

**2007 No. 1388**

**CONSTITUTIONAL LAW**

**DEVOLUTION, WALES**

The Government of Wales Act 2006  
(Consequential Modifications and Transitional  
Provisions) Order 2007

*Made - - - - - 1st May 2007*

*Coming into force in accordance with Articles 1(2) and (3)*



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The Secretary of State makes the following Order in exercise of the powers conferred on him by sections 160(2) and 162(2) of the Government of Wales Act 2006(a).

In accordance with sections 160(3) and 162(6) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

**Citation and commencement**

**1.**—(1) This Order may be cited as the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007.

(2) A modification(b) made by a provision of Schedule 1 to this Order specified in the first column of the following table (and Article 2 so far as it relates to that provision) shall come into force at the time specified in the corresponding entry in the second column of the table—

<i>(1)</i> <i>Provisions of Schedule 1</i>	<i>(2)</i> <i>Coming into force</i>
Paragraph 98(1) and (4)	The day after the day on which this Order is made
Paragraph 17 Paragraph 89 Paragraph 90(a) and (b) Paragraph 91(a) Paragraph 92 Paragraph 93 Paragraph 94 Paragraph 99 Paragraph 100 Paragraph 122	Immediately after the ordinary election under section 3 of the Government of Wales Act 1998(c) held in 2007

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(a) 2006 c.32.

(b) For the meaning of “modification” see section 158(1) of the Government of Wales Act 2006 (“the Act”).

(c) 1998 c.38.

All other provisions	Immediately after the end of the initial period <sup>(a)</sup>
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(3) Subject to paragraph (2) this Order comes into force on the day after the day on which it is made.

**Extent**

2. The modifications made by this Order have the same extent as the enactments modified.

**Modifications**

3. Schedule 1 to this Order (modifications of enactments) shall have effect.

**Transitional Provisions**

4. Schedule 2 to this Order (transitional provisions) shall have effect.

1st May 2007

*Nick Ainger*  
Parliamentary Under Secretary of State  
Wales Office

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(a) For the meaning of “the initial period” see section 161(5) of the Act.

## MODIFICATIONS OF ENACTMENTS

*European Communities Act 1972*

1. In paragraph 1A(2) of Schedule 2 to the European Communities Act 1972<sup>(a)</sup> (provisions as to subordinate legislation) after “Act of the Scottish Parliament” insert “, Measure or Act of the National Assembly for Wales”.

*Sex Discrimination Act 1975*

2. The Sex Discrimination Act 1975<sup>(b)</sup> is amended as follows.

3.—(1) Section 10A (offices and posts to which section 10B applies)<sup>(c)</sup> is amended as follows.

(2) In subsection (1)(b) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”.

(3) In subsection (3), after paragraph (g) insert—

“(ga) a member of the Welsh Assembly Government.”.

4. Section 21A(9) (public authorities)<sup>(d)</sup> is amended as follows—

(a) omit “or” at the end of item 1(c);

(b) after item (1)(d) insert—

“(e) a Measure of the National Assembly for Wales,

(f) a proposed Measure of the National Assembly for Wales,

(g) an Act of the National Assembly for Wales, or

(h) a Bill for an Act of the National Assembly for Wales.”;

(c) in item 2(d) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”;

(d) omit “or” at the end of item 3(b);

(e) after item 3(b) insert—

“(ba) a Measure or Act of the National Assembly for Wales, or”.

5. In section 23A (discrimination by Further Education and Higher Education Funding Councils)<sup>(e)</sup> for “National Assembly for Wales in carrying out its functions” substitute “Welsh Ministers in carrying out their functions”.

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(a) 1972 c.68.

(b) 1975 c.65.

(c) Section 10A was inserted by regulation 13(1) of the Employment Equality (Sex Discrimination) Regulations 2005 (S.I. 2005/2467).

(d) Section 21A(9) was inserted by section 83(1) of the Equality Act 2006(c.3) and is amended from a date to be appointed by the Charities Act 2006 (c.50), Schedule 8, paragraph 57.

(e) Section 23A was inserted by the Further and Higher Education Act 1992 (c.13), Schedule 8, paragraph 78. It was amended by the Education Act 1996 (c.56), Schedule 37, paragraph 32; the Learning and Skills Act 2000 (c.21), Schedule 9, paragraphs 1 and 5(a) and (b) and the National Council for Training and Education for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1, paragraphs 3 and 4(a) and (b).

- 6.**—(1) Section 25A (general duty: post-16 education and training etc)(**a**) is amended as follows.
- (2) In subsection (1) for “National Assembly for Wales” substitute “Welsh Ministers”(b).
- (3) In subsection (2) for “National Assembly for Wales by virtue of its functions” substitute “Welsh Ministers by virtue of their functions”(c).
- (4) In subsection (4) for “National Assembly for Wales” substitute “Welsh Ministers”(d).
- 7.**—(1) Section 76A (public authorities: general statutory duty)(e) is amended as follows.
- (2) In subsection (3) after paragraph (c) insert—
- “(ca) the National Assembly for Wales.”.
- (3) In subsection (4) after paragraph (b) insert—
- “(ba) a function in connection with proceedings in the National Assembly for Wales (other than a function of the National Assembly for Wales Commission).”.
- 8.** Section 76B(3) (specific duties)(f) is amended as follows—
- (a) in paragraph (a) for “National Assembly for Wales” substitute “Welsh Ministers”;
- (b) in paragraph (b) for “National Assembly for Wales” substitute “Welsh Ministers”.
- 9.** In section 76E(3) (codes of practice)(g) for “National Assembly for Wales” substitute “Welsh Ministers”.

*Race Relations Act 1976*

- 10.** The Race Relations Act 1976(h) is amended as follows.
- 11.** In section 19C(5) (exceptions or further exceptions from section 19B for judicial and legislative acts etc)(i) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”.
- 12.**—(1) Section 71B (general statutory duty: Scotland and Wales)(j) is amended as follows.
- (2) In subsection (2) for “National Assembly for Wales” substitute “Welsh Ministers”.
- (3) In subsection (3) for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In subsection (4) for “includes the National Assembly for Wales.” substitute—
- “includes—
- (a) the National Assembly for Wales Commission;

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- (a) Section 25A was inserted by the Learning and Skills Act 2000 (c.21), Schedule 9, paragraphs 1 and 6.
- (b) Subsection (1) was amended by the National Council for Training and Education for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1, paragraphs 3 and 5(a).
- (c) Subsection (2) was amended by the National Council for Training and Education for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1, paragraphs 3 and 5(b).
- (d) Subsection (4), along with subsections (3) and (5) were substituted for subsection (3) as originally enacted by the National Council for Training and Education for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1, paragraphs 3 and 5(c).
- (e) Section 76A was inserted by section 84(1) of the Equality Act 2006 (c.3).
- (f) Section 76B was inserted by section 85(1) of the Equality Act 2006 (c.3).
- (g) Section 76E(3) was inserted by section 86 of the Equality Act 2006 (c.3) and is repealed from a date to be appointed by Schedule 3, paragraphs 6 and 16 and Schedule 4 to that Act.
- (h) 1976 c.74.
- (i) Section 19C(5) was inserted by section 1 of the Race Relations (Amendment) Act 2000 (c.34) and amended by paragraph 2 of the Schedule to the Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003 (S.I. 2003/1016).
- (j) Section 71B was substituted, together with sections 71, 71A, 71C, 71D and 71E, for section 71 as originally enacted by section 2(1) of the Race Relations (Amendment) Act 2000 (c.34).

(b) the Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government.”

**13.**—(1) Section 71C (general statutory duty: codes of practice)(a) is amended as follows.

(2) In subsection (4) for “National Assembly for Wales” substitute “Welsh Ministers”.

(3) In subsection (5) for “National Assembly for Wales” substitute “Welsh Ministers”.

(4) In subsection (8) for “National Assembly for Wales” substitute “Welsh Ministers”.

**14.** In section 76(15)(b) (government appointments outside section 4)(b) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ”.

**15.** In section 76ZA(9)(b) (other office holders)(c), after sub-paragraph (vii) insert—

“(viia) a member of the Welsh Assembly Government;”.

**16.** In Part 1 of Schedule 1A (bodies and other persons subject to general statutory duty) for paragraph 3 (National Assembly for Wales)(d) and the heading preceding it substitute—

*“National Assembly for Wales Commission*

**3A** The National Assembly for Wales Commission.

*Welsh Assembly Government*

**3B**—(1) The Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.

(2) A subsidiary of the Welsh Ministers (as defined by section 134(4) of the Government of Wales Act 2006)..”.

#### *Representation of the People Act 1983*

**17.** In section 7B(6)(b) of the Representation of the People Act 1983 (notional residence: declaration of local connection)(e), for “section 8 of the Government of Wales Act 1998” substitute “section 10 of the Government of Wales Act 2006”.

#### *Mental Health Act 1983*

**18.** In section 134(3) of the Mental Health Act 1983 (correspondence with patients)(f), after paragraph (a) insert—

“(aa) any of the Welsh Ministers, the Counsel General to the Welsh Assembly Government or a member of the National Assembly for Wales;”

#### *Companies Act 1985*

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(a) Section 71C was substituted, together with sections 71, 71A, 71B, 71D and 71E, for section 71 as originally enacted by section 2(1) of the Race Relations (Amendment) Act 2000 (c.34). It is repealed from a date to be appointed by the Equality Act 2006 (c.3), Schedule 3, paragraphs 21 and 30 and Schedule 4.

(b) Section 76(15)(b) was amended by sections 3(1) and (3) of the Race Relations (Amendment) Act 2000 (c.34).

(c) Section 76ZA(9)(b) was inserted by regulation 51 of the Race Relations Act 1976 (Amendment) Regulations 2003 (S.I. 2003/1626).

(d) Paragraph 3 of Part 1 of Schedule 1A was inserted by Schedule 1 of the Race Relations (Amendment) Act 2000 (c.34).

(e) 1983 c.2. Section 7B was inserted into the Representation of the People Act 1983 by section 6 of the Representation of the People Act 2000 (c.2).

(f) 1983 c.20. Section 134(3) was amended by the Northern Ireland Act 1998 (c.47), Schedule 13, paragraphs 5(1) and (2) and by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraphs 71(1) and (2). There are other amendments not relevant to this Order.

19. In section 26(2)(a) of the Companies Act 1985 (prohibition on registration of certain names)(a) after “Her Majesty’s Government” insert “, with the Welsh Assembly Government”.

*Business Names Act 1985*

20. In section 2(1)(a) of the Business Names Act 1985 (prohibition of use of certain business names)(b) after “Scottish Administration” insert “with the Welsh Assembly Government,”.

*Local Government Finance Act 1988*

21. The Local Government Finance Act 1988(c) is amended as follows.

22. In section 76 (interpretation)(d), after subsection (6) insert—

“(7) “The Assembly” means the National Assembly for Wales.”

23. In section 84E (1) (revenue support grant:Wales)(e), for “National Assembly for Wales” substitute “Welsh Ministers”.

24.—(1) Section 84F (determination of grant) is amended as follows.

(2) In subsection (1), for “National Assembly for Wales” substitute “Welsh Ministers”,

(3) In subsections (2)(b), (2)(c), (3)(b) and (3)(c), for “Assembly proposes” substitute “Welsh Ministers propose”.

(4) In subsection (5)—

(a) for “Assembly” substitute “Welsh Ministers”, and

(b) for “it” substitute “the Welsh Ministers”.

25.—(1) Section 84G (local government finance reports) is amended as follows.

(2) In subsection (1), for “National Assembly for Wales” substitute “Welsh Ministers”.

(3) In subsection (2), for “Assembly proposes” substitute “Welsh Ministers propose”.

(4) In subsection (3), for “Assembly” substitute “Welsh Ministers” and for “it” substitute “them”.

(5) In subsection (4), for “published by” substitute “laid before”.

(6) For subsection (5) substitute—

“(5) As soon as is reasonably practicable after a report is laid before the Assembly under subsection (4), the Welsh Ministers shall send a copy of the report to each of the receiving authorities to which the report relates.”

26. For section 84H (effect of publication of local government finance report) substitute—

**“84H Effect of report’s approval**

(1) This section applies where in accordance with sections 84F and 84G a determination as regards revenue support grant has been made for a financial year and specified in a report which has been laid before the Assembly.

(2) If the report is approved by resolution of the Assembly the Welsh Ministers shall pay the amount stated in the determination as the amount of revenue support grant for the year.

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(a) 1985 c.6.

(b) 1985 c.7.

(c) 1988 c.41.

(d) Section 76 was amended by the Local Government Finance Act 1992 (c.41), Schedule 10, paragraph 8.

(e) Sections 84E to 84P were inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraph 1.

(3) The amount of revenue support grant to be paid to receiving authorities in accordance with subsection (2) shall be distributed among, and paid to, them in accordance with sections 84J and 84K.

(4) The amount of revenue support grant to be paid to a specified body in accordance with subsection (2) shall be paid at such time, or in instalments of such amounts and at such times, as the Welsh Ministers may determine.

(5) The time of payment under subsection (4) may be during or after the financial year for which the grant is payable.”.

**27.** For section 84J (calculation of grant payable to receiving authorities)(a) substitute —

**“84J calculation of grant payable to receiving authorities**

(1) As soon as is reasonably practicable after a local government finance report for a financial year has been approved by resolution of the Assembly, the Welsh Ministers shall calculate what sum, if any, falls to be paid to each receiving authority by way of revenue support grant for the year in accordance with the basis of distribution specified in the report as so approved.

(2) The Welsh Ministers may carry out the subsection (1) calculation again at any time before the end of the financial year immediately following the one to which the report relates.

(3) The power under sub-section (2) may only be exercised once and shall not be exercisable after the approval by resolution of the Assembly of any amending report made under section 84L in relation to the local government finance report.

(4) As soon as is reasonably practicable after making a calculation under subsection (1) or (2), the Welsh Ministers shall inform each receiving authority to which the report relates of the outcome, so far as relating to it.”.

**28.—**(1) Section 84K (payment of grant to receiving authorities) is amended as follows.

(2) In subsection (1)—

- (a) for “National Assembly for Wales” substitute “Welsh Ministers”, and
- (b) for “Assembly” substitute “Welsh Ministers”.

(3) In subsections (2) and (5), for “Assembly makes” substitute “Welsh Ministers make”.

(4) In subsections (2), (3), (5) and (6), for “Assembly” substitute “Welsh Ministers”.

**29.** For section 84L (amending reports) substitute—

**“84L Amending reports**

(1) Where the Welsh Ministers have made a local government finance report for a particular financial year, the Welsh Ministers may, at any time before the end of the financial year following the financial year concerned, make a report (an “amending report”) containing amendments to the basis of distribution specified under section 84G(2) in the local government finance report.

(2) Where the Welsh Ministers have made two local government finance reports relating to the same financial year, the power under subsection (1) may (in particular) be exercised by making a single amending report relating to both of the local government finance reports.

(3) Before making an amending report, the Welsh Ministers shall notify to such representatives of local government as appear to the Welsh Ministers to be appropriate the general nature of the amendments they propose to make.

(4) An amending report shall be laid before the Assembly.

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(a) Sections 84E to 84P were inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraph 1.



(5) As soon as is reasonably practicable after an amending report is laid before the Assembly, the Welsh Ministers shall send a copy of the amending report to each receiving authority to which the local government finance report relates.

(6) Where an amending report has been approved by resolution of the Assembly, the Welsh Ministers may not make a subsequent amending report under this section in relation to the same local government finance report.”.

**30.**—(1) Section 84M (recalculation of grant following amending report)(a) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies where the Assembly, by resolution, approves a report made under section 84L (“the amending report”) relating to a local government finance report (“the original report”).”.

(3) For subsection (2) substitute—

“(2) As soon as is reasonably practicable after the Assembly has approved the amending report, the Welsh Ministers shall calculate in relation to each receiving authority to which the original report relates what sum, if any, falls to be paid to the authority by way of revenue support grant for the financial year to which the original report relates.”.

(4) In subsection (4)—

- (a) for the first reference to “Assembly” substitute “Welsh Ministers”, and
- (b) in paragraph (b), for “publishes” substitute “approves”.

(5) In subsection (6), for “Assembly” substitute “Welsh Ministers”.

**31.**—(1) Section 84N (payment of grant following amending report) is amended as follows.

(2) In subsection (1)—

- (a) for “National Assembly for Wales makes” substitute “Welsh Ministers make”, and
- (b) for “it” substitute “they”.

(3) In subsection (2), for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (4)—

- (a) for “Assembly makes” substitute “Welsh Ministers make”, and
- (b) for “Assembly” substitute “Welsh Ministers”.

(5) In subsection (5) for “Assembly” substitute “Welsh Ministers”.

**32.**—(1) Section 84P (information deadlines) is amended as follows.

(2) In subsection (1)—

- (a) for “National Assembly for Wales” substitute “Welsh Ministers”, and
- (b) for “it” substitute “them”.

(3) In subsection (3), for “Assembly informs” substitute “Welsh Ministers notify”.

(4) In subsection (5), for “Assembly” substitute “Welsh Ministers”.

