



# Government of Wales Act 2006

## 2006 CHAPTER 32

### PART 1 **U.K.**

#### NATIONAL ASSEMBLY FOR WALES

##### *The Assembly*

### 1 **The Assembly** **U.K.**

- (1) There is to be an Assembly for Wales to be known as the National Assembly for Wales or Cynulliad Cenedlaethol Cymru (referred to in this Act as “the Assembly”).
- (2) The Assembly is to consist of—
  - (a) one member for each Assembly constituency (referred to in this Act as “Assembly constituency members”), and
  - (b) members for each Assembly electoral region (referred to in this Act as “Assembly regional members”).
- (3) Members of the Assembly (referred to in this Act as “Assembly members”) are to be returned in accordance with the provision made by and under this Act for—
  - (a) the holding of general elections of Assembly members (for the return of the entire Assembly), and
  - (b) the filling of vacancies in Assembly seats.
- (4) The validity of any Assembly proceedings is not affected by any vacancy in its membership.
- (5) In this Act “Assembly proceedings” means any proceedings of—
  - (a) the Assembly,
  - (b) committees of the Assembly, or
  - (c) sub-committees of such committees.

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#### Commencement Information

**II** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 2 Assembly constituencies and electoral regions **U.K.**

- (1) The Assembly constituencies are the parliamentary constituencies in Wales (as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (S.I. 2006/1041)).
- (2) There are five Assembly electoral regions.
- (3) The Assembly electoral regions are as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006.
- (4) There are four seats for each Assembly electoral region.
- (5) For provision about alterations in the Assembly electoral regions and in the allocation of seats to those regions see Schedule 1.
- (6) Subsections (1), (3) and (4) are subject to any Order in Council under the Parliamentary Constituencies Act 1986 (c. 56), as that Act has effect as extended by that Schedule.

#### Commencement Information

**I2** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *General elections*

## 3 Ordinary general elections **U.K.**

- (1) The poll at an ordinary general election is to be held on the first Thursday in May in the fourth calendar year following that in which the previous ordinary general election was held, unless provision is made for the day of the poll by an order under section 4.
- (2) If the poll is to be held on the first Thursday in May, the Assembly—
  - (a) is dissolved by virtue of this section at the beginning of the minimum period which ends with that day, and
  - (b) must meet within the period of seven days beginning immediately after the day of the poll.
- (3) In subsection (2) “the minimum period” means the period determined in accordance with an order under section 13.
- (4) In calculating any period of days for the purposes of subsection (2)(b), the following days are to be disregarded—
  - (a) Saturday and Sunday,
  - (b) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
  - (c) any day appointed for public thanksgiving or mourning.

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#### Commencement Information

**I3** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 4 Power to vary date of ordinary general election **U.K.**

- (1) The Secretary of State may by order provide for the poll at an ordinary general election to be held on a day which is neither—
  - (a) more than one month earlier, nor
  - (b) more than one month later,than the first Thursday in May.
- (2) An order under this section must make provision for the Assembly—
  - (a) to be dissolved on a day specified in the order, and
  - (b) to meet within the period of seven days beginning immediately after the day of the poll.
- (3) In calculating any period of days for the purposes of provision made by virtue of subsection (2)(b), the following days are to be disregarded—
  - (a) Saturday and Sunday,
  - (b) Good Friday,
  - (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
  - (d) any day appointed for public thanksgiving or mourning.
- (4) An order under this section may make provision for—
  - (a) any provision of, or made under, the Representation of the People Acts, or
  - (b) any other enactment relating to the election of Assembly members,to have effect with such modifications or exceptions as the Secretary of State considers appropriate in connection with the alteration of the day of the poll.
- (5) No order is to be made under this section unless the Secretary of State has consulted the Welsh Ministers about it.
- (6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I4** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 5 Extraordinary general elections **U.K.**

- (1) The Secretary of State must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.
- (2) This subsection applies if—
  - (a) the Assembly resolves that it should be dissolved, and

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- (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.
- (3) This subsection applies if any period during which the Assembly is required under section 47 to nominate an Assembly member for appointment as the First Minister ends without such a nomination being made.
- (4) If the Secretary of State proposes a day under subsection (1), Her Majesty may by Order in Council—
  - (a) dissolve the Assembly and require an extraordinary general election to be held,
  - (b) require the poll at the election to be held on the day proposed, and
  - (c) require the Assembly to meet within the period of seven days beginning immediately after the day of the poll.
- (5) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 4), that ordinary general election is not to be held.
- (6) But subsection (5) does not affect the year in which the subsequent ordinary general election is to be held.
- (7) In calculating any period of days for the purposes of subsection (4)(c), the following days are to be disregarded—
  - (a) Saturday and Sunday,
  - (b) Christmas Eve, Christmas Day and Good Friday,
  - (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and
  - (d) any day appointed for public thanksgiving or mourning.

#### Commencement Information

**I5** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 6 Voting at general elections **U.K.**

- (1) Each person entitled to vote at a general election in an Assembly constituency has two votes.
- (2) One (referred to in this Act as a “constituency vote”) is a vote which may be given for a candidate to be the Assembly constituency member for the Assembly constituency.
- (3) The other (referred to in this Act as an “electoral region vote”) is a vote which may be given for—
  - (a) a registered political party which has submitted a list of candidates to be Assembly regional members for the Assembly electoral region in which the Assembly constituency is included, or
  - (b) an individual who is a candidate to be an Assembly regional member for that Assembly electoral region.
- (4) The Assembly constituency member for the Assembly constituency is to be returned under the simple majority system.

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- (5) The Assembly regional members for the Assembly electoral region are to be returned under the additional member system of proportional representation provided for in this Part.
- (6) In this Act “registered political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

#### Commencement Information

**I6** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 7 Candidates at general elections **U.K.**

- (1) At a general election a person may not be a candidate to be the Assembly constituency member for more than one Assembly constituency.
- (2) Any registered political party may submit a list of candidates for return as Assembly regional members for a particular Assembly electoral region at a general election.
- (3) The list must be submitted to the regional returning officer.
- (4) The list must not include more than twelve persons (but may include only one).
- (5) The list must not include a person—
  - (a) who is included on any other list submitted for the Assembly electoral region or any list submitted for another Assembly electoral region,
  - (b) who is an individual candidate to be an Assembly regional member for the Assembly electoral region or another Assembly electoral region, or
  - (c) who is a candidate to be the Assembly constituency member for an Assembly constituency.
- (6) A person may not be an individual candidate to be an Assembly regional member for the Assembly electoral region if that person is—
  - (a) included on a list submitted by a registered political party for the Assembly electoral region or another Assembly electoral region,
  - (b) an individual candidate to be an Assembly regional member for another Assembly electoral region, or
  - (c) a candidate to be the Assembly constituency member for an Assembly constituency.
- (7) In this Act “regional returning officer”, in relation to an Assembly electoral region, means the person designated as the regional returning officer for the Assembly electoral region in accordance with an order under section 13.

#### Commencement Information

**I7** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 8 Calculation of electoral region figures **U.K.**

- (1) This section and section 9 are about the return of Assembly regional members for an electoral region at a general election.
- (2) The person who is to be returned as the Assembly constituency member for each Assembly constituency in the Assembly electoral region is to be determined before it is determined who are to be returned as the Assembly regional members for the Assembly electoral region.
- (3) For each registered political party by which a list of candidates has been submitted for the Assembly electoral region—
  - (a) there is to be added together the number of electoral region votes given for the party in the Assembly constituencies included in the Assembly electoral region, and
  - (b) the number arrived at under paragraph (a) is then to be divided by the aggregate of one and the number of candidates of the party returned as Assembly constituency members for any of those Assembly constituencies.
- (4) For each individual candidate to be an Assembly regional member for the Assembly electoral region there is to be added together the number of electoral region votes given for the candidate in the Assembly constituencies included in the Assembly electoral region.
- (5) The number arrived at—
  - (a) in the case of a registered political party, under subsection (3)(b), or
  - (b) in the case of an individual candidate, under subsection (4),
 is referred to in this Act as the electoral region figure for that party or individual candidate.

### Commencement Information

**18** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 9 Allocation of seats to electoral region members **U.K.**

- (1) The first seat for the Assembly electoral region is to be allocated to the party or individual candidate with the highest electoral region figure.
- (2) The second and subsequent seats for the Assembly electoral region are to be allocated to the party or individual candidate with the highest electoral region figure after any recalculation required by subsection (3) has been carried out.
- (3) This subsection requires a recalculation under paragraph (b) of section 8(3) in relation to a party—
  - (a) for the first application of subsection (2), if the application of subsection (1) resulted in the allocation of an Assembly seat to the party, or
  - (b) for any subsequent application of subsection (2), if the previous application of that subsection did so,
 and a recalculation is to be carried out after adding one to the aggregate mentioned in that paragraph.

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- (4) An individual candidate already returned as an Assembly regional member is to be disregarded.
- (5) Seats for the Assembly electoral region which are allocated to a party are to be filled by the persons on the party's list in the order in which they appear on the list.
- (6) Once a party's list has been exhausted by the return of persons included on it as Assembly regional members by the previous application of subsection (1) or (2), the party is to be disregarded.
- (7) If (on the application of subsection (1) or any application of subsection (2)) the highest electoral region figure is the electoral region figure of two or more parties or individual candidates, the subsection applies to each of them.
- (8) However, if subsection (7) would mean that more than the full number of seats for the Assembly electoral region were allocated, subsection (1) or (2) does not apply until—
  - (a) a recalculation has been carried out under section 8(3)(b) after adding one to the number of votes given for each party with that electoral region figure, and
  - (b) one has been added to the number of votes given for each individual candidate with that electoral region figure.
- (9) If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the regional returning officer must decide between them by lots.

