
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Government of Wales Act 2006 (“the 2006 Act”). The Order extends the legislative competence of the National Assembly for Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as “Assembly Measures”). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act (as amended by this Order).

Article 2 modifies the effect of section 94(6)(b) of the 2006 Act. This ensures that any future repeal of provisions of the Welsh Language Act 1993 will not be prevented from having the same extent as the provisions repealed.

Article 3 inserts matters 20.1 and 20.2 as well as interpretation provisions into field 20 (Welsh Language) of Part 1 of Schedule 5 to the 2006 Act.

Matter 20.1 is about promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality, but does not include the use of the Welsh language in courts.

This matter does not include imposing duties on persons other than—

- (a) public authorities;
- (b) persons who provide services to the public under agreements, or in accordance with arrangements, made with public authorities;
- (c) persons providing services to the public and established by an enactment;
- (d) persons established by prerogative instrument—
 - (i) to advance learning and knowledge by teaching or research or by developing or awarding qualifications;
 - (ii) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding;
 - (iii) to support, improve, promote or provide access to heritage, culture, sport or recreational activities;
 - (iv) engaged in promoting a wider knowledge and representing the interests of Wales to other countries;
 - (v) engaged in central banking.
- (e) persons upon whom functions of providing services to the public are conferred or imposed by an enactment;
- (f) persons providing services to the public who receive public money amounting to £400,000 or more in a financial year;
- (g) persons who oversee the regulation of a profession, industry or other similar sphere of activity;
- (h) providers of social housing;
- (i) persons providing the public with the following services, or connected services—
 - (i) gas, water or electricity services (which includes supply or distribution);

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (ii) sewerage services (which includes disposing of sewage);
- (iii) postal services and post offices;
- (iv) telecommunications services;
- (v) education, training (where the provider receives public money for its provision), or career guidance, and services that encourage, enable or assist participation in education, training or career guidance;
- (vi) bus and railway services;
- (vii) services to develop or award educational or vocational qualifications;
- (j) persons who opt or agree to be subject to the imposition of duties.

Duties imposed in relation to paragraph (b) are limited to duties in respect of services to the public that are provided under an agreement or in accordance with arrangements made with a public authority.

A person who receives public money amounting to £400,000 or more in a financial year does not fall within paragraph (f) unless—

- (k) that person also received public money in a previous financial year, or
- (l) a decision has been made that that person will receive public money in a subsequent financial year.

Duties imposed in relation to paragraph (i)—

- (m) are limited to duties in respect of the services and the other related services mentioned, and
- (n) in respect of the related services, do not include the provision of related services in a shop, other than post office counter services and the sale of tickets or provision of timetables for bus and railway services.

Matter 20.1 does not include imposing duties about broadcasting.

Matter 20.1 does not include imposing duties on a person (other than on a Welsh language authority) unless there is a means for that person to challenge those duties, as they apply to that person, on grounds of reasonableness and proportionality.

Matter 20.2 is about the freedom of persons who wish to use the Welsh language to do so with one another, and includes any limitations upon that freedom.

Article 4 inserts a provision that modifies paragraph 6(2) of Part 2 of Schedule 5 to the 2006 Act to add sections 35(1), 78 and paragraph 8(3) of Schedule 2 to the list of sections of the 2006 Act which may be modified by Assembly Measure or by subordinate legislation made under a Measure.

Article 5 inserts provisions that modify paragraph 7 of Part 3 of Schedule 5 to the 2006 Act. Paragraph 7 is renumbered as 7(1) and a new sub-paragraph 7(2) is inserted. The new sub-paragraph 7(2) provides that Part 2 will not prevent a provision of an Assembly Measure relating to matters 20.1 or 20.2 from conferring or imposing, or conferring power by subordinate legislation to confer or impose, any function on a Minister of the Crown if the Secretary of State consents to that provision, but also provides that such functions may not be enforced against Ministers of the Crown by means of criminal offences.

A full regulatory impact assessment has not been carried out since the effect of this Order is only to confer competence on the National Assembly for Wales to legislate.