**33.**—(1) Before section 85 (and the heading “Additional grant”) insert—

**“84Q Application of this Chapter etc**

(1) The provisions of this Chapter apply as follows—

- (a) sections 85 and 86 apply only in relation to England;
- (b) sections 86A and 86B apply only in relation to Wales;
- (c) sections 87, 88, 88A and 88B apply in relation to England and Wales;

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(a) Sections 84E to 84P were inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraph 1.

(d) section 88C applies only in relation to Wales.

(2) The following functions are exercisable concurrently so far as they relate to police authorities in Wales—

- (a) the functions of the Secretary of State under section 88B;
- (b) the functions of the Welsh Ministers under section 88C.

(3) In this section “police authority” means a police authority established by section 3 of the Police Act 1996.”

(2) The functions of the National Assembly for Wales under the following provisions are not transferred to the Welsh Ministers by Schedule 11 to the Government of Wales Act 2006—

- (a) sections 85 and 86;
- (b) section 88B.

(3) In sub-paragraph (2) the reference to the National Assembly for Wales is a reference to the Assembly established by section 1 of the Government of Wales Act 1998.

**34.** After section 86 insert—

*“Additional grant: Wales*

**86A. Additional grant: Wales**

(1) This section applies where a local government finance report for a chargeable financial year has been approved by the Assembly and, before the year ends, the Welsh Ministers form the view that fresh circumstances affecting the finances of local authorities have arisen since the approval.

(2) For the year concerned the Welsh Ministers may pay a grant (“additional grant”) to receiving authorities in accordance with this section and section 86B.

(3) Where the Welsh Ministers propose to pay additional grant for a financial year they shall make a determination under this section.

(4) A determination shall state—

- (a) the amount of grant for the year, and
- (b) the basis on which the Welsh Ministers propose to distribute it among receiving authorities.

(5) A determination shall be specified in a report and the report shall be laid before the Assembly.

(6) As soon as is reasonably practicable after the report is laid before the Assembly the Welsh Ministers shall send a copy of it to each receiving authority.

**86B. Effect of additional grant report’s approval: Wales**

(1) This section applies where in accordance with section 86A a determination as regards additional grant has been made for a financial year and specified in a report which has been laid before the Assembly.

(2) If the report is approved by resolution of the Assembly—

- (a) the Welsh Ministers shall pay the amount stated in the determination as the amount of the additional grant for the year, and
- (b) the amount shall be distributed on the basis stated in the determination.

(3) Where a sum falls to be paid to a receiving authority by way of additional grant it shall be paid at such time, or in instalments of such amounts and at such times, as the Welsh Ministers determine; and any such time may fall within or after the financial year concerned.”

35. In section 87 (transport grants)(a), after subsection (6) insert—  
“(7) In the application of this section in relation to Wales, references to the Secretary of State are references to the Welsh Ministers.”.
36. In section 88A (council tax grants)(b), after subsection (5) insert—  
“(6) In the application of this section in relation to Wales, references to the Secretary of State are references to the Welsh Ministers.”.
37. In section 88B (special grants)(c), after subsection (9) insert—  
“(10) In the application of this section in relation to Wales, “relevant authority” means only a police authority established by section 3 of the Police Act 1996.”.
38. After section 88B insert—

**“88C Special grants: Wales**

- (1) The Welsh Ministers may pay a grant (in this section referred to as a special grant) in accordance with this section to a receiving authority in Wales.
- (2) Where the Welsh Ministers propose to make one special grant they shall, before making the grant, make a determination stating with respect to the grant—
- (a) to which authority it is to be paid,
  - (b) the purpose for which it is to be paid, and
  - (c) the amount of the grant or the manner in which the amount is to be calculated.
- (3) Where the Welsh Ministers propose to make two or more special grants to different authorities they shall, before making the grants, make a determination stating with respect to the grants—
- (a) to which authorities they are to be paid,
  - (b) the purpose for which they are to be paid, and
  - (c) either—
    - (i) the amount of the grant which they propose to pay to each authority or the manner in which the amount is to be calculated, or
    - (ii) the total amount which they propose to distribute among the authorities by way of special grants and the basis on which they propose to distribute that amount.
- (4) A determination under subsection (2) or (3) above shall be specified in a report (to be called a special grant report) which shall contain such explanation as the Welsh Ministers consider desirable of the main features of the determination.
- (5) A special grant report shall be laid before the Assembly and, as soon as is reasonably practicable after the report has been so laid, the Welsh Ministers shall send a copy of it to any receiving authority to whom a special grant is proposed to be paid in accordance with the determination in the report.

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- (a) The functions of the Secretary of State and the Treasury under section 87, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (constituted by the Government of Wales Act 1998 (c.38)) by Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- (b) Section 88A was originally inserted by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraphs 61 and 79(3). This section 88A and section 88B were substituted for the original section 88A by the Local Government Finance Act 1992 (c.14), Schedule 10, paragraph 18. The functions of the Secretary of State and the Treasury under section 88A, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (constituted by the Government of Wales Act 1998 (c.38)) by Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- (c) Section 88B, along with section 88A, was substituted for the original section 88A by the Local Government Finance Act 1992 (c.14), Schedule 10, paragraph 18. The functions of the Secretary of State and the Treasury under section 88B, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (constituted by the Government of Wales Act 1998 (c.38)) by Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(6) No special grant shall be paid unless the special grant report containing the determination relating to the grant has been approved by a resolution of the Assembly.

(7) A special grant report may specify conditions which the Welsh Ministers intend to impose on the payment of (or of any instalment of) special grant to which the report relates; and the conditions may—

- (a) require the provision of returns or other information before a payment is made to the receiving authority concerned, or
- (b) relate to the use of the amount paid, or to the repayment in specified circumstances of all or part of the amount paid, or otherwise.

(8) Without prejudice to compliance with any conditions imposed as mentioned in subsection (7) above, a special grant shall be paid at such time or in instalments of such amounts and at such times as the Welsh Ministers may determine.”.

**39.**—(1) Schedule 7 (non-domestic rating: multipliers) is amended as follows.

(2) In paragraph 1 (introduction)(a)—

- (a) the existing provision is renumbered as sub-paragraph (1), and
- (b) after sub-paragraph (1) insert—

“(2) In this Part of this Schedule “the Assembly” means the National Assembly for Wales.”.

(3) In paragraph 3B (general provisions)(b), sub-paragraph (3) is amended as follows—

- (a) for “National Assembly for Wales” substitute “Welsh Ministers”,
- (b) for “its” substitute “their”, and
- (c) for “it” substitute “them”.

(4) In paragraph 5 (general provisions)(c)—

- (a) in sub-paragraphs (6) and (7), for “National Assembly for Wales” substitute “Welsh Ministers”,
- (b) in sub-paragraph (10) after “determines” insert “or, as the case may be, to the Welsh Ministers on such date as they determine”.
- (c) in sub-paragraph (14), for “National Assembly for Wales” substitute “Welsh Ministers”, and
- (d) for sub-paragraph (15) substitute—

“(15) An order made by the Welsh Ministers under sub-paragraph (3), in its application to a particular financial year (including an order amending or revoking another), shall not be effective unless it is approved by resolution of the Assembly before the approval by the Assembly of the local government finance report for the year, or before 1 March in the preceding financial year (whichever is earlier).”.

(5) In paragraph 6 (general provisions)(d)—

- (a) in sub-paragraph (1A), for “National Assembly for Wales” substitute “Welsh Ministers”,
- (b) in sub-paragraph (4A)—
  - (i) for “National Assembly for Wales” substitute “Welsh Ministers”, and
  - (ii) omit “for a financial year beginning in or after 2004”, and
- (c) for sub-paragraph (4B) substitute—

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(a) Paragraph 1 of Schedule 7 was amended by sections 62(1) and (2) of the Local Government Act 2003 (c.26).  
(b) Paragraph 3B of Schedule 7, along with paragraphs 3 and 3A, was substituted for paragraph 3 as originally enacted by sections 62(1) and (3) of the Local Government Act 2003 (c.26).  
(c) Paragraph 5 of Schedule 7 was amended by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 84(1); sections 62(1), (5), (6) and (7) of the Local Government Act 2003 (c.26) and Schedule 7, paragraphs 9(1) and 25(1) and (2); and the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273).  
(d) Paragraph 6 of Schedule 7 was amended by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 84(2); sections 62(1), (8), (9) and (10) of the Local Government Act 2003 (c.26) and Schedule 7, paragraphs 9(1) and 25(1) and (3).

“(4B) A calculation made by the Welsh Ministers under this paragraph is invalid unless one or both of the following conditions is fulfilled—

- (a) it is made after the Assembly has approved by resolution the local government finance report for the year or, where the Welsh Ministers are making two local government finance reports for the year, it is made after the Assembly has approved by resolution both of those reports;
- (b) it is made on or after 1 March in the preceding financial year.”.

**40.**—(1) Schedule 8 (non-domestic rating: pooling) is amended as follows.

(2) In paragraph 1 (accounts), after sub-paragraph (3) insert—

“(4) The Auditor General for Wales shall examine, certify and report on any account of which copies are sent to him under sub-paragraph (2) and shall lay copies of the account and of his report before the Assembly.”.

(3) In paragraph 5(6)(ba) (non-domestic rating contributions)(a), for “National Assembly for Wales” substitute “Welsh Ministers”.

(4) In paragraph 8 (interpretation)(b) after sub-paragraph (2) insert—

“(3) In this Part of this Schedule “the Assembly” means the National Assembly for Wales.

(4) For the purposes of this Part of this Schedule—

- (a) references to the laying of a local government finance report (or amending report) before the House of Commons are, in relation to Wales, to be read as references to the laying of a report before the Assembly, and
- (b) references to the approval of a local government finance report (or amending report) by resolution of the House of Commons are, in relation to Wales, to be read as references to the approval of a local government finance report (or amending report) by resolution of the Assembly.”.

(5) In paragraph 9A (years where two local government finance reports prepared for Wales)(c)—

(a) in sub-paragraph (1)—

- (i) for “National Assembly for Wales publishes” substitute “Welsh Ministers make”,
- (ii) in sub-paragraph (b), for “Assembly” substitute “Welsh Ministers”,

(b) in sub-paragraph (2)—

- (i) for “Assembly decides” substitute “Welsh Ministers decide”,
- (ii) in sub-paragraph (a), for “Assembly” substitute “Welsh Ministers”, and

(c) in sub-paragraph (3), for “Assembly decides” substitute “Welsh Ministers decide”.

(6) In paragraph 11A (distribution: local government finance reports)(d)—

(a) in sub-paragraph (1)—

- (i) for “National Assembly proposes to publish” substitute “Welsh Ministers propose to make”,
- (ii) for “decides” substitute “decide”,
- (iii) for “the Assembly shall” substitute “the Welsh Ministers shall”,
- (iv) in sub-paragraph (c), for “Assembly proposes” substitute “Welsh Ministers propose”,

(b) in sub-paragraph (2), for “Assembly” in both places substitute “Welsh Ministers”.

(7) In paragraph 11B (distribution: local government finance reports)(e)—

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(a) Paragraph 5(6)(ba) of Schedule 8 was inserted by section 70(2)(a) of the Local Government Act 2003 (c.26).  
(b) Part III of Schedule 8 was substituted by the Local Government Finance Act 1992 (c.14), Schedule 10, paragraph 7. Paragraph 8 was amended by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (2).  
(c) Paragraph 9A was inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (4).  
(d) Paragraph 11A was inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (6).  
(e) Paragraph 11B was inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (6).

- (a) for sub-paragraph (1) substitute—
  - “(1) This paragraph applies where—
    - (a) the Assembly approves by resolution a local government finance report that is one of two being made by the Welsh Ministers for a particular financial year, and
    - (b) as respects that year the Welsh Ministers decide as mentioned in paragraph 9A(1)(b)(ii) above.”,
  - (b) in sub-paragraph (3), for “after the report is published, the Assembly shall calculate” substitute “after the report is approved by the Assembly, the Welsh Ministers shall calculate”,
  - (c) in sub-paragraphs (5) and (7), for “Assembly” substitute “Welsh Ministers”, and
  - (d) in sub-paragraph (6), for the words from “publishes” to the end substitute “approves by resolution an amending report made by the Welsh Ministers under paragraph 13 below.”.
- (8) In paragraph 11C (distribution: local government finance reports)(a)—
  - (a) in sub-paragraph (1)—
    - (i) for “National Assembly for Wales” substitute “Welsh Ministers”, and
    - (ii) for “it” substitute “them”,
  - (b) in sub-paragraph (3), for “Assembly informs” substitute “Welsh Ministers inform”, and
  - (c) in sub-paragraph (5), for “Assembly” substitute “Welsh Ministers”.
- (9) In paragraph 14A (distribution: amending reports)(b)—
  - (a) in sub-paragraph (1)(a), for “National Assembly for Wales publishes” substitute “Welsh Ministers make”,
  - (b) in sub-paragraph (1)(b), for “Assembly decides” substitute “Welsh Ministers decide”,
  - (c) in sub-paragraph (2)—
    - (i) for “published by” substitute “approved by resolution of”,
    - (ii) for “the Assembly shall calculate” substitute “the Welsh Ministers shall calculate”, and
  - (d) in sub-paragraph (4)—
    - (i) for “Assembly may carry out” substitute “Welsh Ministers may carry out”, and
    - (ii) in sub-paragraph (b), for “publishes” substitute “approves by resolution”.

*Local Government Finance Act 1992*

**41.** The Local Government Finance Act 1992(c) is amended as follows.

**42.** In section 52J(10)(a) (duty of designated precepting authority)(d), after “section 85”, insert “(in relation to England) or section 86A (in relation to Wales)”.

**43.** In section 52U(13)(a) (duty of designated precepting authority)(e), after “section 85”, insert “(in relation to England) or section 86A (in relation to Wales)”.

**44.** For section 52Z (separate administration in England and Wales)(f), substitute—

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(a) Paragraph 11C was inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (6).  
 (b) Paragraph 14A was inserted by the Local Government Act 2003 (c.26), Schedule 2, paragraphs 2(1) and (9).  
 (c) 1992 c.14.  
 (d) Section 52J was inserted by the Local Government Act 1999 (c.27), Schedule 1, paragraph 1. Subsection (10) was amended by the Greater London Authority Act 1999 (c.29), Schedule 9, paragraphs 1, 3 and 7.  
 (e) Section 52U was inserted by the Local Government Act 1999 (c.27), Schedule 1, paragraph 1. Subsection (13) was amended by the Greater London Authority Act 1999 (c.29), Schedule 9, paragraphs 1, 5(1) and 8(a) and (b).  
 (f) Section 52Z was inserted by the Local Government Act 1999 (c.27), Schedule 1, paragraph 1 and was amended by the Local Government Act 2003 (c.26), Schedule 8, paragraph 8.

**“52Z Separate administration in England and Wales**

(1) This Chapter shall apply separately to England and to Wales.

(2) In its application to Wales, this Chapter shall have effect with the following modifications—

- (a) for each reference to the Secretary of State there shall be substituted a reference to the Welsh Ministers;
- (b) for each reference to the House of Commons there shall be substituted a reference to the National Assembly for Wales;
- (c) sections 52K(2) and 52V(3) shall be omitted; and
- (d) in sections 52I(5)(a) and 52T(7)(a), for “general fund” there shall be substituted “council fund”.

*Olympic Symbol etc (Protection) Act 1995*

**45.** In section 4(16) of the Olympic Symbol etc (Protection) Act 1995 (limits on effect)(a) in the definition of “parliamentary proceedings” after “Scottish Parliament,” insert “of the National Assembly for Wales,”.

*Environment Act 1995*

**46.** Section 16A(6) of the Environment Act 1995 (power to alter composition of regional flood defence committees in Wales)(b) is repealed.

*Disability Discrimination Act 1995*

**47.** The Disability Discrimination Act 1995(c) is amended as follows.

**48.** In section 2(3) (past disabilities)(d) for “National Assembly for Wales” substitute “Welsh Ministers”.

**49.—**(1) Section 4C (office holders: introductory)(e) is amended as follows.

(2) In subsection (3)(b) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”.

(3) In subsection (5), after paragraph (g) insert—

“(ga) a member of the Welsh Assembly Government,”.

**50.** Section 21C(2) (exceptions from section 21B(1))(f) is amended as follows—

(a) in paragraph (a) after “Scottish Parliament” insert “, a Measure or Act of the National Assembly for Wales”;

(b) in paragraph (b)—

(i) after “Scottish Parliament,” insert “or under a Measure or Act of the National Assembly for Wales,”.

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(a) 1995 c.32.

(b) 1995 c.25. Section 16A was inserted by section 67 of the Water Act 2003 (c.37).

(c) 1995 c.50.

(d) Section 2(3) was amended by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 2(1) and (3) and by the Special Educational Needs and Disability (Northern Ireland) Order 2005, articles 48(1) and (3)(b) (S.I. 2005/1117).

(e) Section 4C was substituted, together with sections 4, 4A, 4B, 4D, 4E and 4F, for sections 4, 5 and 6 as originally enacted, by regulations 3(1) and (5) of the Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673).

(f) Section 21C(2) was inserted by section 2 of the Disability Discrimination Act 2005 (c.13).

- (ii) in sub-paragraph (iii) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**51.**—(1) Section 28D (accessibility strategies and plans)(a) is amended as follows.

(2) In subsection (7)(c) for “National Assembly” substitute “Welsh Ministers”(b).