#### Commencement Information

**19** [Ss. 1-94, 97-106](#) in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Vacancies

#### 10 Constituency vacancies **U.K.**

- (1) This section applies if the seat of an Assembly constituency member returned for an Assembly constituency is vacant.
- (2) Subject to subsection (7), an election must be held in the Assembly constituency to fill the vacancy.
- (3) At the election, each person entitled to vote only has a constituency vote; and the Assembly constituency member for the Assembly constituency is to be returned under the simple majority system.
- (4) The date of the poll at the election must be fixed by the Presiding Officer.
- (5) The date must fall within the period of three months beginning with the occurrence of the vacancy.
- (6) But if the vacancy does not come to the Presiding Officer's notice within the period of one month beginning with its occurrence, the date must fall within the period of three months beginning when it does come to the Presiding Officer's notice.
- (7) The election must not be held if it appears to the Presiding Officer that the latest date which may be fixed for the poll would fall within the period of three months ending



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with the day on which the poll at the next ordinary general election would be held (disregarding section 4).

- (8) The standing orders must make provision for determining the date on which a vacancy occurs for the purposes of this section.
- (9) A person may not be a candidate in an election to fill a vacancy if the person is—
  - (a) an Assembly member, or
  - (b) a candidate in another such election.

#### Commencement Information

**I10** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 11 Electoral region vacancies **U.K.**

- (1) This section applies if the seat of an Assembly regional member returned for an Assembly electoral region is vacant.
- (2) If the Assembly regional member was returned (under section 9 or this section) from the list of a registered political party, the regional returning officer must notify to the Presiding Officer the name of the person who is to fill the vacancy.
- (3) A person's name may only be so notified if the person—
  - (a) is included on the list submitted by the registered political party for the last general election,
  - (b) is willing to serve as an Assembly regional member for the Assembly electoral region, and
  - (c) is not a person to whom subsection (4) applies.
- (4) This subsection applies to a person if—
  - (a) the person is not a member of the registered political party, and
  - (b) the registered political party gives notice to the regional returning officer that the person's name is not to be notified to the Presiding Officer as the name of the person who is to fill the vacancy.
- (5) But if there is more than one person who satisfies the conditions in subsection (3), the regional returning officer may only notify the name of whichever of them was the higher, or the highest, on that list.
- (6) A person whose name is notified under subsection (2) is to be treated as having been declared to be returned as an Assembly regional member for the Assembly electoral region on the day on which notification of the person's name is received by the Presiding Officer.
- (7) The seat remains vacant until the next general election—
  - (a) if the Assembly regional member was returned as an individual candidate, or
  - (b) if that Assembly regional member was returned from the list of a registered political party but there is no-one who satisfies the conditions in subsection (3).
- (8) For the purposes of this section, a person included on the list submitted by a registered political party for the last general election who—



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- (a) was returned as an Assembly regional member under section 9 at that election (even if the return was void),
- (b) has subsequently been a candidate in an election held under section 10 (whether or not returned), or
- (c) has subsequently been returned under this section (even if the return was void),

is treated on and after the return of the person, or of the successful candidate at the election, as not having been included on the list.

#### Commencement Information

**II1** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Franchise and conduct of elections*

## **12 Entitlement to vote** **U.K.**

- (1) The persons entitled to vote at an election of Assembly members (or of an Assembly member) in an Assembly constituency are those who on the day of the poll—
  - (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the Assembly constituency, and
  - (b) are registered in the register of local government electors at an address within the Assembly constituency.
- (2) But a person is not entitled as an elector—
  - (a) to cast more than one constituency vote, or more than one electoral region vote, in the same Assembly constituency at any general election,
  - (b) to vote in more than one Assembly constituency at any general election, or
  - (c) to cast more than one vote in any election held under section 10.

#### Commencement Information

**II2** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **13 Power to make provision about elections etc.** **U.K.**

- (1) The Secretary of State may by order make provision as to—
  - (a) the conduct of elections for the return of Assembly members,
  - (b) the questioning of an election for the return of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
  - (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of the election expenses of candidates (and the creation of criminal offences in connection with the limitation of such expenses),

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- (d) for the combination of polls at elections for the return of Assembly members and other elections, and
  - (e) for modifying the operation of sections 6 and 8(2) in a case where the poll at an election for the return of the Assembly constituency member for an Assembly constituency is abandoned (or notice of it is countermanded).
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision making modifications to section 11(3) to (5).
- (4) An order under this section may—
- (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments,
  - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of Assembly members, and
  - (c) so far as may be necessary in consequence of any provision made by this Act or an order under this section, make modifications of any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (5) In subsection (4)(a) “the election enactments” means—
- (a) the Representation of the People Acts,
  - (b) the Political Parties, Elections and Referendums Act 2000 (c. 41),
  - (c) the European Parliamentary Elections Act 2002 (c. 24), and
  - (d) any other enactments relating to parliamentary elections, European Parliamentary elections or local government elections.
- (6) No return of an Assembly member at an election may be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under this section.
- (7) No order is to be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

#### Commencement Information

**I13** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Duration of membership*

### 14 Term of office of Assembly members **U.K.**

The term of office of an Assembly member—

- (a) begins when the Assembly member is declared to be returned, and
- (b) ends with the dissolution of the Assembly.

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**I14** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 15 Resignation of members **U.K.**

An Assembly member may at any time resign by giving notice in writing to the Presiding Officer.

#### Commencement Information

**I15** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Disqualification*

### 16 Disqualification from being Assembly member **U.K.**

- (1) A person is disqualified from being an Assembly member if that person—
  - (a) is disqualified from being a member of the House of Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (c. 24) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures),
  - (b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,
  - (c) holds the office of Auditor General,
  - (d) holds the office of Public Services Ombudsman for Wales, or
  - (e) is employed as a member of the staff of the Assembly.
- (2) Subject to section 17(1) and (2), a person is also disqualified from being an Assembly member if that person is disqualified otherwise than under the House of Commons Disqualification Act 1975 (c. 24) (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it.
- (3) For the purposes of subsection (2) the references to the Republic of Ireland in section 1 of the Representation of the People Act 1981 (c. 34) (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland) are to be treated as references to any member State (other than the United Kingdom).
- (4) A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area.
- (5) An Order in Council under paragraph (b) of subsection (1)—
  - (a) may designate particular offices or offices of any description, and
  - (b) may designate an office by reference to any characteristic of a person holding it,and in that paragraph and this subsection “office” includes any post or employment.

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- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under subsection (1)(b) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly.

#### Commencement Information

**I16** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 17 Exceptions and relief from disqualification **U.K.**

- (1) A person is not disqualified from being an Assembly member merely because that person is—
- (a) a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
  - (b) a Lord Spiritual.
- (2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being an Assembly member merely because of section 3 of the Act of Settlement (1700 c. 2) (disqualification of certain persons born outside United Kingdom).
- (3) The Assembly may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being an Assembly member on a ground within section 16(1) or (4) is to be disregarded if it appears to the Assembly—
- (a) that the ground has been removed, and
  - (b) that it is proper so to resolve.
- (4) A resolution under subsection (3) does not—
- (a) affect any proceedings under Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under section 13, or
  - (b) enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.

#### Commencement Information

**I17** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 18 Effect of disqualification **U.K.**

- (1) If a person who is disqualified from being an Assembly member is returned as an Assembly member, the person's return is void and the person's seat is vacant.
- (2) If a person who is disqualified from being an Assembly member for a particular Assembly constituency or Assembly electoral region is returned as an Assembly member for that Assembly constituency or Assembly electoral region, the person's return is void and the person's seat is vacant.
- (3) If a person who is an Assembly member becomes disqualified—
- (a) from being an Assembly member, or

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- (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person is sitting,  
the person ceases to be an Assembly member (so that the person's seat is vacant).
- (4) Subsections (1) to (3) have effect subject to any resolution of the Assembly under section 17(3).
- (5) In addition, subsection (3) has effect subject to—
  - (a) section 141 of the Mental Health Act 1983 (c. 20) (mental illness), and
  - (b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).
- (6) If, in consequence of a provision mentioned in subsection (5), the seat of a person who is disqualified from being an Assembly member is not vacant, the person does not cease to be an Assembly member until the person's seat becomes vacant.
- (7) But for any period for which the person is disqualified but the person's seat is not vacant—
  - (a) the person must not participate in any Assembly proceedings, and
  - (b) any of the person's other rights and privileges as an Assembly member may be withdrawn by the Assembly.
- (8) The validity of any Assembly proceedings is not affected by the disqualification of any person—
  - (a) from being an Assembly member, or
  - (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit.

#### Commencement Information

**I18** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 19 Judicial proceedings as to disqualification **U.K.**

- (1) Any person who claims that a person purporting to be an Assembly member is, or at any time since being returned as an Assembly member has been, disqualified from being—
  - (a) an Assembly member, or
  - (b) an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit,may apply to the High Court for a declaration to that effect.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was returned or to have arisen subsequently.
- (3) No declaration may be made under this section in respect of any person—
  - (a) on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the person's disqualification on those grounds is or was in issue, or
  - (b) on any ground, if a resolution of the Assembly under section 17(3) requires that any disqualification incurred by the person on that ground is to be disregarded.

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- (4) On an application under this section—
  - (a) the person in respect of whom the application is made is to be the respondent, and
  - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (5) The amount of the security may not exceed £5,000 or such other sum as the Welsh Ministers may specify by order.
- (6) The decision of the court on an application under this section is final.
- (7) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the Assembly.

