Coastal Access Act 2009, or
  - (b) a notice issued under section 72, 90, 91, 102 or 104 of that Act,
- where the appeal is made before the commencement date (even if it is determined later).
- (4) In this paragraph—
- ““commencement date”” means the date on which section 46 comes into force;
  - ““devolved offshore activity”” means a licensable marine activity in the Welsh offshore region in respect of which the Welsh Ministers are the appropriate licensing authority.
- (5) Expressions used in this paragraph and Part 4 of the 2009 Act have the same meaning in this paragraph as they have in that Part.

*Safety zones around renewable energy installations*

- 10 The amendments made by section 41 do not apply in relation to the determination of an application made under section 95(3)(a) of the Energy Act 2004 that is made before the date on which section 41 of this Act comes into force.
- 11 For the purposes of paragraph 10 an application is not made until the requirements of paragraph 3 of Schedule 16 to the Energy Act 2004 are met, including the supply of any information prescribed by regulations made under paragraph 3(2)(b) of that Schedule.

**Status:**

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**Changes to legislation:**

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