(3) In subsection (17), in paragraph (b) of the definition of “regulations”, for “National Assembly” substitute “Welsh Ministers”(c).

**52.**—(1) Section 28E (accessibility strategies and plans: procedure)(d) is amended as follows.

(2) In subsection (3)(b) for “National Assembly” substitute “Welsh Ministers”.

(3) In subsection (6)—

(a) for “National Assembly asks” substitute “Welsh Ministers ask”;

(b) for “it” substitute “them”(e).

**53.**—(1) Section 28J (procedure)(f) is amended as follows.

(2) In subsection (2A) for “National Assembly” substitute “Welsh Ministers”(g).

(3) In subsection (6) for “National Assembly” substitute “Welsh Ministers”(h).

**54.**—(1) Section 28M (roles of the Secretary of State and the National Assembly)(i) is amended as follows.

(2) In the heading for “National Assembly” substitute “Welsh Ministers”.

(3) In subsection (2)(a) for “National Assembly” substitute “Welsh Ministers”.

(4) In subsection (8)(b) for “National Assembly” substitute “Welsh Ministers”.

(5) In subsection (9)(b)—

(a) for “National Assembly” substitute “Welsh Ministers”;

(b) for “it” substitute “them”.

**55.**—(1) Section 28Q (interpretation) is amended as follows(j).

(2) In subsection (4)(d) for “National Assembly” substitute “Welsh Ministers”.

(3) Omit subsection (14).

**56.** In section 31AF(2) (duty to consult before making regulations)(k) for “National Assembly for Wales” substitute “Welsh Ministers”.

**57.** Section 49B(1)(b) (meaning of “public authority” in Part 5A)(l) is amended as follows—

(a) Omit “or” at the end of sub-paragraph (ii);

(b) after sub-paragraph (iii) insert—

“(iv) the National Assembly for Wales; or

(v) a person, other than the National Assembly for Wales Commission, exercising functions in connection with proceedings in the National Assembly for Wales”.

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(a) Section 28D was inserted by section 14(1) of the Special Educational Needs and Disability Act 2001 (c.10).

(b) Subsection (7) was amended by regulation 3 of the Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 (S.I. 2005/2913).

(c) Subsection (17) was substituted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 24(1) and (2).

(d) Section 28E was inserted by section 15 of the Special Educational Needs and Disability Act 2001 (c.10).

(e) Subsection (6) was amended by the Education Act 2002 (c.32), Schedule 7, paragraphs 5(1) and (2)(b).

(f) Section 28J was inserted by section 19(1) of the Special Educational Needs and Disability Act 2001 (c.10).

(g) Subsection (2A) was inserted by the Education Act 2002 (c.32), Schedule 18, paragraphs 7 and 10(1) and (2).

(h) Subsection (6) was substituted by the Education Act 2002 (c.32), Schedule 18, paragraphs 7 and 10(1) and (6).

(i) Section 28M was inserted by section 22 of the Special Educational Needs and Disability Act 2001 (c.10).

(j) Section 28Q was inserted by section 25 of the Special Educational Needs and Disability Act 2001 (c.10).

(k) Section 31AF(2) is inserted from a date to be appointed by section 15 of the Disability Discrimination Act 2005 (c.13).

(l) Section 49B(1)(b) was inserted by section 3 of the Disability Discrimination Act 2005 (c.13).



**58.** In section 49C(2) after “an Act of the Scottish Parliament” insert “, a Measure or Act of the National Assembly for Wales”(a).

**59.**—(1) Section 49D (power to impose specific duties)(b) is amended as follows.

(2) In subsection (6) for “National Assembly for Wales” substitute “Welsh Ministers”.

(3) In subsection (7) for “National Assembly for Wales” substitute “Welsh Ministers”.

(4) In subsection (10) in the definition of “relevant Welsh authority” for paragraph (a) substitute—

“(a) the National Assembly for Wales Commission;

(aa) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government; or.”

**60.**—(1) Section 53A (codes of practice)(c) is amended as follows.

(2) In subsection (4A) for “National Assembly for Wales” substitute “Welsh Ministers”(d).

(3) In subsection (6A) for “National Assembly for Wales” substitute “Welsh Ministers”(e).

**61.**—(1) Section 59(1) (statutory authority) is amended as follows.

(2) Omit “or” at the end of paragraph (b) (ii).(f)

(3) In paragraph (b) (iii), after “the National Assembly for Wales” insert “constituted by the Government of Wales Act 1998, or

“(iv) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.”

(4) Omit “or” at the end of paragraph (c) (ii).(g)

(5) In paragraph (c) (iii) after “the National Assembly for Wales” insert “constituted by the Government of Wales Act 1998”.

(6) At the end of that provision insert “, or

“(iv) imposed by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.”

**62.**—(1) Section 67 (regulations and orders) is amended as follows.

(2) In subsection (1) for “National Assembly for Wales” substitute “Welsh Ministers”(h).

(3) In subsection (4)(f) for the words “or in an Act of the Scottish Parliament” substitute “, in an Act of the Scottish Parliament, or in a Measure or Act of the National Assembly for Wales”(i).

**63.**—(1) Schedule 3 (enforcement and procedure) is amended as follows.

(2) In paragraph 4(1B) (employment : evidence)(j)—

(a) for “National Assembly for Wales” substitute “Welsh Ministers”;

(b) in paragraph (a) for “Assembly” substitute “National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

(3) In paragraph 8(4) (discrimination in other areas : evidence)(k)—

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(a) Section 49C(2) was inserted by section 3 of the Disability Discrimination Act 2005 (c.13).

(b) Section 49D was inserted by section 3 of the Disability Discrimination Act 2005 (c.13).

(c) Section 53A was inserted by section 9 of the Disability Rights Commission Act 1999 (c.17) and is repealed from a date to be appointed by Schedule 3, paragraphs 41 and 52 and Schedule 4 of the Equality Act 2006 (c.3).

(d) Subsection (4A) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 28(1) and (4).

(e) Subsection (6A) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 28(1) and (5).

(f) Section 59(1)(b) was substituted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraph 30.

(g) Section 59(1)(c) was substituted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraph 30.

(h) Section 67(1) was amended by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 33(1) and (2).

(i) Subsection (4), along with subsections (4A), (4B), (4C), (4D), (5) and (5A) were substituted for subsections (4) and (5) as originally enacted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 33(1) and (5).

(j) Paragraph 4(1B) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 38(1) and (3).

(k) Paragraph 8(4) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 38(1) and (6).

- (a) for “National Assembly for Wales” substitute “Welsh Ministers”;
  - (b) in paragraph (a) for “Assembly” substitute “National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.
- (4) In paragraph 11(1B) (discrimination in schools: evidence)(a)—
- (a) for “National Assembly for Wales” substitute “Welsh Ministers”;
  - (b) in paragraph (a) for “Assembly” substitute “National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.
- (5) In paragraph 15(1B) (discrimination in further and higher education institutions: evidence)(b)—
- (a) for “National Assembly for Wales” substitute “Welsh Ministers”;
  - (b) in paragraph (a) for “Assembly” substitute “National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

*School Standards and Framework Act 1998*

**64.** After section 85(7) of the School Standards and Framework Act 1998 (procedure for codes issued by the Secretary of State or the Welsh Ministers)(c) insert—

“(7A) In the case of a code issued or revised by the Welsh Ministers, subsection (7) (as modified by paragraph 33 of Schedule 11 to the Government of Wales Act 2006) has effect as if the reference to any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days were to any period during which the National Assembly for Wales is dissolved or is in recess for more than four days.”.

*Food Standards Act 1999*

**65.** The Food Standards Act 1999(d) is amended as follows.

**66.** In section 22(2)(b)(ii) (statement of general objectives and practices of Food Standards Agency), for “the National Assembly for Wales (and its staff) and Assembly Secretaries” substitute “the Welsh Assembly Government”.

**67.** In section 32(1)(b) and (2)(b) (modification of powers conferred on Parliament and devolved legislatures), after “the Scottish Parliament” insert “, the National Assembly for Wales”.

**68.** In Schedule 4 (accounts and audit), in paragraphs 2(2) (resource accounts), 3(7) (accounts of the Agency relating to sums paid or appropriated under section 39(3)) and 4(5) (consolidated accounts) after “the Scottish Parliament” insert “, the Welsh Ministers shall present such documents to the National Assembly for Wales”.

*Care Standards Act 2000*

**69.** The Care Standards Act 2000(e) is amended as follows.

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(a) Paragraph 11(1B) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 38(1) and (10).  
 (b) Paragraph 15(1B) was inserted by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraphs 1 and 38(1) and (12).  
 (c) 1998 c.31.  
 (d) 1999 c.28.  
 (e) 2000 c.14.

**70.**—(1) Section 72B (review of exercise of functions of Assembly and other persons) is amended as follows.

(2) In the heading for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (1)(a) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

(4) In subsection (2) for “Assembly” substitute “Welsh Ministers”.

(5) In subsection (3)(a) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

(6) In subsection (3)(b) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales, or the Counsel General to the Welsh Assembly Government”.

(7) In subsection 3(c) for “Assembly” substitute “Welsh Ministers”.

(8) In subsection (6)—

(a) for the first “Assembly” substitute “Welsh Ministers”, and

(b) for “the Assembly does not have functions” substitute “no functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**71.**—(1) Section 73 (review and monitoring of arrangements) is amended as follows.

(2) In subsections (2), (2C) (in both places), (3) and (4) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

(3) In subsection (5A) for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (5B)—

(a) in paragraph (b) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”;

(b) in paragraph (c) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales, or the Counsel General to the Welsh Assembly Government”; and

(c) in paragraph (d) for “Assembly” substitute “Welsh Ministers”.

(5) In subsection (5E)—

(a) for the first “Assembly” substitute “Welsh Ministers”, and

(b) for “the Assembly does not have functions” substitute “no functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**72.** In section 75A (additional power of consideration and representation) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**73.** In section 78(7) (interpretation) in the definition of “regulations” for “Assembly” substitute “Welsh Ministers”.

**74.**—(1) Schedule 2 (the Children’s Commissioner for Wales) is amended as follows.

(2) In paragraph 3 for “Assembly” substitute “Welsh Ministers”.

(3) In paragraph 5 for “Assembly” substitute “Welsh Ministers”.

(4) In paragraph 6—

(a) in sub-paragraph (1), for “executive committee” substitute “Welsh Ministers”,

(b) in sub-paragraph (2), for “executive committee” substitute “Welsh Ministers”,

(c) in sub-paragraph (3)—

- (i) for “executive committee” substitute “Welsh Ministers”;
  - (ii) for “it” substitute “them”;
  - (iii) for “the committee thinks” substitute “the Welsh Ministers think”,
  - (d) omit sub-paragraph (5).
  - (5) In paragraph 7 for “Assembly” substitute “Welsh Ministers”.
  - (6) In paragraph 8 for “Assembly” substitute “Welsh Ministers”.
  - (7) In paragraph 10(4)(a) (accounting officer) for “executive committee” substitute “Welsh Ministers”.
  - (8) In paragraph 14 for “Assembly” substitute “Welsh Ministers”.
  - (9) In paragraph 17(2) for “Assembly” substitute “Welsh Ministers”.
- 75.** In paragraph 1 of Schedule 2B (persons whose arrangements are subject to review by the Commissioner under section 73) for “the Assembly” substitute “the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

*Regulation of Investigatory Powers Act 2000*

- 76.**—(1) The Regulation of Investigatory Powers Act 2000(a) is amended as follows.
- (2) In section 4(8) (power to provide for lawful interception – interpretation), in the definition of “government department”, for “the National Assembly for Wales” substitute “the Welsh Assembly Government”.
- (3) In Schedule 1 (relevant public authorities)(b) for paragraph 16 and the heading preceding it substitute—

**“The Welsh Assembly Government**

**16. The Welsh Assembly Government.”.**

*Freedom of Information Act 2000*

- 77.** The Freedom of Information Act 2000(c) is amended as follows.
- 78.**—(1) Section 4 (amendment of Schedule 1) is amended as follows.
- (2) In subsection (2)(b), for “the National Assembly for Wales” substitute “the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.
- (3) In subsection (3)(a) and (b), for “the National Assembly for Wales” substitute “the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.
- (4) In subsection (7)(a)(ii), for “the National Assembly for Wales” substitute “the Welsh Ministers”(d).

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(a) 2000 c.23.

(b) There are amendments to that Schedule which are not relevant to this Order.

(c) 2000 c.36.

(d) Section 4(7) was amended by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), article 8 and paragraph 8(1)(a) of Schedule 2; and by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9 and paragraph 12(1)(a) of Schedule 2. The duty imposed by section 4(7) was transferred from the Secretary of State to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001, article 3 and paragraph 12 of Schedule 1; and was transferred from the Lord Chancellor to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, article 4 and Schedule 1.

**79.** In section 7(4) (public authorities to which Act has limited application: consultation)(a) for paragraph (a) substitute—

“(a) if the order relates to the National Assembly for Wales or a Welsh public authority referred to in section 83(1)(b)(ii) (subsidiary of the Assembly Commission), consult the Presiding Officer of the National Assembly for Wales,

(aa) if the order relates to the Welsh Assembly Government or a Welsh public authority other than one referred to in section 83(1)(b)(ii), consult the First Minister for Wales.”.

**80.** In section 28(2) (relations within the United Kingdom: administration in the United Kingdom), for paragraph (d), substitute—

“(d) the Welsh Assembly Government.”.

**81.**—(1) Section 35 (formulation of government policy, etc) is amended as follows.

(2) In subsection (1), for “the National Assembly for Wales” substitute “the Welsh Assembly Government”.

(3) In subsection (5) —

(a) in the definition of “government policy”, for “the National Assembly for Wales” substitute “the Welsh Assembly Government”,

(b) in the definition of “the Law Officers”, after “the Solicitor General for Scotland” insert “, the Counsel General to the Welsh Assembly Government”,

(c) in the definition of “Ministerial communications”—

(i) for paragraph (c) substitute—

“(c) between members of the Welsh Assembly Government”,

(ii) for “the executive committee of the National Assembly for Wales” substitute “the Cabinet or any committee of the Cabinet of the Welsh Assembly Government”,

(d) in the definition of “Ministerial private office”, for “any part of the administration of the National Assembly for Wales providing personal administrative support to the Assembly First Secretary or an Assembly Secretary” substitute “any part of the administration of the Welsh Assembly Government providing personal administrative support to the members of the Welsh Assembly Government”.

**82.**—(1) Section 36 (prejudice to effective conduct of public affairs) is amended as follows.

(2) In subsection (1)(a), for “the National Assembly for Wales” substitute “the Welsh Assembly Government”.

(3) In subsection (2)(a), for sub-paragraph (iii) substitute—

“(iii) the work of the Cabinet of the Welsh Assembly Government.”.

(4) In subsection (5)—

(a) for paragraphs (g) and (h), substitute—

“(g) in relation to information held by the Welsh Assembly Government, means the Welsh Ministers or the Counsel General to the Welsh Assembly Government,

(ga) in relation to information held by the National Assembly for Wales, means the Presiding Officer of the National Assembly for Wales,

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(a) Section 7(4) was amended by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), article 8 and paragraph 8(1)(c) of Schedule 2; and by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9 and paragraph 12(1)(a) of Schedule 2. The duty imposed by section 7(4) was transferred from the Secretary of State to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001, article 3 and paragraph 12 of Schedule 1; and was transferred from the Lord Chancellor to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, article 4 and Schedule 1.

(gb) in relation to information held by any Welsh public authority (other than one referred to in section 83(1)(b)(ii) (subsidiary of the Assembly Commission), the Auditor General for Wales or the Public Services Ombudsman for Wales), means—

- (i) the public authority, or
- (ii) any officer or employee of the authority authorised by the Welsh Ministers or the Counsel General to the Welsh Assembly Government”,

(gc) in relation to information held by a Welsh public authority referred to in section 83(1)(b)(ii), means—

- (i) the public authority, or
- (ii) any officer or employee of the authority authorised by the Presiding Officer of the National Assembly for Wales,”;

(b) after paragraph (k) insert—

“(ka) in relation to information held by the Public Services Ombudsman for Wales, means the Public Services Ombudsman for Wales,”.

**83.**—(1) Section 53 (exception from duty to comply with decision notice or enforcement notice) is amended as follows.

(2) In subsection (1)(a), for sub-paragraph (ii) substitute—

“(ii) the Welsh Assembly Government, or”.

(3) In subsection (3), for paragraph (c) substitute—

“(c) the National Assembly for Wales, in any case where the certificate relates to a decision notice or enforcement notice which has been served on—

- (i) the Welsh Assembly Government,
- (ii) the National Assembly for Wales, or
- (iii) any Welsh public authority.”.

(4) In subsection (5) —

(a) in paragraph (a), for “the National Assembly for Wales” substitute “the Welsh Ministers”,

(b) after paragraph (a), insert—

“(aa) if the order relates to the National Assembly for Wales, consult the Presiding Officer of that Assembly.”.(a)

(5) In subsection (8), for paragraph (b) substitute—

“(b) in relation the Welsh Assembly Government, the National Assembly for Wales or any Welsh public authority, means the First Minister for Wales, and”

**84.**—(1) Section 81 (application to government departments, etc) is amended as follows.

(2) In subsection (3), after “A government department” insert “or the Welsh Assembly Government”.