#### Commencement Information

**119** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Remuneration, oaths etc.*

## 20 Remuneration of Assembly members **U.K.**

- (1) The Assembly must make provision for the payment of salaries to Assembly members.
- (2) The Assembly may make provision for the payment of allowances to Assembly members.
- (3) The Assembly may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who—
  - (a) has ceased to be an Assembly member, or
  - (b) has ceased to hold office as the Presiding Officer or Deputy Presiding Officer, or such other office in connection with the Assembly as the Assembly may determine, but continues to be an Assembly member.
- (4) Such provision may, in particular, include provision for—
  - (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
  - (b) the establishment and administration (whether by the Assembly Commission or otherwise) of one or more pension schemes.
- (5) Sums required for the making of payments by virtue of provision under subsection (1) or (3) to or in respect of a person who holds or has held the office of Presiding Officer or Deputy Presiding Officer are to be charged on the Welsh Consolidated Fund.
- (6) Provision under this section may be made by—
  - (a) the standing orders, or
  - (b) resolutions of the Assembly,
 and may include provision conferring functions on the Assembly Commission.

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#### Commencement Information

**I20** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 21 Limit on salaries of Assembly members **U.K.**

- (1) The Assembly must make provision to ensure that the amount of the salary payable to an Assembly member in accordance with section 20 is reduced if a salary is payable to the Assembly member—
  - (a) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House, or
  - (b) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (c. 50) (remuneration of United Kingdom MEPs).
- (2) The provision made must ensure that the amount of salary is reduced—
  - (a) to a particular proportion of what it otherwise would be or to a particular amount, or
  - (b) by the amount of any salary payable to the Assembly member as mentioned in subsection (1)(a) or (b), by a particular proportion of that amount or by some other particular amount.
- (3) Provision may be made under this section by—
  - (a) the standing orders, or
  - (b) resolutions of the Assembly,and may include provision conferring functions on the Assembly Commission.

#### Commencement Information

**I21** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 22 Remuneration: supplementary **U.K.**

- (1) Different provision may be made under section 20 or 21 for different cases.
- (2) The Assembly must ensure that information concerning—
  - (a) the amounts paid to each Assembly member as salary and allowances, and
  - (b) the total amount paid to Assembly members as salaries and allowances,is published for each financial year (and may, in particular, do so by requiring it to be published by the Assembly Commission).
- (3) If the Assembly has exercised the power under section 20 to confer on the Assembly Commission the function of determining any salaries, allowances, pensions or gratuities of the kind mentioned in that section, the Assembly Commission must publish every such determination as soon as is reasonably practicable after it is made.
- (4) For the purposes of sections 20 and 21 a person who—
  - (a) ceases to be an Assembly member when the Assembly is dissolved, but
  - (b) is nominated as a candidate at the subsequent general election,is to be treated as an Assembly member until the end of the day on which the poll at the election is held.



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- (5) Where a person—
- (a) ceases to be an Assembly member when the Assembly is dissolved, but
  - (b) continues to hold office as Presiding Officer or as a member of the Assembly Commission by virtue of paragraph 1(1) or (2) of Schedule 2,
- the fact that the person is no longer an Assembly member does not affect any entitlement under sections 20 and 21 in respect of the holding of office as Presiding Officer or as a member of the Assembly Commission (or both) until the end of the day on which the person ceases to hold it.
- (6) Provision made under section 20(3) does not affect pensions or allowances in payment before the provision was made.

#### Commencement Information

**I22** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 23 Oath or affirmation of allegiance **U.K.**

- (1) An Assembly member must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation) as soon as is reasonably practicable after being returned as an Assembly member (whether for the first time or subsequently).
- (2) The standing orders must specify the person before whom the oath is to be taken (or the affirmation made).
- (3) Subsection (1) does not require an Assembly member to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) by the Assembly member in compliance with section 55(2) since being returned (or last returned).
- (4) Until an Assembly member has taken the oath (or made the affirmation) the Assembly member must not do anything as an Assembly member, other than—
  - (a) take part in proceedings of the Assembly at which Assembly members take the oath or make the affirmation, or
  - (b) take part in any earlier proceedings for the election of the Presiding Officer or Deputy Presiding Officer.
- (5) If an Assembly member has not taken the oath (or made the affirmation) within—
  - (a) the period of two months beginning with the day on which the Assembly member was declared to be returned, or
  - (b) such longer period as the Assembly may have allowed before the end of that period of two months,

at the end of that period of two months or longer period the Assembly member ceases to be an Assembly member (so that the Assembly member's seat is vacant).
- (6) Until an Assembly member has taken the oath (or made the affirmation), no salary, allowance, gratuity or payment towards the provision of a pension, allowance or gratuity is to be paid under this Act to or in respect of the Assembly member.

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- (7) But subsection (6) does not affect any entitlement to payments in respect of the period before the Assembly member took the oath (or made the affirmation) once the Assembly member has done so.

**Commencement Information**

**I23** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**24 Assistance to groups of Assembly members** **U.K.**

- (1) The Assembly Commission must make to (or in respect of) political groups to which Assembly members belong such payments as the Assembly from time to time determines for the purpose of assisting Assembly members who belong to those political groups to perform their functions as Assembly members.
- (2) A determination under subsection (1) may make provision—
- (a) for calculating the amount of any payment to (or in respect of) a political group,
  - (b) for the conditions subject to which payments to (or in respect of) a political group are to be made, and
  - (c) for claims for such payments to be made to the Assembly Commission.
- (3) A determination under subsection (1) may make different provision for different political groups.
- (4) If a motion making a determination under subsection (1) is passed on a vote it has no effect unless at least two-thirds of the Assembly members voting support it.
- (5) The standing orders must include provision for determining for the purposes of this Act whether any Assembly member belongs to a political group and, if so, to which; and (in particular)—
- (a) may include provision for treating an Assembly member as not belonging to a political group unless a specified number of Assembly members belong to it, and
  - (b) must include provision requiring the Presiding Officer to decide any questions arising under the provision included by virtue of this subsection.
- (6) The standing orders must include provision—
- (a) for the publication of every determination under this section, and
  - (b) for the publication for each financial year of information about the sums paid under this section in the financial year.

**Commencement Information**

**I24** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Presiding Officer and administration*

#### **25 Presiding Officer etc. U.K.**

- (1) The Assembly must, at its first meeting following a general election, elect from among the Assembly members—
  - (a) a presiding officer (referred to in this Act as “the Presiding Officer”), and
  - (b) a deputy presiding officer (referred to in this Act as “the Deputy Presiding Officer”).
- (2) The person elected under paragraph (a) of subsection (1) is to be known as the Presiding Officer or by such other title as the standing orders may provide; and the person elected under paragraph (b) of that subsection is to be known as the Deputy Presiding Officer or by such other title as the standing orders may provide.
- (3) The Presiding Officer holds office until the conclusion of the next election of a Presiding Officer under subsection (1).
- (4) The Deputy Presiding Officer holds office until the Assembly is dissolved.
- (5) But the Presiding Officer or Deputy Presiding Officer—
  - (a) may at any time resign,
  - (b) ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution, and
  - (c) may be removed from office by the Assembly.
- (6) If the Presiding Officer or the Deputy Presiding Officer ceases to hold office under subsection (5) (or dies), the Assembly must elect a replacement from among the Assembly members.
- (7) Subject to subsection (9), the Presiding Officer and the Deputy Presiding Officer must not belong to—
  - (a) the same political group, or
  - (b) different political groups both of which are political groups with an executive role.
- (8) For the purposes of this Act a political group is a political group with an executive role if the First Minister or one or more of the Welsh Ministers appointed under section 48 belong to it.
- (9) The Assembly may resolve that subsection (7) is not to apply for so long as the resolution so provides; but if the motion for the resolution is passed on a vote it is of no effect unless at least two-thirds of the Assembly members voting support it.
- (10) The Presiding Officer's functions may be exercised by the Deputy Presiding Officer if—
  - (a) the office of Presiding Officer is vacant, or
  - (b) the Presiding Officer is for any reason unable to act.
- (11) The Presiding Officer may (subject to the standing orders) authorise the Deputy Presiding Officer to exercise functions of the Presiding Officer.
- (12) The standing orders may include provision for the Presiding Officer's functions to be exercisable by any person specified in, or determined in accordance with, the standing orders if—

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- (a) the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act, and
  - (b) the office of Deputy Presiding Officer is vacant or the Deputy Presiding Officer is for any reason unable to act.
- (13) The standing orders may include provision as to the participation (including voting) in Assembly proceedings of the Presiding Officer and Deputy Presiding Officer and any person acting by virtue of subsection (12).
- (14) The validity of any act of a person as Presiding Officer or Deputy Presiding Officer, or of any person acting by virtue of subsection (12), is not affected by any defect in the person's appointment by the Assembly.
- (15) Subsections (10) to (12) are subject to paragraph 11 of Schedule 2.

#### Commencement Information

**I25** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 26 Clerk of Assembly **U.K.**

- (1) The Assembly Commission must appoint a person to be the Clerk of the Assembly (referred to in this Act as "the Clerk").
- (2) The person appointed under subsection (1) is to be known as the Clerk of the Assembly or by such other title as the standing orders may provide.
- (3) The Clerk's functions may be exercised by any other member of the staff of the Assembly (or person seconded to work at the Assembly) authorised by the Assembly Commission if—
- (a) the office of Clerk is vacant, or
  - (b) the Clerk is for any reason unable to act.
- (4) The Clerk may authorise any other member of the staff of the Assembly (or person seconded to work at the Assembly) to exercise functions on the Clerk's behalf.

#### Commencement Information

**I26** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 27 Assembly Commission **U.K.**

- (1) There is to be a body corporate to be known as the National Assembly for Wales Commission or Comisiwn Cynulliad Cenedlaethol Cymru (referred to in this Act as "the Assembly Commission").
- (2) The members of the Assembly Commission are to be—
- (a) the Presiding Officer, and
  - (b) four other Assembly members.
- (3) The standing orders must make provision for the appointment of the four other Assembly members as members of the Assembly Commission.

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- (4) The provision included in the standing orders in compliance with subsection (3) must (so far as it is reasonably practicable to do so) secure that not more than one of the members of the Assembly Commission (other than the Presiding Officer) belongs to any one political group.
- (5) The Assembly Commission must—
  - (a) provide to the Assembly, or
  - (b) ensure that the Assembly is provided with,
 the property, staff and services required for the Assembly's purposes.
- (6) The Assembly may give special or general directions to the Assembly Commission for the purpose of, or in connection with, the exercise of the Assembly Commission's functions.
- (7) Any property, rights or liabilities acquired or incurred in relation to matters to which the Assembly would otherwise be entitled or subject are to be treated for all purposes as property, rights or liabilities of the Assembly Commission.
- (8) For further provision about the Assembly Commission see Schedule 2.

#### Commencement Information

**I27** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Committees

#### 28 Committees and sub-committees **U.K.**

- (1) The standing orders may provide—
  - (a) for the appointment of committees of the Assembly, and
  - (b) for such committees to have power to appoint sub-committees.
- (2) The members of a committee of the Assembly, or of a sub-committee of such a committee, may not include anyone who is not an Assembly member.
- (3) The standing orders must make provision about the membership, chairing and procedure of committees of the Assembly and sub-committees of such committees.
- (4) The standing orders may include provision for excluding from the proceedings of a committee of the Assembly, or a sub-committee of such a committee, an Assembly member who is not a member of the committee or sub-committee.
- (5) The validity of any proceedings of a committee of the Assembly, or of a sub-committee of such a committee, is not affected by—
  - (a) any vacancy in its membership,
  - (b) any defect in the appointment of its members or of the person who chairs it, or
  - (c) any failure to comply with provisions of the standing orders relating to procedure.

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### Commencement Information

**I28** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 29 Composition of committees **U.K.**

- (1) The provision included in the standing orders in compliance with section 28(3) must meet the requirements of this section.
- (2) The provision must secure that the appointments to the places on each committee are (if possible) determined by a resolution of the Assembly—
  - (a) which secures that its membership reflects (so far as is reasonably practicable) the balance of the political groups to which Assembly members belong, and
  - (b) which (if the motion for it is passed on a vote) has no effect unless at least two-thirds of the Assembly members voting support it.
- (3) The provision must secure that, if the membership of a committee is not so determined—
  - (a) the person appointed to the first place on the committee is an Assembly member belonging to the largest political group, and
  - (b) the persons eligible to be appointed to the second and subsequent places on the committee are ascertained in accordance with subsection (5).
- (4) “The largest political group” means the political group to which the most Assembly members belong.
- (5) An Assembly member is eligible to be appointed to the second or any subsequent place on the committee if—
  - (a) the number produced by subsection (6) in relation to that place for the political group to which the Assembly member belongs, exceeds
  - (b) that so produced for each of the other political groups.
- (6) The number produced for a political group in relation to the second or any subsequent place on the committee is—
  - (a) if one or more places are already allocated to the political group, the number of Assembly members belonging to the political group divided by the aggregate of one and the number of places already so allocated, or
  - (b) otherwise, the number of Assembly members belonging to the political group.
- (7) References to a place already allocated to a political group, in relation to the appointment to the second or any subsequent place on the committee, are to a place on the committee to which an Assembly member belonging to the political group is eligible to be appointed—
  - (a) (in relation to the second place) by virtue of subsection (3)(a), or
  - (b) (in relation to any subsequent place) by virtue of subsection (3)(a) or the previous application of subsection (5) in relation to a place on the committee.
- (8) The provision must modify the operation of the provision made in compliance with subsections (3) to (7) for cases where—
  - (a) the number of Assembly members belonging to two or more political groups is the same and exceeds the number of Assembly members belonging to any other political group, or

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- (b) the number produced by subsection (6) in relation to any place on a committee is the same for two or more political groups and is greater than that so produced for any other political group.
- (9) The provision must modify the operation of the provision made in compliance with subsections (2) to (8) with a view to securing that (so far as is reasonably practicable having regard to the total number of places on committees)—
  - (a) every Assembly member who does not belong to a political group is entitled to be a member of at least one committee, and
  - (b) the total number of places on committees allocated to Assembly members belonging to each political group is at least as great as the number of Assembly members belonging to the political group.
- (10) The provision must secure that the Presiding Officer decides questions arising under the provision made in compliance with this section.

#### Commencement Information

**I29** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 30 Audit Committee **U.K.**

- (1) The committees of the Assembly must include one to be known as the Audit Committee or Pwyllgor Archwilio or by such other name as the Assembly may determine; and, if the Assembly makes such a determination, references to the committee in—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
 have effect accordingly.
- (2) The Audit Committee is to have the number of members specified by the standing orders.
- (3) None of the following may be a member of the Audit Committee—
  - (a) the First Minister or any person designated to exercise the functions of the First Minister,
  - (b) a Welsh Minister appointed under section 48,
  - (c) the Counsel General or any person designated to exercise the functions of the Counsel General, or
  - (d) a Deputy Welsh Minister.
- (4) The Audit Committee must not be chaired by an Assembly member who is a member of a political group with an executive role.

#### Commencement Information

**I30** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



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*Proceedings etc.*

**31 Standing orders** **U.K.**

- (1) Assembly proceedings are to be regulated by standing orders (referred to in this Act as “the standing orders”).
- (2) The standing orders must include provision for preserving order in Assembly proceedings, including provision for—
  - (a) preventing conduct which would constitute a criminal offence or contempt of court, and
  - (b) a sub judice rule.
- (3) The standing orders may include provision for excluding an Assembly member from Assembly proceedings.
- (4) The standing orders may include provision for withdrawing from an Assembly member any or all of the rights and privileges of membership of the Assembly.
- (5) The standing orders—
  - (a) must include provision requiring the proceedings of the Assembly to be held in public, and for proceedings of a committee of the Assembly or a sub-committee of such a committee to be held in public except in circumstances provided for in the standing orders, and
  - (b) may include provision as to the conditions to be complied with by members of the public attending the proceedings (including provision for excluding any member of the public who does not comply with the conditions).
- (6) The standing orders must include provision—
  - (a) for reporting the proceedings of the Assembly, and for reporting proceedings of committees of the Assembly and sub-committees of such committees which are held in public, and
  - (b) for publishing the reports of proceedings as soon as reasonably practicable after the proceedings take place.
- (7) The Assembly may by resolution remake or revise the standing orders; but if the motion for a resolution to remake or revise the standing orders is passed on a vote, it has no effect unless at least two-thirds of the Assembly members voting support it.
- (8) The Clerk must from time to time publish the standing orders.

**Commencement Information**

**131** *Ss. 1-94, 97-106* in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

**32 Participation by UK Ministers etc.** **U.K.**

- (1) The Secretary of State for Wales is entitled to participate in proceedings of the Assembly but not to vote.
- (2) The standing orders must include provision for any documents which—
  - (a) contain material relating to any proceedings of the Assembly which have taken place or are to take place, and

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- (b) are made available to all Assembly members,  
to be made available to the Secretary of State for Wales no later than the time when they are made available to Assembly members.
- (3) The standing orders may make provision for—
- (a) the participation of the Secretary of State for Wales in proceedings of any committee of the Assembly, or any sub-committee of any such committee, and
  - (b) the participation in any Assembly proceedings of other Ministers of the Crown and of persons serving in the department of the Secretary of State for Wales or of any other Minister of the Crown.
- (4) The provision made by virtue of subsection (3) may not include provision conferring any right to vote.
- (5) The standing orders may include provision for the making available of documents or information in connection with participation in Assembly proceedings pursuant to, or to standing orders made under, this section.

#### Commencement Information

**I32** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 33 Consultation about UK Government's legislative programme **U.K.**

- (1) As soon as is reasonably practicable after the beginning of each session of Parliament, the Secretary of State for Wales must undertake with the Assembly such consultation about the UK Government's legislative programme for the session as appears to the Secretary of State to be appropriate.
- (2) The consultation in relation to the UK Government's legislative programme for a session must include participating in proceedings of the Assembly relating to it on at least one occasion.
- (3) For this purpose the UK Government's legislative programme for a session of Parliament consists of the bills which, at the beginning of the session, are intended to be introduced into either House of Parliament during the session by a Minister of the Crown.
- (4) If, at any time after the beginning of a session of Parliament, it is decided that a bill should be introduced into either House of Parliament during the session by a Minister of the Crown and no consultation about the bill has been undertaken under subsection (1), the Secretary of State for Wales must undertake with the Assembly such consultation about the bill as appears to the Secretary of State to be appropriate.
- (5) This section does not require the undertaking of consultation with the Assembly about a bill if it appears to the Secretary of State for Wales that there are considerations relating to the bill that make such consultation inappropriate.

#### Commencement Information

**I33** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status:* Point in time view as at 10/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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### 34 Participation by Counsel General **U.K.**

- (1) If not an Assembly member the Counsel General may participate in Assembly proceedings to the extent permitted by the standing orders, but may not vote.
- (2) And the standing orders may in other respects provide that they are to apply to the Counsel General if not an Assembly member as to an Assembly member.
- (3) The Counsel General may, in any Assembly proceedings, decline to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if considering that answering the question or producing the document—
  - (a) might prejudice criminal proceedings in the case, or
  - (b) would otherwise be contrary to the public interest.

#### Commencement Information

**I34** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 35 Equality of treatment **U.K.**

- (1) The Assembly must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.
- (2) The Assembly must make appropriate arrangements with a view to securing that Assembly proceedings are conducted with due regard to the principle that there should be equality of opportunity for all people.