(3) In subsection (4), after “the Northern Ireland Assembly” insert “or the National Assembly for Wales”.

**85.**—(1) Section 83 (meaning of “Welsh public authority”) is amended as follows.

(2) In subsection (1), for paragraph (b) substitute—

“(b) any public authority which is—

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(a) Section 53(5) was amended by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), article 8 and paragraph 8(1)(j) of Schedule 2; and by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9 and paragraph 12(1)(a) of Schedule 2. The power conferred by section 53(5) was transferred from the Secretary of State to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001, article 3 and paragraph 12 of Schedule 1; and were transferred from the Lord Chancellor to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, article 4 and Schedule 1.

- (i) a subsidiary of the Welsh Ministers (as defined by section 134(4) of the Government of Wales Act 2006), or
- (ii) a subsidiary of the Assembly Commission (as defined by section 139(4) of that Act).”.

(3) In subsection (3), for “the National Assembly for Wales” substitute “the First Minister for Wales”(a).

**86.**—(1) Section 84 (interpretation) is amended as follows.

(2) Omit the definition of “executive committee”.

(3) In the definition of “government department”, for paragraph (c) substitute—  
 “(c) the Welsh Assembly Government”.

**87.** In Part 1 of Schedule 1 (public authorities: general), after paragraph 5 insert—

“**5A** the Welsh Assembly Government.”.

*Transport Act 2000*

**88.** Section 109A(5) of the Transport Act 2000 (approval of plans:Wales)(b) is repealed.

*Political Parties, Elections and Referendums Act 2000*

**89.** The Political Parties, Elections and Referendums Act 2000(c) is amended as follows.

**90.** In section 5 (reports on elections and referendums)—

(a) in subsection (2), for paragraph (d) substitute—

“(d) a National Assembly for Wales general election;”;

(b) in subsection (2A)(c), for “section 8 of the Government of Wales Act 1998” substitute “section 10 of the Government of Wales Act 2006”(d); and

(c) in subsection (3)—

(i) for “section 36 of the Government of Wales Act 1998” substitute “section 64 of the Government of Wales Act 2006”; and

(ii) for “the National Assembly for Wales, at the Assembly’s expense” substitute “the Welsh Ministers, at their expense”.

**91.** In section 6(3) (reviews of electoral and political matters ) –

(a) in paragraph (a), after “duties” insert “or the funding of political groups under section 24 of the Government of Wales Act 2006”; and

(b) in paragraph (b), for “section 36 of the Government of Wales Act 1998” substitute “section 64 of the Government of Wales Act 2006”.

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(a) Section 83(5) was amended by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), article 8 and paragraph 8(1)(l) of Schedule 2; and by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), article 9 and paragraph 12(1)(c) of Schedule 2. The power conferred by section 53(5) was transferred from the Secretary of State to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001, article 3 and paragraph 12 of Schedule 1; and were transferred from the Lord Chancellor to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003, article 4 and Schedule 1.

(b) 2000 c.38. Section 109A was inserted by section 3 of the Transport (Wales) Act 2006 (c.5).

(c) 2000 c.41.

(d) Subsection (2A) was inserted into section 5 by section 28 of the Electoral Administration Act 2006 (c. 22 ).

**92.** In section 6A(5)(d) (attendance of representatives of Commission at election etc)(a) for “section 8 of the Government of Wales Act 1998 (vacancies in constituency seats)” substitute “section 10 of the Government of Wales Act 2006 (constituency vacancies)” .

**93.** In section 7(2) (Commission to be consulted on changes to electoral law), for paragraph (f) substitute—

“(f) an order under section 13 or 64(3) of the Government of Wales Act 2006 (conduct of elections to the National Assembly for Wales and of polls held by Welsh Ministers);”.

**94.** In section 9A(6)(d)(setting of performance standards)(b), for “section 8 of the Government of Wales Act 1998(vacancies in constituency seats)” substitute “section 10 of the Government of Wales Act 2006(constituency vacancies)”.

**95.** In section 10(6) (giving of advice and assistance)(c), after paragraph (c) insert—

“(caa)the Welsh Ministers;” .

**96.** In section 101(3) (referendums to which Part 7 applies), for “section 36 of the Government of Wales Act 1998” substitute “section 64 of the Government of Wales Act 2006”.

**97.** In section 160(4) (general interpretation – payments out of public funds)—

(a) in paragraph (a)(i), after “the Scottish Consolidated Fund” insert “, the Welsh Consolidated Fund”;

(b) in paragraph (b)—

(i) in sub-paragraph (i), after “,the Scottish Ministers” insert “, the Welsh Ministers”;

(ii) in sub-paragraph (ii), after “(including a Northern Ireland department )” insert “, the Welsh Assembly Government”, and at the end omit “,or” ; and

(iii) omit sub-paragraph (iii); and

(c) in paragraph (c), after “the Scottish Parliamentary Corporate Body” insert “, the National Assembly for Wales Commission”.

**98.**—(1) Schedule 1, paragraph 14 (financing the Electoral Commission) is amended as follows.

(2) Omit “or” at the end of sub-paragraph (a).

(3) For sub-paragraph (b) substitute —

“(b) met by the Welsh Ministers in pursuance of section 5(3) or 20(12); or

(c) met by the National Assembly for Wales Commission under Schedule 2 paragraph 6 to the Government of Wales Act 2006. ”.

(4) Until the end of the initial period, paragraph 14(1)(b) has effect as if it included a reference to expenditure of the Commission met by the National Assembly for Wales constituted by the Government of Wales Act 1998 in pursuance of paragraphs 5 and 6 of Schedule 2 to the Government of Wales Act 2006 (as modified by paragraph 18 of Schedule 11 to that Act).

**99.**—(1) Schedule 9 (limits on campaign expenditure) is amended as follows.

(2) In paragraph 1 (introductory: interpretation), for sub-paragraph (1)(c) substitute—

“(c) “an ordinary general election to the National Assembly for Wales” means an election held under section 3 of the Government of Wales Act 2006;

(ca) “an extraordinary general election to the National Assembly for Wales” means an election held under section 5 of the Government of Wales Act 2006;”.

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(a) Section 6A was inserted into the Political Parties, Elections and Referendums Act 2000 by section 29 of the Electoral Administration Act 2006.

(b) Section 9A was inserted into the Political Parties, Elections and Referendums Act 2000 by section 67 of the Electoral Administration Act 2006.

(c) Section 10(6) was also amended by Schedule 10 paragraph 60 to the Government of Wales Act 2006 .



(3) For the heading preceding paragraph 6, substitute “*General elections to the National Assembly for Wales*”.

(4) Paragraph 6 is amended as follows —

- (a) in sub-paragraph (1), for “an ordinary election to the Welsh Assembly” substitute “an ordinary or extra ordinary general election to the National Assembly for Wales”;
- (b) in sub-paragraph (3) for “ For the purposes of this paragraph” substitute “In the case of an ordinary general election”;
- (c) in sub-paragraph (4)(a), for “section 3(2) of the Government of Wales Act 1998” substitute “section 3(1) of the Government of Wales Act 2006”;
- (d) in sub-paragraph (4)(b) and (c)—
  - (i) for “section 3(2) of that Act”, in each place, substitute “section 3 (1) of that Act”; and
  - (ii) for “section 3(3) of that Act” substitute” section 4(1) of that Act “ ;
- (e) in the words after sub-paragraph (4)(c) for “section 3(2) of that Act” substitute “section 3(1) of that Act”; and
- (f) after sub-paragraph (4) , add —

“(5) In the case of an extraordinary general election, “the relevant period” for the purposes of this paragraph is the period beginning with the date when the Secretary of State proposes a date for the poll for the election under section 5(1) of the Government of Wales Act 2006 and ending with the date of the poll for the election.”.

**100.**—(1) Schedule 10 (limits on controlled expenditure) is amended as follows.

(2) In paragraph 1 (introductory – interpretation), for sub-paragraph (1)(c) substitute—

- “(c) “an ordinary general election to the National Assembly for Wales” means an election under section 3 of the Government of Wales Act 2006;
- (ca) “an extraordinary general election to the National Assembly for Wales” means an election under section 5 of the Government of Wales Act 2006;”.

(3) For the heading preceding paragraph 6 substitute “*General elections to the National Assembly for Wales*”.

(4) In paragraph 6 —

- (a) in sub-paragraph (1), for “an ordinary election to the Welsh Assembly” substitute “an ordinary general election to the National Assembly for Wales”;
- (b) in sub-paragraph (3), for “For the purposes of this paragraph” substitute “In the case of an ordinary general election”;
- (c) in sub-paragraph (4)(a), for “section 3(2) of the Government of Wales Act 1998” substitute “section 3(1) of the Government of Wales Act 2006”;
- (d) in sub-paragraph (4)(b) and (c)—
  - (i) for “section 3(2) of that Act”, in each place ,substitute “section 3(1) of that Act”; and
  - (ii) for “section 3(3) of that Act”, substitute “section 4(1) of that Act”;
- (e) in the words after sub-paragraph (4)(c) , for “section 3(2) of that Act” substitute “section 3(1) of that Act” ; and
- (f) after sub-paragraph (4), add—

“(5) In the case of an extraordinary general election, “the relevant period” for the purposes of this paragraph is the period beginning with the date when the Secretary of State proposes a date for the poll for the election under section 5(1) of the Government of Wales Act 2006 and ending with the date of the poll for the election.”.

**101.** The Income Tax (Earnings and Pensions) Act 2003(a) is amended as follows.

**102.** In section 291 (termination payments to MPs and others ceasing to hold office) for subsection (2)(e) substitute—

“(e) made under section 20(3) of the Government of Wales Act 2006 to a person—

- (i) ceasing to be a member of the National Assembly for Wales; or
- (ii) ceasing to hold office as the Presiding Officer, Deputy Presiding Officer, or such other office in connection with the Assembly as the Assembly may determine, but continuing to be an Assembly Member,

(ea) made under section 53(3) of the Government of Wales Act 2006 to a person ceasing to be a member of the Welsh Assembly Government, or”.

**103.** In section 293 (overnight expenses of other elected representatives), in paragraph (b) of subsection (2) for “section 16(2) of the Government of Wales Act 1998 (c.38)” substitute “section 20(2) of the Government of Wales Act 2006 or to a member of the Welsh Assembly Government under section 53(2) of that Act”.

**104.** In section 294 (European travel expenses of MPs and other representatives), in sub-paragraph (b)(ii) of subsection (1) for “section 16(2) of the Government of Wales Act 1998” substitute “section 20(2) of the Government of Wales Act 2006 or to a member of the Welsh Assembly Government under section 53(2) of that Act”.

**105.** In section 295 (transport and subsistence for Government Ministers etc), in sub-paragraph (c)(ii) of subsection (3) for “the Government of Wales Act 1998 (c.38)” substitute “the Government of Wales Act 2006”.

#### *Finance Act 2004*

**106.** The Finance Act 2004(b) is amended as follows.

**107.** In section 59(1) (contractors)—

- (a) in paragraph (b) after “any Northern Ireland department” insert “, the Welsh Assembly Government”; and
- (b) in paragraph (c) for “and the Scottish Parliamentary Corporate Body” substitute “, the Scottish Parliamentary Corporate Body and the National Assembly for Wales Commission”.

**108.** In section 150(4)(c) (meaning of “pension scheme”) after “National Assembly for Wales” insert “, the National Assembly for Wales Commission or the Welsh Ministers”.

#### *Constitutional Reform Act 2005*

**109.** The Constitutional Reform Act 2005(c) is amended as follows.

**110.** In—

- (a) section 27(2)(d) (selection process);
- (b) section 28(5)(d) (report); and
- (c) section 54(1)(d) (annual report),

for “the Assembly First Secretary in Wales” substitute “the First Minister for Wales”.

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(a) 2003 c.1.  
(b) 2004 c.12.  
(c) 2005 c.4.

**111.** In section 41(4) (relation to other courts: devolution issues), in paragraph (b), for “Schedule 8 to the Government of Wales Act 1998” substitute “Schedule 9 to the Government of Wales Act 2006”.

*Equality Act 2006*

**112.** The Equality Act 2006(a) is amended as follows.

**113.** In section 11(3)(b)(ii) (monitoring the law) for “National Assembly for Wales” substitute “Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government”.

**114.** In section 14(9) (codes of practice) for “National Assembly for Wales” substitute “Welsh Ministers”.

**115.** In section 50(4)(e) (section 49: exceptions) for “National Assembly for Wales” substitute “Welsh Ministers”.

**116.** In section 52(4) (public authorities: general), after paragraph (e) insert—

“(ea) the making of an instrument by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government under an enactment.”.

**117.**—(1) Section 56 is amended as follows.

(2) Make the existing provision subsection (1).

(3) In subsection (1)—

(a) after paragraph (b) insert—

“(ba) a Measure of the National Assembly for Wales,

(bb) an Act of the National Assembly for Wales.”;

(b) in sub-paragraph (c)(iv) after “National Assembly for Wales” insert “constituted by the Government of Wales Act 1998”;

(c) in sub-paragraph (c)(iv) omit “or”;

(d) after sub-paragraph (c)(iv) insert—

“(iva) by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or”;

(e) in sub-paragraph (c)(v) omit the second “or”;

(f) in paragraph (d) for “paragraphs (a) to (c).” substitute “paragraphs (a) to (c), or”;

(g) after paragraph (d) insert—

“(e) a condition or requirement imposed after the end of the initial period by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government by virtue of anything listed in paragraphs (a) to (c).”

(4) After subsection (1) insert—

“(2) In subsection (1)(e) “the initial period” has the same meaning as in the Government of Wales Act 2006 (see section 161(5) of that Act).”

**118.** In section 78 (3) (crown application), after paragraph (b) insert—

“(ba) by or on behalf of the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.”.

**119.** In section 92 (crown application), after paragraph (c) insert—

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(a) 2006 c.3.

“(ca) the Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government,”.

**120.** In paragraph 2(3)(c) of Schedule 1 (the Commission: constitution: membership) for “National Assembly for Wales” substitute “Welsh Ministers”.

*Transport (Wales) Act 2006*

**121.** Sections 2(6) and 2(7) (Wales transport strategy) and 5(9) (joint transport authorities) of the Transport (Wales) Act 2006(a) are repealed.

*Electoral Administration Act 2006*

**122.** In section 44(7)(b) of the Electoral Administration Act 2006 (access to other election documents: supplementary)(b), for “ section 2(2) of the Government of Wales Act 1998 (Assembly constituencies and Assembly regions)” substitute “section 2 of the Government of Wales Act 2006 (Assembly constituencies and electoral regions)”.

*Health Act 2006*

**123.** In section 12(4) of the Health Act 2006 (interpretation and territorial sea)(c), for “155(2) of the Government of Wales Act 1998 (c. 38)” substitute “158(3) and (4) of the Government of Wales Act 2006”.

*Commissioner for Older People (Wales) Act 2006*

**124.** The Commissioner for Older People (Wales) Act 2006(d) is amended as follows.

**125.**—(1) Section 2 (general functions) is amended as follows.

(2) In subsection (2) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

(3) In subsection (3) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**126.** In section 3(1)(a) and (b)(review of discharge of functions) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**127.**—(1) Section 4 (power to amend Schedule 2) is amended as follows.

(2) In subsection (1) for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (2)—

(a) in paragraph (b) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”;

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(a) 2006 c.5.  
(b) 2006 c.22.  
(c) 2006 c.28.  
(d) 2006 c.30.

- (b) in paragraph (c) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government” and
- (c) in paragraph (d) for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (7) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**128.**—(1) Section 6 (review of arrangements : supplementary) is amended as follows.

(2) In subsection (3)—

- (a) in paragraph (a) for “Assembly” substitute “Welsh Ministers” and
- (b) after paragraph (a) insert—

“(aa) the First Minister for Wales;

(ab) the Counsel General to the Welsh Assembly Government;”.

(3) In subsection (4) for paragraph (a) substitute—

“(a) in the case of the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, any service which they provide;”.

**129.**—(1) Section 7 (power to amend Schedule 3) is amended as follows.

(2) In subsection (1) for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (2)—

- (a) in paragraph (b) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”;
- (b) in paragraph (c) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government” and
- (c) in paragraph (d) for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (7)(b) for “the Assembly has functions” substitute “functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**130.** In section 8(1)(a) (assistance) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**131.** In section 10(2) (examination of cases) for “the Assembly does not have functions.” substitute “neither the Welsh Ministers, the First Minister for Wales nor the Counsel General to the Welsh Assembly Government have functions.”

**132.** In section 12(2)(a) (guidance) for “Assembly” substitute “Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government”.

**133.** In section 14(2)(a) (further supplementary functions) for “the Assembly does not have functions;” substitute “neither the Welsh Ministers, the First Minister for Wales nor the Counsel General to the Welsh Assembly Government have functions;”

**134.** In section 15(2) (reports following discharge of particular functions) for “the Assembly does not have functions.” substitute “neither the Welsh Ministers, the First Minister for Wales nor the Counsel General to the Welsh Assembly Government have functions.”

**135.**—(1) Section 16 (working jointly with the Public Services Ombudsman for Wales) is amended as follows.

(2) In subsection (4) for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (5)—

- (a) for “Assembly” substitute “Welsh Ministers” and
- (b) for “it thinks” substitute “they think”.