#### Commencement Information

**I35** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 36 Integrity **U.K.**

- (1) The standing orders must include provision—
  - (a) for a register of interests of Assembly members, and
  - (b) for the register to be published and made available for public inspection.
- (2) The standing orders must require Assembly members to register in the register of interests registrable interests, as defined for the purposes of this subsection.
- (3) The standing orders must require any Assembly member who has—
  - (a) a financial interest, as defined for the purposes of this subsection, or
  - (b) any other interest, or an interest of any other kind, as so defined,in any matter to declare that interest before taking part in Assembly proceedings relating to that matter.
- (4) The standing orders may include provision for preventing or restricting the participation in any Assembly proceedings of an Assembly member who has an interest within subsection (2) or (3) in any matter to which the proceedings relate.

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- (5) The standing orders must include provision prohibiting an Assembly member from—
- (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified, or
  - (b) urging, in consideration of any such payment or benefit in kind, any other Assembly member to advocate or initiate any cause or matter on behalf of any person by any such means.
- (6) The standing orders must include provision about (or for the making of a code or protocol about) the different roles and responsibilities of Assembly constituency members and Assembly regional members; and—
- (a) Assembly constituency members must not describe themselves in a manner which suggests that they are Assembly regional members, and
  - (b) Assembly regional members must not describe themselves in a manner which suggests that they are Assembly constituency members.
- (7) An Assembly member who—
- (a) takes part in Assembly proceedings without having complied with, or in contravention of, any provision included in the standing orders in pursuance of subsections (2) to (4), or
  - (b) contravenes any provision included in the standing orders in pursuance of subsection (5),
- commits an offence.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) A prosecution for an offence under subsection (7) cannot be instituted except by or with the consent of the Director of Public Prosecutions.
- (10) The validity of any Assembly proceedings is not affected by any contravention or failure to comply with any provision included in the standing orders in pursuance of this section.
- (11) In this section—
- (a) references to an Assembly member (apart from those in subsection (6)) include the Counsel General, if not an Assembly member, and
  - (b) “financial interest” includes a benefit in kind.

#### Commencement Information

**I36** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Witnesses and documents*

### 37 Power to call **U.K.**

- (1) Subject as follows, the Assembly may require any person—
- (a) to attend Assembly proceedings for the purpose of giving evidence, or

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- (b) to produce for the purposes of the Assembly (or a committee of the Assembly or a sub-committee of such a committee) documents in the possession, or under the control, of the person,  
concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions.
- (2) The Assembly may not impose a requirement under subsection (1) on a person who is not involved in the exercise of functions, or the carrying on of activities, in relation to Wales.
- (3) The Assembly may not impose a requirement under subsection (1) on a person who—
  - (a) is or has been a Minister of the Crown, or
  - (b) serves or has served in the department of a Minister of the Crown,in relation to the exercise of any functions of a Minister of the Crown.
- (4) The Assembly—
  - (a) may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and
  - (b) may not impose such a requirement on a person who is not within paragraph (a) but who is or has been a member of any court or tribunal in connection with the exercise of functions as such a member.
- (5) Where a requirement under subsection (1) is imposed on a person who is or has been a member of the staff of the Welsh Assembly Government (or a person seconded to work for the Welsh Assembly Government) in relation to the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any of them may issue a direction under subsection (6).
- (6) A direction under this subsection is a direction—
  - (a) that the person on whom the requirement was imposed need not comply with it, and
  - (b) that the requirement is instead to be complied with by another person specified in the direction.
- (7) The powers conferred by subsection (1)—
  - (a) may be exercised by and for the purposes of the Audit Committee, and
  - (b) may be exercised by and for the purposes of any other committee of the Assembly, or any sub-committee of any committee of the Assembly, if the committee or sub-committee is expressly authorised to do so by the Assembly (whether by the standing orders or otherwise).
- (8) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.
- (9) A person acting as prosecutor in criminal proceedings is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the appropriate officer—
  - (a) considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest, and
  - (b) has authorised the person to decline to answer the question or produce the document on that ground.

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- (10) In subsection (9) “the appropriate officer” means—
- (a) if the proceedings were instituted by or on behalf of the Welsh Ministers, the First Minister or the Counsel General, the Counsel General, and
  - (b) otherwise, the Attorney General.

#### Commencement Information

I37 Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 38 Notice **U.K.**

- (1) A requirement under section 37 is to be imposed on a person by the Clerk giving the person notice in writing specifying—
  - (a) whether the requirement is imposed for the purposes of the Assembly or a specified committee or sub-committee, and
  - (b) the matters mentioned in either paragraph (a) or paragraph (b) of subsection (2).
- (2) Those matters are—
  - (a) the time and place at which the person is to attend and the particular subject concerning which the person is required to give evidence;
  - (b) the documents, or types of documents, which the person is to produce, the date by which and person to whom they are to be produced and the particular subject concerning which they are required.
- (3) Notice under subsection (1) is to be given—
  - (a) in the case of an individual, by sending it in accordance with subsection (4) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address, or
  - (b) in any other case, by so sending it addressed to the person at the person's registered or principal office.
- (4) A notice is sent in accordance with this subsection if it is sent—
  - (a) by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)), or
  - (b) by a postal service which provides for its delivery by post to be recorded.
- (5) If a direction is issued under subsection (6) of section 37 in relation to a requirement imposed under subsection (1) of that section, the person or persons by whom it is issued must give notice in writing that the direction has been issued—
  - (a) if the requirement was imposed for the purposes of the Assembly, to the Presiding Officer, and
  - (b) otherwise, to the person who chairs the committee or sub-committee for the purposes of which it was imposed.

#### Commencement Information

I38 Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### 39 Offences **E+W**

- (1) A person to whom a notice under section 38(1) has been given commits an offence if the person—
  - (a) refuses or fails without reasonable excuse to attend proceedings as required by the notice,
  - (b) refuses or fails without reasonable excuse, when attending proceedings as required by the notice, to answer any question concerning the subjects specified in the notice,
  - (c) refuses or fails without reasonable excuse to produce any document required to be produced by the notice, or
  - (d) intentionally alters, suppresses, conceals or destroys any such document.
- (2) Subsection (1) is subject to sections 34(3) and 37(5), (6), (8) and (9).
- (3) If a person charged with an offence under subsection (1)(a), (b) or (c) adduces evidence of a reasonable excuse for the refusal or failure, it is for the prosecution to prove that the person did not have such an excuse.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) to a fine not exceeding level 5 on the standard scale,
  - (b) to imprisonment for a term not exceeding 51 weeks, or
  - (c) to both.
- (5) Where an offence under subsection (1) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
- (6) In subsection (5) “director”, in the case of a body corporate whose affairs are managed by its members, means a member of the body corporate.

#### Commencement Information

**I39** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 40 General **U.K.**

- (1) The Presiding Officer or such other person as may be authorised by the standing orders may—
  - (a) require any person giving evidence in Assembly proceedings to take an oath (or make an affirmation), and
  - (b) administer the oath (or affirmation) to the person.
- (2) A person commits an offence if the person—
  - (a) is required to attend Assembly proceedings for the purpose of giving evidence by a notice under section 38(1), and
  - (b) refuses to take an oath (or make an affirmation) when required to do so for the purposes of the Assembly proceedings.



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- (3) A person guilty of an offence under subsection (2) is liable on summary conviction—
  - (a) to a fine not exceeding level 5 on the standard scale,
  - (b) to imprisonment for a term not exceeding 51 weeks, or
  - (c) to both.
- (4) The standing orders may provide for the payment of allowances and expenses to persons—
  - (a) attending Assembly proceedings for the purpose of giving evidence, or
  - (b) producing for the purposes of the Assembly (or a committee of the Assembly or a sub-committee of such a committee) documents which they have been required or requested to produce,
 whether or not in pursuance of a notice under section 38(1).
- (5) The provision made by virtue of subsection (4) may confer functions on the Assembly Commission.
- (6) For the purposes of sections 37 to 39 and this section—
  - (a) a person is to be taken to comply with a requirement to produce a document if the person produces a copy of the document or an extract of the relevant part of the document,
  - (b) “document” means anything in which information is recorded in any form, and
  - (c) references to producing a document are to producing the information recorded in it in a visible and legible form.

#### Commencement Information

**I40** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Legal issues*

### **41 Proceedings by or against Assembly etc. U.K.**

- (1) Proceedings by or against the Assembly are to be instituted by or against the Assembly Commission on behalf of the Assembly.
- (2) Proceedings by or against—
  - (a) the Presiding Officer or Deputy Presiding Officer, or
  - (b) a member of the staff of the Assembly,
 are (unless instituted against or by the Assembly Commission) to be instituted by or against the Assembly Commission on behalf of the Presiding Officer, Deputy Presiding Officer or member of staff.
- (3) In any proceedings against the Assembly the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings but may instead make a declaration.
- (4) In any proceedings against—
  - (a) any Assembly member,
  - (b) the Presiding Officer or Deputy Presiding Officer,

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- (c) any member of the staff of the Assembly, or
- (d) the Assembly Commission,

the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings if the effect of doing so would be to give any relief against the Assembly which could not have been given in proceedings against the Assembly.

- (5) References in this section to an order include an order which is not final.

#### Commencement Information

**I41** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 42 Defamation **U.K.**

- (1) For the purposes of the law of defamation—
- (a) any statement made in Assembly proceedings, and
  - (b) the publication under the authority of the Assembly of any statement,
- is absolutely privileged.
- (2) The Welsh Ministers may by regulations make provision for and in connection with establishing in any legal proceedings that any statement or publication is absolutely privileged by virtue of subsection (1).
- (3) No regulations are to be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (4) In this section “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

#### Commencement Information

**I42** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 43 Contempt of court **U.K.**

- (1) The strict liability rule does not apply in relation to any publication—
- (a) made in, for the purposes of, or for purposes incidental to, Assembly proceedings, or
  - (b) to the extent that it consists of a report of Assembly proceedings which either is made by or under the authority of the Assembly or is fair and accurate and made in good faith.
- (2) In subsection (1)—
- “the strict liability rule”, and
  - “publication”,
- have the same meaning as in the Contempt of Court Act 1981 (c. 49).

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#### Commencement Information

**I43** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### 44 Corrupt practices **U.K.**

The Assembly and the Assembly Commission are public bodies for the purposes of the Prevention of Corruption Acts 1889 to 1916.

#### Commencement Information

**I44** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## PART 2 **U.K.**

### WELSH ASSEMBLY GOVERNMENT

#### *Government*

#### 45 Welsh Assembly Government **U.K.**

- (1) There is to be a Welsh Assembly Government, or Llywodraeth Cynulliad Cymru, whose members are—
- (a) the First Minister or Prif Weinidog (see sections 46 and 47),
  - (b) the Welsh Ministers, or Gweinidogion Cymru, appointed under section 48,
  - (c) the Counsel General to the Welsh Assembly Government or Cwnsler Cyffredinol i Lywodraeth Cynulliad Cymru (see section 49) (referred to in this Act as “the Counsel General”), and
  - (d) the Deputy Welsh Ministers or Dirprwy Weinidogion Cymru (see section 50).
- (2) In this Act and in any other enactment or instrument the First Minister and the Welsh Ministers appointed under section 48 are referred to collectively as the Welsh Ministers.

#### Commencement Information

**I45** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Ministers, staff etc.*

#### 46 The First Minister **U.K.**

- (1) The First Minister is to be appointed by Her Majesty after nomination in accordance with section 47.
- (2) The First Minister holds office at Her Majesty's pleasure.

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- (3) The First Minister may at any time tender resignation to Her Majesty and ceases to hold office as First Minister when it is accepted.
- (4) A person ceases to hold office as the First Minister if another person is appointed to that office.
- (5) The functions of the First Minister are exercisable by a person designated by the Presiding Officer if—
  - (a) the office of the First Minister is vacant,
  - (b) the First Minister is for any reason unable to act, or
  - (c) the First Minister has ceased to be an Assembly member.
- (6) A person may not be designated to exercise the functions of the First Minister unless the person is—
  - (a) an Assembly member, or
  - (b) if the Assembly has been dissolved, a person who ceased to be an Assembly member by reason of the dissolution.
- (7) A person may be designated to exercise the functions of the First Minister only on the recommendation of the Welsh Ministers (unless there is no-one holding office as a Welsh Minister appointed under section 48).
- (8) If a person is designated to exercise the functions of the First Minister, the designation continues to have effect even if the Assembly is dissolved.

#### Commencement Information

**I46** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 47 Choice of First Minister **U.K.**

- (1) If one of the following events occurs, the Assembly must, before the end of the relevant period, nominate an Assembly member for appointment as First Minister.
- (2) The events are—
  - (a) the holding of a poll at a general election,
  - (b) the Assembly resolving that the Welsh Ministers no longer enjoy the confidence of the Assembly,
  - (c) the First Minister tendering resignation to Her Majesty,
  - (d) the First Minister dying or becoming permanently unable to act and to tender resignation, and
  - (e) the First Minister ceasing to be an Assembly member otherwise than by reason of a dissolution.
- (3) The relevant period is the period of 28 days beginning with the day on which the event occurs; but—
  - (a) if another of those events occurs within that period, the relevant period is (subject to paragraph (b)) extended to end with the period of 28 days beginning with the day on which that other event occurs, and
  - (b) the relevant period ends if the Assembly passes a resolution under section 5(2) (a) or when Her Majesty appoints a person as the First Minister.

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- (4) The Presiding Officer must recommend to Her Majesty the appointment of the person nominated by the Assembly under subsection (1).

#### Commencement Information

**I47** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 48 Welsh Ministers **U.K.**

- (1) The First Minister may, with the approval of Her Majesty, appoint Welsh Ministers from among the Assembly members.
- (2) A Welsh Minister appointed under this section holds office at Her Majesty's pleasure.
- (3) A Welsh Minister appointed under this section may be removed from office by the First Minister.
- (4) A Welsh Minister appointed under this section may at any time resign.
- (5) A Welsh Minister appointed under this section must resign if the Assembly resolves that the Welsh Ministers no longer enjoy the confidence of the Assembly.
- (6) A Welsh Minister appointed under this section who resigns ceases to hold office immediately.
- (7) A Welsh Minister appointed under this section ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution.

#### Commencement Information

**I48** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 49 Counsel General **U.K.**

- (1) The Counsel General is to be appointed by Her Majesty on the recommendation of the First Minister.
- (2) The Counsel General may be removed from office by Her Majesty on the recommendation of the First Minister.
- (3) No recommendation for the appointment or removal of a person as the Counsel General may be made by the First Minister without the agreement of the Assembly.
- (4) The Counsel General may at any time tender resignation to Her Majesty and ceases to hold office as Counsel General when it is accepted.
- (5) The Counsel General ceases to hold office if an Assembly member is nominated under section 47(1) for appointment as First Minister.
- (6) The functions of the Counsel General are exercisable by a person designated by the First Minister if—
  - (a) the office of the Counsel General is vacant, or
  - (b) the Counsel General is for any reason unable to act.

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- (7) But subsection (6) ceases to have effect at the end of the period of six months beginning with the day on which a person is designated under it and does not have effect again until after the office of the Counsel General has been filled, or the Counsel General has again become able to act.
- (8) The designation of a person under subsection (6) ceases to have effect if an Assembly member is nominated under section 47(1) for appointment as First Minister.
- (9) A person holding office as the First Minister, a Welsh Minister appointed under section 48 or a Deputy Welsh Minister may not be appointed as the Counsel General or designated under subsection (6); and the Counsel General or a person so designated may not be appointed to any of those offices.

#### Commencement Information

**149** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 50 Deputy Welsh Ministers **U.K.**

- (1) The First Minister may, with the approval of Her Majesty, appoint Deputy Welsh Ministers from among the Assembly members to assist the First Minister, a Welsh Minister appointed under section 48 or the Counsel General in the exercise of functions.
- (2) A Deputy Welsh Minister holds office at Her Majesty's pleasure.
- (3) A Deputy Welsh Minister may be removed from office by the First Minister.
- (4) A Deputy Welsh Minister may at any time resign.
- (5) A Deputy Welsh Minister must resign if the Assembly resolves that the Welsh Ministers no longer enjoy the confidence of the Assembly.
- (6) A Deputy Welsh Minister who resigns ceases to hold office immediately.
- (7) A Deputy Welsh Minister ceases to hold office on ceasing to be an Assembly member otherwise than by reason of a dissolution.

#### Commencement Information

**150** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 51 Limit on number of Ministers **U.K.**

- (1) No more than twelve persons are to hold a relevant Welsh Ministerial office at any time.
- (2) A relevant Welsh Ministerial office means the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.

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### Commencement Information

**I51** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 52 Staff **U.K.**

- (1) The Welsh Ministers may appoint persons to be members of the staff of the Welsh Assembly Government.
- (2) Service as a member of the staff of the Welsh Assembly Government is service in the Home Civil Service.
- (3) Subsection (1) and any other enactment about the appointment of persons as members of the staff of the Welsh Assembly Government are subject to any provision made in relation to the Home Civil Service by or under any Order in Council.
- (4) Any Civil Service management function is exercisable by the Minister for the Civil Service in relation to members of the staff of the Welsh Assembly Government as in relation to other members of the Home Civil Service; and, accordingly, section 1 of the Civil Service (Management Functions) Act 1992 (c. 61) (delegation of functions by Ministers) applies to any such function as extended by this subsection (so as to allow functions to be delegated to the Welsh Ministers, the First Minister or the Counsel General).
- (5) The Welsh Ministers are to pay the salaries and expenses of the members of the staff of the Welsh Assembly Government.
- (6) Section 1(2) and (3) of the Superannuation Act 1972 (c. 11) (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another Minister etc. and consultation by that Minister or another Minister) have effect as if the references to a Minister of the Crown other than the Minister for the Civil Service included the Welsh Ministers.
- (7) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Welsh Assembly Government, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (8) The Welsh Ministers may make payments towards the provision of pensions, allowances or gratuities to or in respect of any person who is or has been a member of the staff of the Welsh Assembly Government.
- (9) Without prejudice to any rule of law with respect to the carrying out of functions by members of the Home Civil Service under authority, the Welsh Ministers, the First Minister or the Counsel General may authorise the staff of the Welsh Assembly Government to carry out any function on their behalf.
- (10) In this section—



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“Civil Service management function” means any function to which section 1 of the Civil Service (Management Functions) Act 1992 (c. 61) applies and which is vested in the Minister for the Civil Service, and  
“the Home Civil Service” means Her Majesty's Home Civil Service.

#### Commencement Information

**I52** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Remuneration, oaths etc.*

### 53 Remuneration **U.K.**

- (1) The Assembly must make provision for the payment of salaries to persons to whom this section applies.
- (2) The Assembly may make provision for the payment of allowances to persons to whom this section applies.
- (3) The Assembly may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a person to whom this section applies.
- (4) Such provision may, in particular, include provision for—
  - (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
  - (b) the establishment and administration (whether by the Assembly Commission or otherwise) of one or more pension schemes.
- (5) This section applies to—
  - (a) the First Minister,
  - (b) every Welsh Minister appointed under section 48,
  - (c) the Counsel General, and
  - (d) every Deputy Welsh Minister.
- (6) Sums required for the making of payments by virtue of provision under this section are payable out of the Welsh Consolidated Fund.
- (7) Provision under this section may be made by—
  - (a) the standing orders, or
  - (b) resolutions of the Assembly,and may include provision conferring functions on the Assembly Commission.