**136.**—(1) Section 17 (working collaboratively with other ombudsmen) is amended as follows.

(2) In subsection (8) for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (9)—

- (a) for “Assembly” substitute “Welsh Ministers” and
- (b) for “it thinks” substitute “they think”.

**137.**—(1) Section 18 (power to disclose information) is amended as follows.

(2) In subsection (9)—

- (a) in paragraph (a) for “Assembly” substitute “Welsh Ministers” and
- (b) after paragraph (a) insert—

“(aa) the First Minister for Wales;

(ab) the Counsel General to the Welsh Assembly Government;”.

(3) In subsection (10) for “Assembly” substitute “Welsh Ministers”.

**138.**—(1) Section 20 (complaints procedure in respect of the Commissioner) is amended as follows.

(2) In subsection (4)—

- (a) for “Assembly” substitute “Welsh Ministers” and
- (b) for “its” substitute “their”.

(3) In subsection (5) for “Assembly” substitute “Welsh Ministers”.

**139.**—(1) Section 27 (other interpretative provisions) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “Assembly Cabinet”;
- (b) in the definition of “regulations” for “Assembly” substitute “Welsh Ministers” and
- (c) in the definition of “Welsh health service body”, in paragraph (a) for “Assembly” substitute “Welsh Ministers” and for “it discharges” substitute “they discharge”.

(3) In subsection (2) for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (3)—

- (a) for “Assembly” substitute “Welsh Ministers” and
- (b) for “it thinks” substitute “they think”.

**140.**—(1) Section 28 (orders and regulations) is amended as follows.

(2) In subsection (1) for “Assembly” substitute “Welsh Ministers”.

(3) In subsection (2) for “Assembly” substitute “Welsh Ministers”.

(4) In subsection (4)—

- (a) for “Assembly” in the first place substitute “Welsh Ministers” and
- (b) in paragraph (b) for “the Assembly has no functions” substitute “neither the Welsh Ministers, the First Minister for Wales nor the Counsel General to the Welsh Assembly Government have functions”.

(5) Omit subsection (6).

**141.**—(1) Schedule 1 (the Commissioner for Older People in Wales) is amended as follows.

(2) In paragraph 3—

- (a) in sub-paragraph (1) for “Assembly” substitute “Welsh Ministers” ;
- (b) in sub-paragraph (2) for “Assembly” substitute “Welsh Ministers” and
- (c) in sub-paragraph (3) for “Assembly” in both places substitute “Welsh Ministers” and for “it thinks” substitute “they think”.

- (3) In paragraph 6(2) for “Assembly” substitute “Welsh Ministers”.
- (4) In the heading to paragraph 7 for “Assembly” substitute “Welsh Ministers”.
- (5) In paragraph 7—
  - (a) for “Assembly” substitute “Welsh Ministers” and
  - (b) for “it thinks” substitute “they think”.
- (6) In the heading to paragraph 8 for “Assembly” substitute “Welsh Ministers”.
- (7) In paragraph 8(1) for “Assembly” substitute “Welsh Ministers”.
- (8) In paragraph 9—
  - (a) in sub-paragraph (2) for “Assembly Cabinet” substitute “Welsh Ministers” and
  - (b) in sub-paragraph (3)—
    - (i) for “Assembly Cabinet” substitute “Welsh Ministers”;
    - (ii) for “it” in the first place substitute “them”; and
    - (iii) for “it thinks” substitute “they think”.
- (9) In paragraph 10—
  - (a) in sub-paragraph (1)(b) for “Assembly” substitute “Welsh Ministers”;
  - (b) in sub-paragraph (2) for “Assembly” substitute “Welsh Ministers” and
  - (c) in sub-paragraph (3) for “Assembly” substitute “Welsh Ministers”.
- (10) In paragraph 11(4)(a) for “Assembly Cabinet” substitute “Welsh Ministers”.
- (11) In paragraph 19—
  - (a) in sub-paragraph (1) for “Assembly” substitute “Welsh Ministers” and
  - (b) in sub-paragraph (2) for “Assembly” substitute “Welsh Ministers”.

*Companies Act 2006*

**142.**—(1) Section 966(7) of the Companies Act 2006 (definition of “minister” for purposes of section 966(4))(a) is amended as follows.

- (2) After paragraph (c) insert—
  - “(d) the Welsh Ministers;”.
- (3) After “the Board of Trade” insert “and”.
- (4) Omit “and the National Assembly for Wales”.

*Legislative and Regulatory Reform Act 2006*

**143.** The Legislative and Regulatory Reform Act 2006(b) is amended as follows.

- 144.** In section 1(6) (power to remove or reduce burdens: meaning of “legislation”)—
- (a) in paragraph (a) leave out “or”;
  - (b) after paragraph (a) insert—
    - “(aa) a Measure or Act of the Assembly, or”;
  - (c) in paragraph (b) for “under an Act referred to in paragraph (a),” substitute—
    - “under—

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(a) 2006 c.46.  
 (b) 2006 c.51.

- (a) an Act referred to in paragraph (a), or
- (b) a Measure or Act of the Assembly.”.

**145.** In section 4 (subordinate legislation)—

- (a) after subsection (3), insert—

“(3A) An order under this Part may not make provision to confer a function of legislating on the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government (alone or otherwise) unless the conditions in subsections (4) and (5A) are satisfied.”,

- (b) after subsection (5), insert—

“(5A) The condition in this subsection is that such a statutory instrument—

- (a) is an instrument to which section 5(1) of the Statutory Instruments Act 1946 applies (instruments subject to annulment); or
- (b) is not to be made unless a draft of the statutory instrument has been laid before and approved by a resolution of the Assembly.”,

- (c) in subsection (6) for “Subsections (1) to (3)” substitute “Subsections (1) to (3A)”.

**146.** For section 11 (Wales), substitute—

**“11. Wales**

(1) Except with the agreement of the Assembly, an order under this Part may not make provision which would be within the legislative competence of the Assembly if the provision were contained in—

- (a) an Assembly Measure (until the Assembly Act provisions of the Government of Wales Act 2006 come into force), or
- (b) an Act of the Assembly (after those provisions come into force).

(2) An order under this Part may not make any provision—

- (a) conferring a function on the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government,
- (b) modifying or removing a function of the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government,
- (c) restating any provision which confers a function on the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or
- (d) that could be made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government in the exercise of any of their functions,

except with the agreement of the Welsh Ministers.

(3) Subsections (1) and (2)(d) do not apply to any provision of an order under this Part falling within section 1(8) or 2(7).”.

**147.** In section 13 (consultation), for subsection (1)(c) substitute—

“(c) consult the Welsh Ministers where the proposals, so far as applying in or as regards Wales, relate to any matters in relation to which the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government exercise functions (and where the agreement of the Welsh Ministers is not required under section 11)”.

**148.** In section 24 (functions to which sections 21 and 22 apply)—

- (a) in subsection (4), for “The Assembly” substitute “The Welsh Ministers”,
- (b) after subsection (9), insert—



“(9A) The Welsh Ministers may not make a statutory instrument containing an order under this section unless a draft has been laid before, and approved by resolution of, the Assembly.”, and

- (c) in subsection (10), in the definition of “Wales”, for “Government of Wales Act 1998” substitute “Government of Wales Act 2006”(a).

**149.** In section 27 (power to make orders, rules and schemes)—

- (a) omit subsection (3),
- (b) in subsection (6), for paragraph (c) substitute—
- “(c) so far as exercisable in relation to a matter—
- (i) within the legislative competence of the Assembly, or
- (ii) in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government,
- shall also be exercisable by the Welsh Ministers”,
- (c) in subsection (7)(a), for “the National Assembly for Wales” substitute “the Welsh Ministers”, and
- (d) in subsection (8)—
- (i) at the end of paragraph (b), omit “and”,
- (ii) at the end of paragraph (c), insert “, and”,
- (iii) after paragraph (c), insert—
- “(d) if made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the Assembly”.

*Employment Equality (Religion or Belief) Regulations 2003*

**150.** In regulation 10 of the Employment Equality (Religion or Belief) Regulations 2003 (office-holders etc)(b)—

- (a) in paragraph (8)(b) for “National Assembly for Wales”, substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”;
- (b) in paragraph (10)(b), after sub-paragraph (vii) insert—
- “(viii) a member of the Welsh Assembly Government.”.

*Employment Equality (Sexual Orientation) Regulations 2003*

**151.** In regulation 10 of the Employment Equality (Sexual Orientation) Regulations 2003 (office holders etc)(c)—

- (a) in paragraph (8)(b) for “National Assembly for Wales”, substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”;
- (b) In paragraph (10)(b), after sub-paragraph (vii) insert—
- “(viii) a member of the Welsh Assembly Government.”.

*The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003*

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(a) 2006 c.32.  
(b) S.I. 2003/1660.  
(c) S.I. 2003/1661.

**152.** In Part 1 of the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003(a) (offices, ranks and positions prescribed for the purposes of section 30(1) of the Regulation of Investigatory Powers Act 2000), for the entries in relation to the National Assembly for Wales substitute—

“The Welsh Assembly Government	Head of Department for Health and Social Services	Member of (b)(d)(e) Department for Health and Social Services at a level equivalent to Grade 7
	Head of Department for Health and Social Services Finance	Member of (b)(d)(e) Department for Health and Social Services Finance at a level equivalent to Grade 7
	Head of Rural Payments Department	Member of (b)(e) Rural Payments Department at a level equivalent to Grade 7
	Regional Director or equivalent grade in the Care and Social Services Inspectorate for Wales	Senior Inspector (b)(d)(e) or equivalent grade in the Care and Social Services Inspectorate for Wales”

*Employment Equality (Age) Regulations 2006*

**153.** The Employment Equality (Age) Regulations 2006(b) are amended as follows.

**154.**—(1) Regulation 12 (office holders etc) is amended as follows.

(2) In paragraph (8)(b) for “National Assembly for Wales”, substitute “Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government”.

(3) In paragraph (10)(b), after sub-paragraph (vii) insert—

“(viia) a member of the Welsh Assembly Government.”.

**155.**—(1) Regulation 27(2) (exception for statutory authority) is amended as follows.

(2) After paragraph (2)(a) insert—

“(aa) a Measure or Act of the National Assembly for Wales;”.

(3) After sub-paragraph (2)(c) insert—

“(d) an instrument made after the end of the initial period under an Act, or under a Measure or Act of the National Assembly for Wales, by the Welsh Ministers, the

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(a) S.I. 2003/3171. There are amendments to S.I. 2003/3171 which are not relevant to this Order.

(b) S.I. 2006/1031.

First Minister for Wales or the Counsel General to the Welsh Assembly Government.

(3) In paragraph (2)(d) “the initial period” has the same meaning as in the Government of Wales Act 2006 (*see* section 161(6) of that Act).”.

## SCHEDULE 2

Article 4

### TRANSITIONAL PROVISIONS

*Food Standards Act 1999*

1. The functions of the National Assembly for Wales constituted by the Government of Wales Act 1998 under section 37(5) of the Food Standards Act 1999 (draft Order in Council to be laid before and approved by Assembly)(a), which would, apart from this paragraph, be transferred to the Welsh Ministers immediately after the end of the initial period under paragraph 30(1) of Schedule 11 to the Government of Wales Act 2006, are transferred instead at that time to the National Assembly for Wales constituted by the Government of Wales Act 2006.

2. Nothing in paragraph 32 of Schedule 11 to the Government of Wales Act 2006 (modification of references to the Assembly) affects the reference to the National Assembly for Wales in paragraph 3(4) of Schedule 4 to the Food Standards Act 1999 (accounts examined on behalf of Assembly) and accordingly that reference is, after the end of the initial period, a reference to the Assembly constituted by the Government of Wales Act 2006.

*Government of Wales Act 2006*

3. In paragraph 34 of Schedule 11 to the Government of Wales Act 2006(b) (functions conferred or imposed by pre-commencement enactment: Parliamentary and Assembly procedure)—

- (a) in sub-paragraph (3), at the beginning insert “Subject to sub-paragraphs (4A) and (4B),”;
- (b) after sub-paragraph (4) insert—

“(4A) Section 1(5) of the Travel Concessions (Eligibility) Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 1(4) of that Act (order changing minimum age for the purposes of eligibility for travel concessions) as if the reference to either House of Parliament were a reference to the Assembly.

(4B) Section 268(13) of the Enterprise Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 268(1) of that Act (order in relation to disqualification from office) as if the reference to each House of Parliament were a reference to the Assembly.”

4. In Table 1 in paragraph 35 of Schedule 11 to the Government of Wales Act 2006 insert the following entries in the appropriate places—

<i>Function</i>	<i>Description</i>
Section 20(1) of the Political Parties, Elections and Referendums Act 2000.	Power to transfer functions of the Local Government Boundary Commission for Wales.
Section 5(1) of the Transport (Wales) Act 2006.	Power to establish a joint transport authority to discharge specified transport functions for specified areas.
Section 4(1) of the Commissioner for Older People (Wales) Act 2006.	Power to amend Schedule 2 to that Act.
Section 6(5) of that Act.	Power to confer power on the Commissioner to require prescribed persons to provide information for the purposes of his functions

(a) 1999 c.28.  
 (b) 2006 c.32.

	under section 5.
Section 7(1) of that Act.	Power to amend Schedule 3 to that Act.
Section 16(4) of that Act.	Power to apply the joint working provisions in section 16 to persons other than the Ombudsmen specified in that section.
Section 17(8) of that Act.	Power to amend subsection 17(6), which specifies persons with whom the Commissioner may work collaboratively under section 17.
Section 18(10) of that Act.	Power to amend the definition of “permitted person” in section 18(9).
Section 27(2) of that Act.	Power to amend the definition of “family health service provider in Wales” and “independent provider in Wales”.

5. In Table 2 in paragraph 35 of Schedule 11 to the Government of Wales Act 2006 insert the following entries in the appropriate places—

<i>Function</i>	<i>Description</i>
Section 97D of the School Standards and Framework Act 1998.	Power to make provision about the admission of children looked after by local authorities in Wales to maintained schools in Wales.
Section 113A(1) of the Transport Act 2000.	Power to modify the application of sections 108 to 111 of that Act in relation to local transport authorities whose areas are in Wales.
Section 20(6) of the Political Parties, Elections and Referendums Act 2000.	Power to direct that the Local Government Boundary Commission for Wales shall cease to exist.
Section 8(1) of the Transport (Wales) Act 2006.	Power to establish the Public Transport Users` Committee for Wales or Pwyllgor Defnyddwyr Trafnidiaeth Gyhoeddus Cymru.
Section 8(2) of that Act.	Power to change the name of a body established under section 8(1) of that Act.
Section 8(6) of that Act	Power to make provision for the transfer of staff, property, rights and liabilities, from the Committee to any other person.
Section 9(3) of that Act.	Power to change or transfer functions of the Public Transport Users` Committee for Wales.
Section 8(1) of the Commissioner for Older People (Wales) Act 2006.	Power to confer power on the Commissioner to give assistance to certain persons to make complaints in respect of matters specified in section 8.
Section 10(1) of that Act.	Power to make regulations allowing the Commissioner to examine cases of particular persons who are, or have been, older people in Wales.
Section 14(1) of that Act.	Power to confer additional functions on the Commissioner.
Section 15(1) of that Act.	Power to make regulations providing for the Commissioner to make reports following the discharge of any of his functions.
Section 21(2) of that Act.	Power to prescribe certain functions for the purpose of preventing the Commissioner from being authorised and required to exercise those functions.
Paragraph 2 of Schedule 1 to that Act.	Power to make provision as to the appointment

	of the Commissioner and as to the terms of office of the Commissioner.
Article 16(4) of the National Assembly for Wales (Representation of the People) Order 2007.	Power to specify the apportionment of the costs of combined polls at an Assembly general election and an ordinary local government election.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes modifications, to enactments, which are considered to be appropriate in consequence of the Government of Wales Act 2006 (c.32) (“the Act”). The Order also makes transitional or transitory provisions which appear appropriate in consequence of, or otherwise in connection with, the Act.

Article 2 provides for the extent of the modifications made by the Order.

Article 3 provides for the modification of the enactments specified in Schedule 1 to the Order.

Article 4 provides for transitional provisions which are contained in Schedule 2 to the Order. These provisions modify Schedule 11 to the Act.

In this note references to “the Assembly” or “the National Assembly for Wales” mean the National Assembly for Wales constituted by the Government of Wales Act 2006

Where a reference is intended to refer to the National Assembly for Wales constituted by the Government of Wales Act 1998, “1998” will appear after the reference in brackets.

### ***Schedule 1***

#### ***European Communities Act 1972 (c.68)***

Paragraph 1 of Schedule 1 contains modifications of the European Communities Act 1972.

Paragraph 1A(2) of Schedule 2 to this Act is amended so that for the purposes of paragraph 1A(1) of that Schedule, the references to “subordinate legislation” include subordinate legislation made under a Measure or Act of the Assembly.

#### ***Sex Discrimination Act 1975 (c.65)***

Paragraphs 2 to 9 of Schedule 1 contain modifications of the Sex Discrimination Act 1975.