#### Commencement Information

**I53** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 54 Remuneration: supplementary **U.K.**

- (1) Different provision may be made under section 53 for different cases.

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- (2) The Assembly must ensure that information concerning—
  - (a) the amounts paid to each person to whom section 53 applies as salary and allowances, and
  - (b) the total amount paid to such persons as salaries and allowances,
 is published for each financial year (and may, in particular, do so by requiring it to be published by the Assembly Commission).
- (3) If the Assembly has exercised the power under section 53 to confer on the Assembly Commission the function of determining any salaries, allowances, pensions or gratuities of the kind mentioned in that section, the Assembly Commission must publish every such determination as soon as is reasonably practicable after it is made.
- (4) Provision made under section 53(3) does not affect pensions or allowances in payment before the provision was made.

#### Commencement Information

**I54** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 55 Oath or affirmation **U.K.**

- (1) On appointment as the First Minister, a Welsh Minister appointed under section 48 or the Counsel General a person must take the official oath in the form set out in section 3 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation).
- (2) On appointment as the First Minister, a Welsh Minister appointed under section 48, the Counsel General or a Deputy Welsh Minister a person must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (or make the corresponding affirmation).
- (3) But subsection (2) does not require a person who is an Assembly member to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) in compliance with the person's duty on the person's return (or, if returned more than once, most recent return) as an Assembly member.
- (4) An oath required by this section is to be taken (or the corresponding affirmation made)
  - (a) before one of the Presiding Judges for the Wales and Chester Circuit (or for any appropriate area which is specified in a direction under section 72(4) of the Courts and Legal Services Act 1990 (c. 41)), or
  - (b) (if no such Presiding Judge is available) before another judge nominated by the Senior Presiding Judge for England and Wales.
- (5) Until a person who is required to take an oath (or make an affirmation) by this section in respect of any office has done so, no salary, allowance, gratuity or payment towards the provision of a pension, allowance or gratuity is to be paid under this Act to or in respect of the person as a holder of that office.
- (6) But subsection (5) does not affect any entitlement to payments in respect of the period before the person took the oath (or made the affirmation) once the person has done so.

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#### Commencement Information

**I55** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Functions

#### 56 Introduction **U.K.**

- (1) The persons to whom this section applies have the functions conferred or imposed on them by or by virtue of this Act or any other enactment or prerogative instrument.
- (2) This section applies to the Welsh Ministers, the First Minister and the Counsel General.

#### Commencement Information

**I56** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### 57 Exercise of functions **U.K.**

- (1) Functions may be conferred or imposed on the Welsh Ministers by that name.
- (2) Functions of the Welsh Ministers, the First Minister and the Counsel General are exercisable on behalf of Her Majesty.
- (3) Functions of the Welsh Ministers are exercisable by the First Minister or any of the Welsh Ministers appointed under section 48.
- (4) Any act or omission of, or in relation to, the First Minister or any of the Welsh Ministers appointed under section 48 is to be treated as an act or omission of, or in relation to, each of them.
- (5) But subsection (4) does not apply in relation to the exercise of functions conferred or imposed on the First Minister alone.
- (6) Where a function conferred or imposed on the Counsel General is (either generally or in particular circumstances) exercisable concurrently by the Welsh Ministers or the First Minister, subsection (4) applies in relation to the exercise of the function (or to its exercise in those circumstances) as if the Counsel General were included among the Welsh Ministers.

#### Commencement Information

**I57** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### 58 Transfer of Ministerial functions **U.K.**

- (1) Her Majesty may by Order in Council—
  - (a) provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any function so far as exercisable by a Minister of the Crown in relation to Wales,

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- (b) direct that any function so far as so exercisable is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General concurrently with the Minister of the Crown, or
  - (c) direct that any function so far as exercisable by a Minister of the Crown in relation to Wales is to be exercisable by the Minister of the Crown only with the agreement of, or after consultation with, the Welsh Ministers, the First Minister or the Counsel General.
- (2) An Order in Council under this section may, in particular, provide for any function exercisable by the Welsh Ministers, the First Minister or the Counsel General by virtue of an Order in Council under subsection (1)(a) or (b) to be exercisable either generally or in such circumstances as may be specified in the Order in Council, concurrently with any other of the Welsh Ministers, the First Minister or the Counsel General.
- (3) An Order in Council under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
- (a) has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) has been approved by the Welsh Ministers.
- (5) For further provision in connection with the transfer etc. of functions by Orders in Council under this section see Schedule 3.

#### Commencement Information

**I58** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 59 Implementation of Community law **U.K.**

- (1) The power to designate a Minister of the Crown or government department under section 2(2) of the European Communities Act 1972 (c. 68) may be exercised to designate the Welsh Ministers.
- (2) Accordingly, the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council designating them.
- (3) A statutory instrument containing provision made by the Welsh Ministers in the exercise of that power, if made without a draft having been approved by resolution of the Assembly, is subject to annulment in pursuance of a resolution of the Assembly.
- (4) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 (Parliamentary procedure) does not apply to the statutory instrument unless it contains provision—

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- (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (5) The power conferred by section 56 of the Finance Act 1973 (c. 51) (services provided in pursuance of a Community obligation etc.) on the Minister in charge of a government department to make (with the consent of the Treasury) regulations prescribing, or providing for the determination of, fees and charges in respect of things done by the department may be exercised by the Welsh Ministers (with the consent of the Treasury) for prescribing, or providing for the determination of, fees and charges in respect of corresponding things done by the Welsh Ministers.
- (6) A statutory instrument containing regulations made by the Welsh Ministers in the exercise of that power is subject to annulment in pursuance of a resolution of the Assembly.
- (7) Section 56(4) of the Finance Act 1973 does not cause the statutory instrument to be subject to annulment in pursuance of a resolution of either House of Parliament unless it contains regulations—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).

#### Commencement Information

**159** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 60 Promotion etc. of well-being **U.K.**

- (1) The Welsh Ministers may do anything which they consider appropriate to achieve any one or more of the following objects—
- (a) the promotion or improvement of the economic well-being of Wales,
  - (b) the promotion or improvement of the social well-being of Wales, and
  - (c) the promotion or improvement of the environmental well-being of Wales.
- (2) The power under subsection (1) may be exercised in relation to or for the benefit of—
- (a) the whole or any part of Wales, or
  - (b) all or any persons resident or present in Wales.
- (3) The power under subsection (1) includes power to do anything in relation to or for the benefit of any area outside Wales, or all or any persons resident or present anywhere outside Wales, if the Welsh Ministers consider that it is likely to achieve one or more of the objects in that subsection.
- (4) The power under subsection (1) includes power—
- (a) to enter into arrangements or agreements with any person,

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- (b) to co-operate with, or facilitate or co-ordinate the activities of, any person,
- (c) to exercise on behalf of any person any functions of that person, and
- (d) to provide staff, goods, services or accommodation to any person.

#### Commencement Information

**I60** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 61 Support of culture etc. **U.K.**

The Welsh Ministers may do anything which they consider appropriate to support—

- (a) archaeological remains in Wales,
- (b) ancient monuments in Wales,
- (c) buildings and places of historical or architectural interest in Wales,
- (d) historic wrecks in Wales,
- (e) arts and crafts relating to Wales,
- (f) museums and galleries in Wales,
- (g) libraries in Wales,
- (h) archives and historical records relating to Wales,
- (i) cultural activities and projects relating to Wales,
- (j) sport and recreational activities relating to Wales, and
- (k) the Welsh language.

#### Commencement Information

**I61** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 62 Representations about matters affecting Wales **U.K.**

The Welsh Ministers, the First Minister and the Counsel General may make appropriate representations about any matter affecting Wales.

#### Commencement Information

**I62** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 63 Consultation about cross-border bodies **U.K.**

- (1) A Minister of the Crown must consult the Welsh Ministers—
  - (a) before exercising any function which relates to the appointment or removal of a relevant cross-border body,
  - (b) before exercising any function which relates to the appointment or removal of any member or office-holder of a relevant cross-border body, other than one who is not concerned in the functions or activities which the body exercises or carries on in or with respect to Wales, and

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- (c) before exercising, in relation to a relevant cross-border body, any function the exercise of which might affect Wales in relation to any matter as respects which functions are exercisable by the Welsh Ministers.
- (2) A body is a relevant cross-border body if it is a cross-border body which exercises functions of a public nature and which is not a government department.
- (3) Subsection (1) does not apply in relation to the exercise of a function if it is not reasonably practicable to comply with it in relation to the exercise of the function (for reasons of urgency or for any other reasons).
- (4) If subsection (1) does not apply in relation to the exercise of a function by a Minister of the Crown by reason of subsection (3), the Minister of the Crown must as soon as is reasonably practicable inform the Welsh Ministers of the exercise of the function and of the reasons for its exercise.
- (5) A failure to comply with subsection (1) in relation to the exercise of a function does not affect the validity of its exercise.

#### Commencement Information

**I63** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 64 Polls for ascertaining views of the public **U.K.**

- (1) The Welsh Ministers may hold a poll in an area consisting of Wales or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the functions of the Welsh Ministers (other than that under section 62) should be exercised.
- (2) The persons entitled to vote in a poll under this section are those who—
  - (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the area in which the poll is held, and
  - (b) are registered in the register of local government electors at an address within the area in which the poll is held.
- (3) The Welsh Ministers may by order make provision—
  - (a) as to the conduct of polls (or any poll) under this section, or
  - (b) for the combination of polls (or any poll) under this section with polls at any elections.
- (4) An order under subsection (3) may apply or incorporate, with or without modifications or exceptions, any provision of or made under any enactment relating to elections or referendums; and the provision which may be made under paragraph (a) of that subsection includes, in particular, provision for disregarding alterations in a register of electors.
- (5) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Assembly.