Section 10A(1)(b) is amended so that section 10B, which contains prohibitions against discrimination and harassment in relation to office-holders etc, applies to offices and posts to which appointments are made, recommended or approved by the Welsh Ministers, the First Minister for Wales (“the First Minister”) or the Counsel General to the Welsh Assembly Government (“the Counsel General”).

Section 10A(3) is amended so that the prohibitions in section 10B will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General, or a Deputy Welsh Minister.

Section 21A(9) is amended so that the Table of Exceptions from the prohibition against discrimination and harassment in section 21A(1) encompasses the types of legislation that may be within the legislative competence of the National Assembly for Wales, and that which may be made by the Welsh Ministers, the First Minister and the Counsel General. The Table also encompasses acts done in order to comply with that legislation.

Section 23A is amended so that the Welsh Ministers are subject to the prohibition against discrimination contained in that section, reflecting the transfer of functions from the National Assembly for Wales (1998) to the Welsh Ministers.

Section 25A, which contains a non-discrimination duty in relation to the provision of educational facilities etc, is amended to reflect the transfer of functions from the National Assembly of Wales (1998) to the Welsh Ministers.

Section 76A is amended so that the general non-discrimination etc duty contained in that section does not apply to the National Assembly for Wales or to functions exercised in connection with

proceedings in the National Assembly for Wales (though the duty will apply to the exercise of functions of the National Assembly for Wales Commission).

Section 76B(3) is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation about, and giving consent to, a specific duty order proposed to be made by the Secretary of State under section 76B(1).

Section 76E(3) is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation by the Secretary of State prior to his approval of a draft Code of Practice prepared under section 76E, and his making of an order bringing a Code of Practice into effect.

#### ***Race Relations Act 1976 (c.74)***

Paragraphs 10 to 16 of Schedule 1 contain modifications of the Race Relations Act 1976.

Section 19C(5) is amended so that the exception from the prohibitions against discrimination and harassment contained in section 19B encompasses instruments made by the Welsh Ministers, the First Minister and the Counsel General.

Section 71B is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation about, and giving consent to, a specific duty order proposed to be made by the Secretary of State under section 71(2). The amendment to subsection (4) makes it clear that the National Assembly for Wales Commission, the Welsh Ministers, the First Minister and the Counsel General are all Welsh public authorities for the purposes of the section, and that the Secretary of State must obtain the consent of the Welsh Ministers before making a specific duty order in respect of any of them.

Section 71C is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation by the Secretary of State prior to his approval of a draft Code of Practice prepared under this section, and his making of an order bringing a Code of Practice into effect.

Section 76 (15) (b) is amended so that prohibitions against discrimination and harassment contained in section 76 apply to appointments made etc by the Welsh Ministers, the First Minister or the Counsel General, as they apply to appointments made etc by Ministers of the Crown.

Section 76ZA(9) is amended so that the prohibitions against discrimination etc contained in section 76ZA will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General or a Deputy Welsh Minister.

Schedule 1A is amended to reflect the creation of the National Assembly for Wales Commission, the Welsh Ministers, the First Minister and the Counsel General. The general non-discrimination etc duty in section 71 is placed upon these persons and on subsidiaries of the Welsh Ministers.

#### ***Representation of the People Act 1983 (c.2)***

Paragraph 17 of Schedule 1 contains modifications of the Representation of the People Act 1983.

Section 7B(6)(b) of the Representation of the People Act 1983, which provides for declarations of local connection in connection with the residence of certain persons registering to vote, is amended to refer to elections to fill vacancies in Assembly constituencies held under section 10 of the Act.

#### ***Mental Health Act 1983 (c.20)***

Paragraph 18 of Schedule 1 amends section 134(3) of the Mental Health Act 1983 to reflect the scheme of the Government of Wales Act 2006. The effect of the amendment is that the provisions in section 134(1) (allowing certain post sent by a patient detained in hospital under that Act, to be withheld from the postal service in certain circumstances) and section 134(2) (allowing post sent to a patient detained in a high security psychiatric hospital under that Act, to be withheld from him or her in certain circumstances) will not apply to post sent between the patient and any of the Welsh Ministers (which includes the First Minister), the Counsel General or a member of the National Assembly for Wales.

#### ***Companies Act 1985 (c.6)***



Paragraph 19 of Schedule 1 amends section 26 of the Companies Act 1985 to insert reference to the Welsh Assembly Government. This is in order to ensure that companies are not registered under a name which would be likely to give the impression that the company is connected in any way with the Welsh Assembly Government.

***Business Names Act 1985 (c.7)***

Paragraph 20 of Schedule 1 amends section 2 of the Business Names Act 1985 to insert reference to the Welsh Assembly Government. This is so that persons cannot carry on business under a name which would be likely to give the impression that the business is connected in any way with the Welsh Assembly Government.

***Local Government Finance Act 1988 (c.41)***

Paragraphs 21 to 40 of Schedule 1 amend Part V of, and Schedules 7 and 8 to, the Local Government Finance Act 1988 (“the 1988 Act”). The Order makes changes to the way in which local government finance reports will be made in Wales. Previously finance reports were made on being published by the Assembly (1998). Subsequent to the split between the executive (the Welsh Ministers) and the legislative (the Assembly) under the Government of Wales Act 2006 the procedure for making such reports, as set out in Part V of the 1988 Act, is amended. The amendments to Part V provide that finance reports, and amending reports, shall be made by the Welsh Ministers and laid before the Assembly for approval. Amendments are also made to Schedules 7 and 8 to the 1988 Act to reflect the new procedure. In addition the Order inserts three new sections into Chapter 4 of Part V of the 1988 Act making specific provision in Wales for the payment of additional grant and special grants.

Section 76 is amended to include a definition of the Assembly. For the purposes of Part V of the 1988 Act the Assembly shall mean the National Assembly for Wales. This will be the Assembly constituted by the Government of Wales Act 2006.

References to the Assembly and the National Assembly for Wales in sections 84E, 84F, 84G, 84K, 84M, 84N, 84P are replaced with references to the Welsh Ministers.

Section 84G is amended to require finance reports to be laid before the Assembly. For sections 84H and 84J new sections are substituted to take account of the new procedure for making and approving finance reports. Thus once the finance report has been approved the Welsh Ministers will be under an obligation to pay the revenue support grant (section 84H) and to calculate the sum payable to each receiving authority (section 84J).

Section 84L is replaced with a new section which enables the Welsh Ministers to make an amending report and to lay the report before the Assembly for its approval. Amendments have also been made to section 84M to reflect this change.

Chapter 4 of Part V to the 1988 Act makes provision for the payment of other grants. A new section 84Q is inserted into this chapter immediately before section 85. This makes it clear where each provision of the Chapter applies, whether only in relation to England, only in relation to Wales or in relation to England and Wales.

The Order provides that sections 85 (Additional grant) and 86 (Effect of report’s approval) shall apply only in relation to England. In relation to Wales it inserts a new section 86A and 86B. Section 86A enables the Welsh Ministers to make, and lay before the Assembly, a report proposing the payment of additional grant and section 86B deals with the effect of the approval of such a report. The Order also provides that section 88B (Special grants) shall apply only in relation to England and inserts in relation to Wales a new section 88C.

***Local Government Finance Act 1992 (c.14)***

Paragraphs 41 to 44 of Schedule 1 to this Order amend Chapter IVA of Part 1 of the 1992 Act. The amendments to this Chapter are necessary as a result of amendments made by this Order to the Local Government Finance Act 1988.

In sections 52J(10)(a) and 52U(13)(a) references to section 85 of the 1988 Act are replaced with references to section 85 in relation to England and section 86A in relation to Wales.

The order also substitutes for 52Z a new section which reflects the changes made to the 1988 Act and the new procedure for the making and approval of local government finance reports.

***Olympic Symbol etc (Protection) Act 1995 (c.32)***

Paragraph 45 of Schedule 1 amends section 4 of the Olympic Symbol etc (Protection) Act 1995 to insert reference to the National Assembly for Wales. This is to afford the same protection in respect of the use of the Olympic symbol and certain words in proceedings of the National Assembly for Wales as that afforded to the UK and Scottish Parliaments and the Northern Ireland Assembly.

***Environment Act 1995 (c.25)***

Paragraph 46 of Schedule 1 repeals section 16A(6). That section is obsolete because it refers to “Assembly general subordinate legislation”, which expression is defined in section 58(6) of the Government of Wales Act 1998. Section 58(6) is repealed by section 163 of and Schedule 12 to the Act.

***Disability Discrimination Act 1995 (c.50)***

Paragraphs 47 to 63 of Schedule 1 contain modifications of the Disability Discrimination Act 1995.

Section 2(3) is amended to reflect the transfer of functions to the Welsh Ministers.

Section 4C(3)(b) is amended so that section 4D, which contains prohibitions against discrimination and harassment in relation to office-holders etc, and section 4E, which contains a duty to make reasonable adjustments to provisions, premises etc with discriminatory effects, will apply to offices and posts to which appointments are made, recommended or approved by the Welsh Ministers, the First Minister or the Counsel General.

Section 4C(5) is amended so that sections 4D and 4E will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General or a Deputy Welsh Minister.

Section 21C(2) is amended so that the exceptions from the prohibition against discrimination in section 21B encompass the types of legislation that may be within the legislative competence of the National Assembly for Wales, and that which may be made by the Welsh Ministers, the First Minister and the Counsel General.

Section 28D is amended to reflect the transfer of functions to the Welsh Ministers, including the function of making regulations which prescribe services which are, and which are not, to be regarded as education or an associated service.

Section 28E is amended to reflect the transfer to the Welsh Ministers of the functions of issuing guidance in relation to accessibility strategies, and requesting copies of accessibility strategies and plans.

Section 28J is amended to reflect the transfer to the Welsh Ministers of the functions of agreeing to regulations in relation to the Welsh Special Educational Needs and Disability Tribunal, and agreeing to the payment by the Secretary of State of allowances relating to attendance at that Tribunal.

Section 28M is amended to reflect the transfer of functions to the Welsh Ministers, including the functions of being an appropriate authority and a directing authority for the purposes of this section.

Section 28Q is amended to reflect the transfer of functions to the Welsh Ministers.

Section 31AF Chapter 2A is amended to reflect the transfer to the Welsh Ministers of the function of responding to consultation by the Secretary of State about regulations which he proposes to make under this section.

Section 49B(1)(b) is amended so that the National Assembly for Wales and persons exercising functions in connection with its proceedings (other than the National Assembly for Wales Commission) are not public authorities for the purpose of Part 5A of the Disability Discrimination Act 1995. They are therefore not subject to the general duty in section 49A.

Section 49C (2) is amended so that the exceptions from the general duty in section 49A encompass legislation that may be within the legislative competence of the National Assembly for Wales.

Section 49D is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation about, and giving consent to, specific duty regulations proposed to be made by the Secretary of State under section 49D(1) or (2). The amendment to the definition of “relevant Welsh authority” makes it clear that the National Assembly for Wales Commission, the Welsh Ministers, the First Minister and the Counsel General are all relevant Welsh authorities for the purpose of the section, and that the Secretary of State must obtain the consent of the Welsh Ministers before making specific duty regulations in respect of any of them.

Section 53A (4A) is amended to reflect the transfer to the Welsh Ministers of the function of responding to consultation by the Secretary of State, prior to his approval of a draft Code of Practice prepared under section 53A.

Section 53A(6A) is amended to reflect the transfer to the Welsh Ministers of the function of responding to consultation by the Secretary of State, prior to his making of an order under section 53A(6)(a) appointing a day for a Code of Practice prepared under section 53A to come into effect.

Section 59 is amended so that the Act will not render unlawful any act which is done in pursuance of an instrument made under an enactment by the National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister or the Counsel General, or which is done in order to comply with a condition or requirement imposed by any of those under an enactment.

Section 67 (1) is amended to reflect the transfer of functions to the Welsh Ministers. Subsection (4) (f) is amended so that if the Secretary of State makes specific duty regulations under section 49D (1) or (2) which, using the power in section 67(3)(a), amend or repeal an enactment contained in an Act or Measure of the National Assembly for Wales, then those regulations are subject to approval by both Houses of Parliament.

Schedule 3 is amended to reflect the transfer of functions to the Welsh Ministers and the potential for additional functions to be conferred on or transferred to the Welsh Ministers, the First Minister or the Counsel General. The amended paragraphs relate to section 59 of the Disability Discrimination Act 1995 which provides that that Act will not render unlawful an act which is done to comply with a condition or requirement imposed by, among others, the National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister or the Counsel General. The effect of the amendments is that in certain proceedings brought under the Disability Discrimination Act 1995 a certificate signed by the Welsh Ministers and certifying that the condition or requirement specified in the certificate was imposed by the National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister or the Counsel General and was in operation at a specified time shall be conclusive evidence of those facts.

### ***School Standards and Framework Act 1998 (c.31)***

Paragraph 64 of Schedule 1 amends section 85(7) of the School Standards and Framework Act 1998 because of the transfer to the Welsh Ministers of the functions in sections 84 and 127 of issuing or revising codes. In exercising those functions, the Welsh Ministers are subject to the procedure in section 85 but, because of paragraph 33(2) of Schedule 11 to the Government of Wales Act 2006, the references in section 85 to Parliament are to be read as if they are references to the National Assembly for Wales. This amendment additionally converts the provision in subsection (7) that no account is to be taken of any period during which Parliament is dissolved etc, into a provision that no account is to be taken of any period during which the Assembly is dissolved or in recess for more than four days.

### ***Food Standards Act 1999 (c.28)***

Paragraphs 65 to 68 of Schedule 1 contains modifications of the Food Standards Act 1999.

Section 22(2)(b)(ii) is amended to refer to the Welsh Assembly Government as one of the authorities with responsibility for food safety and consumer interests with whom the Food Standards Agency is required to promote links in its statement of general objectives and practices.

Sections 32(1)(b) and (2)(b) are amended to empower an Order in Council under that section to modify powers under that Act of the National Assembly for Wales. That places the Assembly in the same position as Parliament and the other devolved legislatures.

Schedule 4 of that Act deals with accounts of the Food Standards Agency. Paragraphs 2(2), 3(7) and 4(5) are amended to require the Welsh Ministers to present to the Assembly documents relating to accounts of the Agency which have been sent to the Welsh Ministers.

### **Care Standards Act 2000 (c.14)**

Paragraphs 69 to 75 of Schedule 1 contain modifications of Part V of, and Schedule 2 to, the Care Standards Act 2000.

Section 72B(1) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. The effect of the amendment is that the Commissioner may review the exercise of functions of the Welsh Ministers, the First Minister or the Counsel General under section 72B(1).

Section 72B(2) is amended to reflect the transfer to the Welsh Ministers of the functions of making an order under section 72B(2).

Section 72B(3) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. This Order amends the conditions which must be met (unless the Secretary of State consents otherwise) in order for the Welsh Ministers to make an order under section 72B(2) adding a person to Schedule 2A (of the Care Standards Act 2000). The condition in section 72B(3)(a) is amended so that the person to be added must have functions in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions. The condition in section 72B(3)(b) is amended so that the person to be added must have been established by a Minister of the Crown, a government department, the Welsh Ministers, the First Minister or the Counsel General. The condition in section 72B(3)(c) is amended so that at least half the person's expenditure on the discharge of its functions in relation to Wales must be met directly from payments made by the Welsh Ministers. Section 72B(6) is amended so that if the Welsh Ministers make an order under section 72B(2) adding a person to, or changing the description of a person in, Schedule 2A the effect of the order must not be to give the Commissioner the power to review the discharge of functions in a field in which the Welsh Ministers, the First Minister or the Counsel General have no functions.

Section 73 is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. Sections 73(2), (2C), (3) and (4) are amended so that the Commissioner may review arrangements made by the Welsh Ministers, the First Minister and the Counsel General.

Section 73(5A) is amended to reflect the transfer to the Welsh Ministers of the functions of making an order under section 73(5A). Section 73(5B) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. This Order amends the conditions which must be met (unless the Secretary of State consents otherwise) in order for the Welsh Ministers to make an order under section 73(5A) adding a person to Schedule 2B (of the Care Standards Act 2000). The condition in section 73(5B)(b) is amended so that the person to be added must provide a service in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions. The condition in section 73(5B)(c) is amended so that the person to be added must have been established by a Minister of the Crown, a government department, the Welsh Ministers, the First Minister or the Counsel General. The condition in section 73(5B)(d) is amended so that at least half the person's

expenditure on the discharge of its functions in relation to Wales must be met directly from payments made by the Welsh Ministers. Section 73(5E) is amended so that if the Welsh Ministers make an order under section 73(5A) adding a person to, or changing the description of a person in, Schedule 2B the effect of the order must not be to give the Commissioner the power to review the exercise of functions in a field in which the Welsh Ministers, the First Minister or the Counsel General have no functions.

Section 75A is amended to reflect the creation of the Welsh Ministers, the First Minister and the Counsel General. The effect of the amendment is that the Commissioner can make representations under section 75A to the Welsh Ministers, the First Minister or the Counsel General.

Schedule 2 is amended to reflect the transfer of functions to the Welsh Ministers. Paragraph 3 is amended to reflect the transfer to the Welsh Ministers of the functions which it contains in relation to the payment of remuneration, allowances, pensions and gratuities.

Paragraph 5 is amended to reflect the transfer to the Welsh Ministers of the functions of giving directions under the paragraph in relation to the general powers of the Commissioner. Paragraph 6 is amended so that the Commissioner must submit estimates of his income and expenses for each financial year to the Welsh Ministers and the Welsh Ministers must lay the estimate before the National Assembly for Wales with any modifications they think appropriate. Paragraph 7 is amended to reflect the transfer to the Welsh Ministers of the functions of giving directions under the paragraph in relation to the accounts of the Commissioner. Paragraph 8 is amended so that regulations made by the Welsh Ministers under the paragraph may provide for the making of reports by the Commissioner to the Welsh Ministers.

Paragraph 10 is amended so that the Treasury may specify under the paragraph responsibilities in relation to finances and accounts to be owed by the Commissioner to the National Assembly for Wales, its Audit Committee or the Welsh Ministers.

Paragraph 14 is amended to reflect the transfer to the Welsh Ministers of the function of making payments to the Commissioner.

Paragraph 17 is amended to reflect the transfer to the Welsh Ministers of the function of paying to the Minister for the Civil Service amounts in respect of increases in the sums payable out of money provided by Parliament under the Superannuation Act 1972 where that increase is attributable to the existence of the office of the Commissioner.

#### ***Regulation of Investigatory Powers Act 2000 (c.23)***

Paragraph 76 of Schedule 1 contains modifications of the Regulation of Investigatory Powers Act 2000 (RIPA).

Paragraph 76(2) amends the definition of “government department” in section 4(8) of RIPA to replace reference to the National Assembly for Wales (1998) with reference to the Welsh Assembly Government. Section 4 makes provision as to interception of communications.

Paragraph 76(3) amends Schedule 1 to RIPA (relevant public authorities) to replace reference to the National Assembly for Wales (1998) with reference to the Welsh Assembly Government. Schedule 1 specifies the relevant public authorities in which persons holding prescribed offices, ranks or positions can authorise directed surveillance or covert human intelligence sources.

#### **Freedom of Information Act 2000 (c.36)**

Paragraphs 77 to 87 of Schedule 1 contain modifications of the Freedom of Information Act 2000 (“the FOI Act”).

Section 4(2)(b) is amended so that a body or office which is established by the Welsh Ministers, the First Minister or the Counsel General (“the first condition”) can, by order made by the Secretary of State be added to Schedule 1 to the Act provided that the condition in section 4(3) (“the second condition”) is also met in relation to that body or office.

Section 4(3) sets out the two alternative limbs of the second condition. Section 4(3)(a) is amended so that the second condition is fulfilled in this respect in relation to a body established by the Welsh Ministers, First Minister or Counsel General if the body is wholly or partly constituted by appointment made by any of them. Section 4(3)(b) is amended so that the second condition is fulfilled in this respect in relation to an office that is established by the Welsh Ministers, First Minister or Counsel General if appointments are made to that office by any of them.

Section 4(7)(a) is amended so that before making an order under section 4(1) that adds a body or office whose functions are exercisable only or mainly in or as regards Wales to certain Parts of Schedule 1, the Secretary of State must consult the Welsh Ministers.

Section 7(1) deals with public authorities to which the FOI Act has limited application. Section 7(4) is amended so that before the Secretary of State makes an order under section 4(3) that has the effect of limiting the application of the FOI Act in relation to a particular public authority, the Secretary of State must consult:

- (a) the Presiding Officer of the National Assembly for Wales (“Presiding Officer”) if the order relates to the National Assembly (section 7(4)(a) as amended) or a Welsh public authority that is a subsidiary of the National Assembly for Wales Commission (new section 7(4)(ac)); and
- (b) the First Minister if the order relates to the Welsh Assembly Government (new section 7(4)(aa)) or a Welsh public authority other than a subsidiary of the National Assembly for Wales Commission (new section 7(4)(ab)).

Section 28(2)(d) is amended so that, for the purposes of that section (exemption relating to relations within the United Kingdom), the Welsh Assembly Government is an “administration in the United Kingdom”.

Section 35(1) (exemption in relation to the formulation of government policy etc.) is amended so that information that is held by the Welsh Assembly Government is exempt information if it relates to certain matters (e.g. the formulation or development of government policy) specified in that subsection.

Section 35(5) is amended so that the definition of:

- (a) “government policy” includes the policy of the Welsh Assembly Government;
- (b) “the Law Officers” includes the Counsel General;
- (c) “Ministerial communications” includes communications between members of the Welsh Assembly Government and proceedings of the Cabinet or any committee of the Cabinet of the Welsh Assembly Government;
- (d) “Ministerial private office” includes any part of the administration of the Welsh Assembly Government providing personal administrative support to members of the Welsh Assembly Government.

Section 36(1) (exemption in relation to prejudice to effective conduct of public affairs) is amended so that by virtue of section 36(1)(a) that section only applies to information that is held by the Welsh Assembly Government if it is not exempt information under section 35.

Section 36(2)(a)(iii) is substituted so that, where section 36 applies to information held by the Welsh Assembly Government, it can be exempt information if, in the reasonable opinion of the qualified person, disclosure would or would be likely to prejudice the work of the Cabinet of the Welsh Assembly Government.

Section 36(5) is amended so that the qualified person:

- (a) in relation to information held by the Welsh Assembly Government, means the Welsh Ministers (which by virtue of section 45(2) of the Act includes the First Minister) or the Counsel General;
- (b) in relation to information held by the National Assembly for Wales means the Presiding Officer;

- (c) in relation to information held by any Welsh public authority other than a subsidiary of the National Assembly for Wales Commission, the Auditor General for Wales or the Public Services Ombudsman for Wales, means the public authority or any officer or employee of the authority authorised by the Welsh Ministers or the Counsel General;
- (d) in relation to information held by a subsidiary of the National Assembly for Wales Commission, means the public authority or any officer or employee of the authority authorised by the Presiding Officer;
- (e) in relation to information held by the Public Services Ombudsman for Wales, means that Ombudsman.

Section 53(1)(a)(ii) is amended so that section 53 applies to a decision notice or enforcement notice served on the Welsh Assembly Government.

Section 53(3)(c) is amended so that where the accountable person gives a certificate to the Information Commissioner under section 53(2), the accountable person must lay a copy of it before the National Assembly for Wales if the certificate relates to a decision or enforcement notice served on the Welsh Assembly Government, the National Assembly for Wales or a Welsh public authority.

Section 53(5) is amended so that before making an order under section 53(1)(a)(iii) designating a public authority as one to which that section applies, the Secretary of State must consult the Welsh Ministers if the order relates to a Welsh public authority (including a National Assembly for Wales Commission subsidiary) (section 53(5)(a) as amended) and must consult the Presiding Officer if the order relates to the National Assembly for Wales (new section 53(5)(aa)).

Section 53(8)(b) is amended so that, for the purposes of section 53, the accountable person in relation to the Welsh Assembly Government, the National Assembly for Wales and any Welsh public authority, is the First Minister.

Section 81(3) is amended so as to put the Welsh Assembly Government and its staff into the same position as government departments as far as prosecution for offences under the FOI Act is concerned.

Section 81(4) is amended so as to put persons acting on behalf of the National Assembly for Wales in the same position as persons acting on behalf of either House of Parliament or the Northern Ireland Assembly in relation to prosecution for offences under the FOI Act.

Section 83(1)(b) is amended so that the definition of “Welsh public authority” includes any subsidiary of the Welsh Ministers or of the National Assembly for Wales Commission.

Section 84 is amended so that the definition of “government department” does not include the Welsh Assembly Government.

Part 1 of Schedule 1 to the FOI Act is amended so that, in addition to the National Assembly for Wales (which is already specified), the Welsh Assembly Government is specified as a public authority.

***Transport Act 2000 (c.38)***

Paragraph 88 of Schedule 1 repeals section 109A (5) of the Transport Act 2000. That section is obsolete because it provides that the Assembly (1998) must not delegate certain functions that it has under section 109A. Those functions have transferred from the Assembly (1998) to the Welsh Ministers under paragraph 30 of Schedule 11 to the Act.

***Political Parties, Elections and Referendums Act 2000 (c.41)***

Paragraphs 89 to 100 of Schedule 1 contain modifications of the Political Parties, Elections and Referendums Act 2000 (“PPERA”).

Section 5 of PERA 2000, which provides for the Electoral Commission to report on various elections and referendums, is amended to ensure that elections held under Part 1 of the Act and, if

requested by the Welsh Ministers, polls held under section 64 of the Act are within the remit of the Commission.

Section 6 of PPERA, which provides for the Electoral Commission to review various electoral and political matters, is amended to exclude from its remit the funding of political parties by the National Assembly for Wales under section 24 of the Act; and polls held by Welsh Ministers under section 64 of the Act.

Section 6A of PPERA, which provides for representatives of the Electoral Commission to attend various elections as observers, is amended to ensure that this includes elections to vacancies in Assembly constituencies held under section 10 of the Act.

Section 7 of PPERA, which provides for the Electoral Commission to be consulted on changes to electoral law, is amended to ensure that the Commission is consulted on orders under section 13 of the Act (as to elections to the National Assembly for Wales) and section 64 of the Act (as to conduct of polls by Welsh Ministers).

Section 9A of PPERA, which provides for the Electoral Commission to set performance standards for registration and returning officers in conducting elections, is amended to ensure that elections for vacancies in Assembly constituencies under section 10 of the Act are included within the remit of the Commission.

Section 10 of PPERA, which provides for the Electoral Commission to give advice and assistance, is amended to ensure that the Commission can give advice and assistance to the Welsh Ministers in addition to the advice and assistance it can give to the National Assembly for Wales and the National Assembly for Wales Commission.

Section 101 of PPERA, which sets out the referendums to which Part 7 of PPERA applies, is amended to ensure that polls held by Welsh Ministers under section 64 of the Act are not referendums for this purpose.

Section 160 of PPERA which defines terms of general use in PPERA, is amended to include relevant references to the Welsh Consolidated Fund; Welsh Ministers; Welsh Assembly Government; and the National Assembly for Wales Commission.

Schedule 1 paragraph 14 to PPERA, which provides for the financing of the Electoral Commission, is amended to ensure that it includes reference to its funding by the Welsh Ministers, by the National Assembly for Wales Commission and transitionally by the Assembly constituted by the Government of Wales Act 1998.

Schedule 9 to PPERA, which provides for limits on campaign expenditure by registered political parties, is amended to ensure that extra ordinary, as well as ordinary, general elections held under Part 1 of the Act are covered.

Schedule 10 to PPERA, which sets controls on third party national election campaign expenditure, is similarly amended to ensure that extraordinary, as well as ordinary, general elections held under Part 1 of the Act are covered.

See Schedule 10 (paragraphs 58 to 61) and Schedule 12 to the Act for other modifications to PPERA

#### ***Income Tax (Earnings and Pensions) Act 2003 (c.1)***

Paragraphs 101 to 105 of Schedule 1 amend sections 291 and 293 to 295 of the Income Tax (Earnings and Pensions) Act 2003 by replacing references to provisions of the Government of Wales Act 1998 with references to corresponding provisions of the Act.

#### ***Finance Act 2004 (c.12)***

Paragraphs 106 to 108 of Schedule 1 amend the Finance Act 2004.

Paragraph 107 amends section 59(1)(b) and (c) of the Finance Act 2004 to include reference respectively to the Welsh Assembly Government and the National Assembly for Wales



Commission. This is in relation to deduction of income or corporation tax from payments on certain construction contracts.

Paragraph 108 amends section 150(4)(c) to include reference to the National Assembly for Wales Commission and the Welsh Ministers as relevant governmental or parliamentary persons/bodies for the purposes of approved public service pension schemes within the meaning of Part 4 of that Act.

#### ***Constitutional Reform Act 2005 (c. 4)***

Paragraphs 109 to 111 of Schedule 1 contain modifications of the Constitutional Reform Act 2005.

Amongst other things, the Constitutional Reform Act 2005 when fully commenced provides for a Supreme Court of the United Kingdom.

Sections 26 to 31 and Schedule 8 provide for candidates for appointment to that Court to be selected and recommended to Her Majesty for appointment. Section 27 is amended to ensure that a selection commission is required to consult the First Minister for Wales before it reports to the Lord Chancellor; and section 28 is amended to ensure that the Lord Chancellor is required to consult the First Minister on receipt of that report.

Section 54, which provides for the Chief Executive of the Supreme Court to prepare an annual report, is amended to require a copy of that report to go to the First Minister.

There is a minor consequential amendment in section 41 (relation of the Supreme Court to other courts) to replace references to devolution matters under Schedule 8 to the Government of Wales Act 1998 with devolution matters under Schedule 9 to the Act.

See Schedule 11 paragraphs 66 and 67 and Schedule 12 to the Act for other provision relating to the Constitutional Reform Act 2005

#### ***Equality Act 2006 (c.3)***

Paragraphs 112 to 120 of Schedule 1 contain modifications of the Equality Act 2006.

Section 11(3)(b)(ii) is amended so that the definition of “devolved government” reflects the scheme of the Act.

Section 14 (9) is amended to reflect the transfer to the Welsh Ministers of the functions of responding to consultation by the Secretary of State prior to his approval of a draft Code of Practice prepared under section 14, and his making of an order bringing a Code of Practice into effect.

Section 50(4)(e) is amended to reflect the transfer to the Welsh Ministers of the function of responding to consultation by the Secretary of State about an order which he proposes to make under section 50(3) amending etc exceptions from the prohibition on discrimination in section 49.

Section 52(4) is amended so that the exceptions from the general duty contained in section 52 encompass the making of an instrument by the Welsh Ministers, the First Minister and the Counsel General under an enactment.

Section 56 is amended so that the Equality Act will not render unlawful any act which is necessary for the purpose of complying with legislation that may be within the legislative competence of the National Assembly for Wales, that which was made by the National Assembly for Wales constituted by the Government of Wales Act 1998 or that which may be made by the Welsh Ministers, the First Minister or the Counsel General. The provision has the same effect in relation to an act which is necessary in order to comply with a condition or requirement which is imposed by the Welsh Ministers, the First Minister or the Counsel General after the end of the “initial period” under any of the types of legislation listed in section 56. The “initial period” is defined in section 161(5) of the Act as the period which begins with the day of the poll at the 2007 Assembly elections and ends with the first appointment of a First Minister under section 46 of the Act.

Section 78 is amended so that the definition of an act done on behalf of the Crown reflects the scheme of the Act. It includes an act done by or on behalf of the Welsh Ministers, the First Minister and the Counsel General.

Section 92 is amended so that the provision about Crown application reflects the scheme of the Act. Except as may be otherwise expressly provided, the Equality Act 2006 applies to the Welsh Ministers, the First Minister and the Counsel General.

Schedule 1 is amended to reflect the transfer to the Welsh Ministers of the function of giving consent to the appointment by the Secretary of State of one of the Commissioners for Equality and Human Rights under paragraph 1(1) of Schedule 1 to the Equality Act 2006.

***Transport (Wales) Act 2006 (c.5)***

Paragraph 121 of Schedule 1 contains modifications of the Transport (Wales) Act 2006.

Section 2(6) and (7) are repealed because they are obsolete. Section 2(6) provides that any Strategy prepared by the Assembly (1998) under section 2, or any revision of such a Strategy, does not have effect until approved by the Assembly (1998). Section 2(7) provides that the Assembly (1998) must not delegate its function under section 2(6). Functions under section 2 have transferred from the Assembly (1998) to the Welsh Ministers under paragraph 30 of Schedule 11 to the Act.

Section 5(9) is repealed. That section is obsolete because it refers to “Assembly general subordinate legislation”, which expression is defined in section 58(6) of the Government of Wales Act 1998. Section 58(6) is repealed by section 163 of and Schedule 12 to the Act.

***Electoral Administration Act 2006 (c. 22)***

Paragraph 122 of Schedule 1 contains a modification of the Electoral Administration Act 2006.

Sections 42 to 44 of the Electoral Administration Act 2006 make provision as to electoral registration officers to provide access to documents following various elections. Section 44 (7)(b) is amended to ensure that documents at elections to the National Assembly for Wales are covered by referring to the electoral areas comprising Assembly constituencies and Assembly electoral regions within the meaning of section 2 of the Act.

***Health Act 2006 (c.28)***

Paragraph 123 of Schedule 1 substitutes reference to section 155(2) of the Government of Wales Act 1998 (which is repealed by the Act) with reference to section 158(3) and (4) of the Act.

***Commissioner for Older People (Wales) Act 2006 (c.30)***

Paragraphs 124 to 141 of Schedule 1 contain modifications of the Commissioner for Older People (Wales) Act 2006.

Section 2(2) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. The effect of the amendment is that the functions of the Commissioner in section 2(1) can only be exercised in relation to fields in which the either the Welsh Ministers, the First Minister or the Counsel General have functions.

Section 2(3) is amended to reflect the creation of the Welsh Ministers, the First Minister and the Counsel General. The effect of the amendment is that the Commissioner can make representations under section 2(3) to the Welsh Ministers, the First Minister or the Counsel General.

Sections 3(1)(a) and (b) are amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. The effect of the amendment is that the Commissioner may review under section 3(1) the effect of the discharge or the proposed discharge of a function of the Welsh Ministers, the First Minister or the Counsel General, or a failure by any of those to discharge a function.

Section 4(1) is amended to reflect the transfer to the Welsh Ministers of the functions of making an order under section 4(1).

Section 4(2) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. This Order amends

the conditions which must be met (unless the Secretary of State consents otherwise) in order for the Welsh Ministers to make an order under section 4(1) adding a person to Schedule 2 (to the Commissioner for Older People (Wales) Act 2006). The condition in section 4(2)(b) is amended so that the person to be added must have functions in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions. The condition in section 4(2)(c) is amended so that the person to be added must have been established by a Minister of the Crown, a government department, the Welsh Ministers, the First Minister, the Counsel General or by another person who is mentioned in Schedule 2. The condition in section 4(2)(d) is amended so that at least half the person's expenditure on the discharge of its functions in relation to Wales must be met directly from payments made by the Welsh Ministers. Section 4(7) is amended so that if the Welsh Ministers make an order under section 4(1) adding a person to, or changing the description of a person in, Schedule 2, when they specify in the order (as they are required to do by section 4(5)) which of that person's functions are to be relevant functions for the purposes of section 3 (Commissioner's power to review the effect on older people of the discharge of, proposed discharge of or failure to discharge functions), then they can only specify a function if it is in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions.

Section 6 is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. Section 6(3) is amended so that persons falling within it include the Welsh Ministers, the First Minister and the Counsel General. Section 6(4) is amended so that a relevant service includes a service provided by the Welsh Ministers, the First Minister or the Counsel General. The effect of amending sections 6(3) and (4) is that the Commissioner may review under section 5(1) complaints arrangements made by the Welsh Ministers, the First Minister or the Counsel General for dealing with complaints made by relevant older people in Wales in respect of services provided to them by the Welsh Ministers, the First Minister or the Counsel General.

Section 7 is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. This Order amends the conditions which must be met (unless the Secretary of State consents otherwise) in order for the Welsh Ministers to make an order under section 7(1) adding a person to Schedule 3 (to the Commissioner for Older People (Wales) Act 2006). The condition in section 7(2)(b) is amended so that the person to be added must provide a service in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions. The condition in section 7(2)(c) is amended so that the person to be added must have been established by a Minister of the Crown, a government department, the Welsh Ministers, the First Minister, the Counsel General or by another person who is mentioned in Schedule 3. The condition in section 7(2)(d) is amended so that at least half the person's expenditure on the discharge of its functions in relation to Wales must be met directly from payments made by the Welsh Ministers. Section 7(7) is amended so that if the Welsh Ministers make an order under section 7(1) adding a person to, or changing the description of a person in, Schedule 3, when they specify in the order (as they are required to do by section 7(5)) which of the services provided by that person are to be relevant services for the purposes of section 5 (Commissioner's power to review, among other things, arrangements for dealing with complaints from older persons in respect of relevant services provided to them), then they can only specify a service if it is provided in Wales and it is in a field in which the Welsh Ministers, the First Minister or the Counsel General have functions.

Section 8(1)(a) is amended so that regulations made by the Welsh Ministers under section 8(1) may confer on the Commissioner the power to give assistance to certain older persons in making complaints or representations to or in respect of the Welsh Ministers, the First Minister or the Counsel General.

Section 10(2) is amended so that the Welsh Ministers' power to make regulations giving the Commissioner power to examine the cases of particular older people in Wales in connection with his functions cannot be exercised in relation to certain of the Commissioner's functions. These are the functions of considering and making representations to the Welsh Ministers, the First Minister and the Counsel General (section 2(3)), and undertaking research and educational activities (section 9(1)), about matters in relation to a field in which neither the Welsh Ministers, the First Minister nor the Counsel General have functions.

Section 12(2)(a) is amended so that the Commissioner may issue guidance under section 12(1) (guidance on best practice in connection with matters relating to the interests of older people in Wales) to the Welsh Ministers, the First Minister or the Counsel General.

Section 14(2)(a) is amended so that where the Welsh Ministers' exercise their power under section 14(1) to make regulations conferring further functions on the Commissioner for purposes connected with functions which the Commissioner already has, they cannot confer further functions for purposes connected with the Commissioner's functions of considering and making representations to the Welsh Ministers, the First Minister and the Counsel General (section 2(3)) and undertaking research and educational activities (section 9(1)) about matters in relation to a field in which neither the Welsh Ministers, the First Minister nor the Counsel General have functions.

Section 15(2) is amended so that where the Welsh Ministers exercise their power under section 15(1) to make regulations about reports by the Commissioner following the discharge of any of his functions, they cannot make provision about reports by the Commissioner following the discharge of his functions of considering and making representations to the Welsh Ministers, the First Minister and the Counsel General (section 2(3)) and undertaking research and educational activities (section 9(1)) about matters in relation to a field in which neither the Welsh Ministers, the First Minister nor the Counsel General have functions.

Section 16(4) is amended to reflect the transfer to the Welsh Ministers of the power to make an order applying the joint working provisions in section 16 to other commissioners and ombudsmen with whom, in the future, there may be an overlap in functions. Section 16(5) is amended so that the Welsh Ministers must consult with the Commissioner and any other appropriate persons before making such an order.

Section 17(8) is amended to reflect the transfer to the Welsh Ministers of the power to make an order applying the collaborative working provisions in section 17 to other commissioners and ombudsmen for whom, in the future, such arrangements may be appropriate. Section 17(9) is amended so that the Welsh Ministers must consult with the Commissioner and any other appropriate persons before making such an order.

Section 18(9) is amended to reflect the transfer of functions to the Welsh Ministers and the potential for functions to be conferred upon the First Minister and the Counsel General. The definition of a "permitted person" is amended to include the Welsh Ministers, the First Minister and the Counsel General, so that the Commissioner has the power, subject to other provisions in the section, to disclose information to the Welsh Ministers, the First Minister and the Counsel General.

Section 20(4) is amended to reflect the transfer to the Welsh Ministers of the function of responding to consultation by the Commissioner about his proposed procedures for the investigation of complaints about himself. Section 20(5) is amended to reflect the transfer to the Welsh Ministers of the function of receiving from the Commissioner his finalised procedures.

Section 27(1) is amended to reflect the Act. The definition of "Assembly Cabinet" is removed because the term has become obsolete as a result of the constitutional changes made by the Act. The definition of "regulations" is amended to reflect the transfer to the Welsh Ministers of the functions of making regulations under the Commissioner for Older People (Wales) Act 2006. The definition of "Welsh health service body" is amended to reflect the transfer to the Welsh Ministers of functions in relation to the National Health Service. Sections 27(2) and (3) are amended to reflect the transfer to the Welsh Ministers of the function of making an order amending the definitions of "family health service provider in Wales" and "independent provider in Wales".

Sections 28(1) and (2) are amended to reflect the transfer to the Welsh Ministers of the functions of making orders and regulations under the Commissioner for Older People (Wales) Act 2006. Section 28(4) is amended so that if the Welsh Ministers are to make an order which confers functions on, or modifies the functions of, a person other than the Commissioner, and those functions relate to a matter in respect of which neither the Welsh Ministers, the First Minister nor the Counsel General have functions and which is not a "transferred matter" (defined in section 4(1) of the Northern Ireland Act 1998) the Welsh Ministers must obtain the consent of the Secretary of State. Section 28(6) (orders and regulations made under the Act to be regarded as Assembly general subordinate

legislation) is removed because the provision defining that expression (section 58(6) of the Government of Wales Act 1998) is repealed by the Act (section 163 and Schedule 12).

Schedule 1 is amended to reflect the transfer of functions to the Welsh Ministers. Paragraph 3 is amended to reflect the transfer to the Welsh Ministers of the functions which it contains in relation to the payment of remuneration, allowances, pensions, gratuities and compensation. Paragraph 6 (2) is amended to reflect the transfer to the Welsh Ministers of the function of paying to the Minister for the Civil Service amounts in respect of increases in the sums payable out of money provided by Parliament under the Superannuation Act 1972 where that increase is attributable to the existence of the office of the Commissioner. Paragraph 7 is amended to reflect the transfer to the Welsh Ministers of the function of making payments to the Commissioner. Paragraph 8 is amended so that regulations made by the Welsh Ministers under the paragraph may make provision about reports by the Commissioner to the Welsh Ministers. Paragraph 9 is amended so that the Commissioner must submit estimates of his income and expenses for each financial year to the Welsh Ministers, and the Welsh Ministers must lay the estimate before the National Assembly for Wales with any modifications they think appropriate. Paragraph 10 is amended to reflect the transfer to the Welsh Ministers of the functions of giving directions under the paragraph in relation to the accounts of the Commissioner. Paragraph 11 is amended so that the Treasury may specify under the paragraph responsibilities to be owed by the Commissioner to the National Assembly for Wales, to its Audit Committee or to the Welsh Ministers in relation to finances and accounts. Paragraph 19 is amended to reflect the transfer to the Welsh Ministers of the functions of giving directions under the paragraph in relation to the supplementary powers of the Commissioner.

#### ***Companies Act 2006 (c.46)***

Paragraph 142 of Schedule 1 contains modifications of the Companies Act 2006.

Section 966(7) is amended to include shares in a company held by the Welsh Ministers which confer special rights on the Welsh Ministers. Section 966 of that Act empowers companies with shares to pass a special resolution to apply Article 11 of the Takeovers Directive to that company. However, a company can not pass such a resolution where shares conferring special rights are held by the UK Government or the devolved administrations.

#### ***Legislative and Regulatory Reform Act 2006 (c.51)***

Paragraphs 143 to 149 of Schedule 1 contain modifications of the Legislative and Regulatory Reform Act 2006 (“the LRR Act”).

Section 1(6) is amended so that the definition of “legislation” for the purposes of section 1 includes a Measure and an Act of the Assembly and subordinate legislation made under a Measure or Act of the Assembly. This means that the power of a Minister of the Crown, by order, under section 1(1) to make provision to remove or reduce burdens (as defined) may be exercised in relation to burdens resulting directly or indirectly for any person from such legislation.

Section 4 is amended by the insertion of new subsections (3A) and (5A). These amendments mean that an order under Part 1 of the LRR Act may confer a function of legislating on the Welsh Ministers, the First Minister or the Counsel General only if the function is exercisable by statutory instrument and either the instrument is one to which section 5(1) of the Statutory Instruments Act 1946 (c.36) applies (instruments subject to annulment) or the instrument cannot be made unless a draft of it has been laid before and approved by a resolution of the Assembly.

Section 11 is replaced by a new section. New section 11(1) provides that, except with the agreement of the Assembly an order under Part 1 of the LRR Act may not make any provision if that provision would be within the legislative competence of the Assembly. The legislative competence of the Assembly, for these purposes, means the power under Part 3 of the Government of Wales Act 2006 (c.32) to enact Measures or the power to enact Acts of the Assembly under Part 4 of that Act (whichever Part is in force at the relevant time).

New section 11(2) provides that an order under Part 1 of the LRR Act may not make any provision conferring a function on, modifying or removing a function of, or restating any provision which confers a function on the Welsh Ministers, the First Minister or the Counsel General or make any

provision that could be made by any of them in the exercise of any of their functions unless the agreement of the Welsh Ministers has been obtained to any such provision of the order.

New section 11(3) provides that the restriction in new section 11(1) and (2)(d) do not apply to any provision of an order under Part 1 of the LRR Act which is a provision falling within section 1(8) or Section 2(7) of the LRR Act (consequential, supplementary, incidental or transitional provision).

Section 13(1)(c) is amended so that if a Minister proposes to make an order under Part 1 of the LRR Act, he or she must consult the Welsh Ministers on the proposals where the proposals, so far as applying in or as regards Wales, relate to any matter in relation to which the Welsh Ministers, the First Minister or the Counsel General exercise functions. This does not apply in cases where the agreement of the Welsh Ministers is required under the new section 11 of the LRR Act.

Section 24(4) of the LRR Act is amended so that the Welsh Ministers may make an order in accordance with section 24 specifying, as functions to which sections 21 and 22 apply, regulatory functions (as defined) that are exercisable only in or as regards Wales. By virtue of subsection (8) such an order must be made by statutory instrument. A new subsection (9A) is inserted so that the Welsh Ministers cannot make a statutory instrument containing an order under section 24(4) unless a draft of it has been laid before, and approved by a resolution of the Assembly.

Section 24(10) is amended so that the definition of “Wales” has the same meaning as in the Act.

Section 27(6)(c) is amended so that the Welsh Ministers can exercise the power to make orders or regulations under section 27(5) (power to amend certain enactments and subordinate legislation referring to regulations under section 2(2) of the European Communities Act 1972 (c.68) so that such references include references to orders, rules, or schemes under that subsection). The effect of the amendment to Section 27(6)(c) is that the power under section 27(5) is exercisable by the Welsh Ministers in relation to any matter that is within the legislative competence of the Assembly or any matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General.

Section 27(7)(a) is amended so that the power of the Welsh Ministers to make an order or regulations under section 27(5) is to be exercisable by statutory instrument.

Section 27(8) is amended so as to insert a new paragraph (d), the effect of which is that any statutory instrument made by the Welsh Ministers containing an order or regulations under Section 27(5) is subject to annulment in pursuance of a resolution of the Assembly.

#### ***Employment Equality (Religion or Belief) Regulations 2003 (2003/1660)***

Paragraph 150 of Schedule 1 contains modifications of the Employment Equality (Religion or Belief) Regulations 2003.

Regulation 10(8)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 10 apply to offices and posts to which appointments are made, recommended or approved by the Welsh Ministers, the First Minister or the Counsel General.

Regulation 10(10)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 10 will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General or a Deputy Welsh Minister.

#### ***Employment Equality (Sexual Orientation) Regulations 2003 (2003/1661)***

Paragraph 151 of Schedule 1 contains modifications of the Employment Equality (Sexual Orientation) Regulations 2003.

Regulation 10(8)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 10 apply to offices and posts to which appointments are made, recommended or approved by the Welsh Ministers, the First Minister or the Counsel General.

Regulation 10(10)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 10 will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General or a Deputy Welsh Minister.

***The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 (2003/3171)***

Paragraph 152 of Schedule 1 modifies the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order by replacing the existing entry in respect of the National Assembly for Wales (1998) with the entry for the Welsh Assembly Government. This specifies the officers within the Welsh Assembly Government who can authorise directed surveillance and the use and conduct of covert human intelligence sources.

***Employment Equality (Age) Regulations 2006 (2006/1031)***

Paragraphs 153 to 155 contain modifications of the Employment Equality (Age) Regulations 2006.

Regulation 12(8)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 12 apply to offices and posts to which appointments are made, recommended or approved by the Welsh Ministers, the First Minister or the Counsel General.

Regulation 12(10)(b) is amended so that the prohibitions against discrimination and harassment in relation to office-holders etc contained in regulation 12 will not apply to the appointment of the First Minister, a Welsh Minister, the Counsel General to the Welsh Assembly Government or a Deputy Welsh Minister.

Regulation 27(2) is amended so that Parts 2 and 3 of the Regulations will not render unlawful any act which is done in order to comply with a requirement of legislation that may be within the legislative competence of the National Assembly for Wales, or with a requirement of an instrument made by the Welsh Ministers, the First Minister or the Counsel General after the end of the “initial period” under an Act of Parliament or under an Act or Measure of the National Assembly for Wales. The “initial period” is defined in section 161(5) of the Act as the period which begins with the day of the poll at the 2007 Assembly elections and ends with the first appointment of a First Minister under section 46 of the Act.

***Schedule 2***

***Food Standards Act 1999 (c.28)***

Paragraph 1 of Schedule 2 makes provision in respect of section 37(5) of the Food Standards Act 1999. By virtue of it, the function of the National Assembly for Wales constituted by the Government of Wales Act 1998 of approving drafts of Orders in Council under sections 32 and 33 of that Act will transfer to the National Assembly for Wales constituted by the Government of Wales Act 2006 instead of to the Welsh Ministers.

Paragraph 2 of Schedule 2 makes provision in respect of paragraph 3(4) of Schedule 4 to the Food Standards Act 1999, under which the Comptroller and Auditor General examines accounts of the Food Standards Agency on behalf of the National Assembly for Wales (1998). This paragraph makes it clear that the Comptroller and Auditor General will in future be examining those accounts on behalf of the Assembly and not on behalf of the Welsh Ministers.

***Government of Wales Act 2006 (c.32)***

Paragraph 3 of Schedule 2 modifies the application of paragraph 34(3) of Schedule 11 to the Act in respect of the making of subordinate legislation by the Welsh Ministers under section 1 of the Travel Concessions (Eligibility) Act 2002 and section 268 of the Enterprise Act 2002 so that the making of such legislation is subject to procedures in the Assembly but not in Parliament.

Paragraph 4 of Schedule 2 inserts various subordinate legislation making functions of the Welsh Ministers into Table 1 of Paragraph 35 to Schedule 11 to the Act in order to impose affirmative procedure in the Assembly to the making, by the Welsh Ministers, of legislation. Without these

modifications, no procedure would apply to the exercise of the relevant functions by the Welsh Ministers.

Paragraph 5 of Schedule 2 inserts various subordinate legislation making functions of the Welsh Ministers into Table 2 of Paragraph 35 to Schedule 11 to the Act in order to impose negative procedure in the Assembly to the making, by the Welsh Ministers, of legislation. Without these modifications, no procedure would apply to the exercise of the relevant functions by the Welsh Ministers.



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