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#### Commencement Information

**I64** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 65 Private bills **U.K.**

- (1) The Welsh Ministers may promote private bills in Parliament and may oppose any private bill in Parliament.
- (2) Subsection (1) does not cause the Welsh Ministers to have power to apply for orders under section 1 or 3 of the Transport and Works Act 1992 (c. 42) by virtue of section 20 of that Act (which gives a body with power to promote and oppose private bills power to apply for and object to such orders).

#### Commencement Information

**I65** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 66 Provision of information to Treasury **U.K.**

Where it appears to the Treasury that any information in the possession, or under the control, of the Welsh Ministers is required for the exercise of any function by the Treasury, the Treasury may require the Welsh Ministers to provide the information to the Treasury in such form as the Treasury may reasonably specify.

#### Commencement Information

**I66** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 67 Legal proceedings **U.K.**

- (1) Where the Counsel General considers it appropriate for the promotion or protection of the public interest, the Counsel General may institute in the Counsel General's name, defend or appear in any legal proceedings to which this section applies.
- (2) This section applies to legal proceedings relating to matters with respect to which any functions of the Welsh Ministers, the First Minister or the Counsel General are exercisable.

#### Commencement Information

**I67** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 68 Contracts **U.K.**

- (1) The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Welsh Ministers, the First Minister or the Counsel General but subject to any appropriate modifications.

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- (2) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I68** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 69 Charges for documents **U.K.**

- (1) The Welsh Ministers may make a charge for supplying copies of (or of any part of) any document which they publish or make available for public inspection.
- (2) Subsection (1) has effect subject to any provision contained in, or made under, any enactment which makes provision for—
  - (a) the making of charges for the inspection of documents,
  - (b) the making of charges for supplying copies of documents (or parts of documents), or
  - (c) the supply of copies of documents (or parts of documents) free of charge.
- (3) This section applies to the First Minister and the Counsel General as to the Welsh Ministers.

#### Commencement Information

**I69** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 70 Financial assistance **U.K.**

- (1) The Welsh Ministers may give financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which the Welsh Ministers consider will secure, or help to secure, the attainment of any objective which they aim to attain in the exercise of any of their functions.
- (2) The Welsh Ministers may attach conditions to the giving of financial assistance by them; and the conditions which may be attached include, in particular, conditions requiring the repayment of the whole or any part of a grant, or the making of any other payments, in any circumstances.
- (3) This section applies in relation to the First Minister and the Counsel General as in relation to the Welsh Ministers.

#### Commencement Information

**I70** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 71 Supplementary **U.K.**

- (1) The persons to whom this section applies may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any of their other functions.

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(2) This section applies to the Welsh Ministers, the First Minister and the Counsel General.

#### Commencement Information

**I71** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *“Inclusive” approach to exercise of functions*

## 72 Partnership Council **U.K.**

- (1) The Welsh Ministers must establish and maintain a body to be known as the Partnership Council for Wales or Cyngor Partneriaeth Cymru (“the Partnership Council”).
- (2) The Partnership Council is to consist of members appointed by the Welsh Ministers from among—
  - (a) the Welsh Ministers,
  - (b) the Deputy Welsh Ministers, and
  - (c) the members of local authorities in Wales.
- (3) Before appointing members of the Partnership Council under subsection (2)(c), the Welsh Ministers must consult such associations of local authorities in Wales as they consider appropriate.
- (4) The Partnership Council may—
  - (a) give advice to the Welsh Ministers about matters affecting the exercise of any of their functions,
  - (b) make representations to the Welsh Ministers about any matters affecting, or of concern to, those involved in local government in Wales, and
  - (c) give advice to those involved in local government in Wales.
- (5) For the purposes of this section the following are local authorities in Wales—
  - (a) county councils, county borough councils and community councils in Wales,
  - (b) National Park authorities for National Parks in Wales,
  - (c) police authorities for police areas in Wales,
  - (d) fire and rescue authorities for areas in Wales, and
  - (e) authorities of any description specified for the purposes of this paragraph by order made by the Welsh Ministers.
- (6) No order may be made under subsection (5)(e) unless the Welsh Ministers have consulted the Partnership Council.
- (7) A statutory instrument containing an order under subsection (5)(e) is subject to annulment in pursuance of a resolution of the Assembly.

#### Commencement Information

**I72** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### 73 Local government scheme **U.K.**

- (1) The Welsh Ministers must make a scheme (“the local government scheme”) setting out how they propose, in the exercise of their functions, to sustain and promote local government in Wales.
- (2) The Welsh Ministers—
  - (a) must keep the local government scheme under review, and
  - (b) may from time to time remake or revise it.
- (3) In determining the provision to be included in the local government scheme, the Welsh Ministers must have regard to any advice which has been given, and to any representations which have been made, to them by the Partnership Council.
- (4) The Welsh Ministers must publish the local government scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (5) If the Welsh Ministers publish a scheme or revisions under subsection (4) they must lay a copy of the scheme or revisions before the Assembly.
- (6) After each financial year the Welsh Ministers must—
  - (a) publish a report of how the proposals set out in the local government scheme were implemented in that financial year, and
  - (b) lay a copy of the report before the Assembly.

#### Commencement Information

**I73** Ss. 1-94, 97-106 in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

### 74 Voluntary sector scheme **U.K.**

- (1) The Welsh Ministers must make a scheme (“the voluntary sector scheme”) setting out how they propose, in the exercise of their functions, to promote the interests of relevant voluntary organisations.
- (2) In this section “relevant voluntary organisations” means bodies (other than local authorities or other public bodies) whose activities—
  - (a) are carried on otherwise than for profit, and
  - (b) directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area).
- (3) In determining the provision to be included in the voluntary sector scheme, the Welsh Ministers must consider how they intend to exercise such of their functions as relate to matters affecting, or of concern to, relevant voluntary organisations.
- (4) The voluntary sector scheme must specify—
  - (a) how the Welsh Ministers propose to provide assistance to relevant voluntary organisations (whether by grants, loans, guarantees or any other means),
  - (b) how the Welsh Ministers propose to monitor the use made of any assistance provided by them to relevant voluntary organisations, and

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- (c) how the Welsh Ministers propose to consult relevant voluntary organisations about the exercise of such of their functions as relate to matters affecting, or of concern to, such organisations.
- (5) The Welsh Ministers—
  - (a) must keep the voluntary sector scheme under review, and
  - (b) may from time to time remake or revise it.
- (6) Before making, remaking or revising the voluntary sector scheme, the Welsh Ministers must consult such relevant voluntary organisations as they consider appropriate.
- (7) The Welsh Ministers must publish the voluntary sector scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (8) If the Welsh Ministers publish a scheme or revisions under subsection (7) they must lay a copy of the scheme or revisions before the Assembly.
- (9) After each financial year the Welsh Ministers must—
  - (a) publish a report of how the proposals set out in the voluntary sector scheme were implemented in that financial year, and
  - (b) lay a copy of the report before the Assembly.

#### **Commencement Information**

**I74** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **75 Business scheme** **U.K.**

- (1) The Welsh Ministers must make a scheme (“the business scheme”) setting out how they propose, in the exercise of their functions, to take account of the interests of business.
- (2) The business scheme must specify how the Welsh Ministers propose—
  - (a) to carry out consultation about the exercise of such of their functions as relate to matters affecting the interests of business, and
  - (b) to consider the impact of the exercise of their functions on the interests of business.
- (3) The Welsh Ministers—
  - (a) must keep the business scheme under review, and
  - (b) may from time to time remake or revise it.
- (4) Before making, remaking or revising the business scheme, the Welsh Ministers must consult such organisations representative of business (including trade unions) and such other organisations as they consider appropriate.
- (5) The Welsh Ministers must publish the business scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (6) If the Welsh Ministers publish a scheme or revisions under subsection (5) they must lay a copy of the scheme or revisions before the Assembly.

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- (7) The Welsh Ministers must—
- (a) within the period of two years beginning with the day on which the business scheme is first made, and
  - (b) subsequently at intervals of no more than two years, publish a report of how the proposals set out in the business scheme have been implemented.
- (8) The Welsh Ministers must lay before the Assembly a copy of each report published under subsection (7).

#### Commencement Information

**I75** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 76 Regulatory impact assessments **U.K.**

- (1) The Welsh Ministers must make a code of practice setting out their policy on—
- (a) the carrying out of regulatory impact assessments in connection with relevant Welsh subordinate legislation, and
  - (b) the carrying out of consultation in connection with regulatory impact assessments,
- (“the regulatory impact assessment code”).
- (2) For the purposes of this section—
- (a) a regulatory impact assessment is an assessment as to the likely costs and benefits of complying with relevant Welsh subordinate legislation, and
  - (b) subordinate legislation is relevant Welsh subordinate legislation if it is made by the Welsh Ministers, the First Minister or the Counsel General and the statutory instrument (or a draft of the statutory instrument) containing it is required to be laid before the Assembly.
- (3) The Welsh Ministers—
- (a) must keep the regulatory impact assessment code under review, and
  - (b) may from time to time remake or revise it.
- (4) Before making, remaking or revising the regulatory impact assessment code, the Welsh Ministers must consult such persons as they consider appropriate.
- (5) The Welsh Ministers must publish the regulatory impact assessment code when they make it and whenever they remake it; and, if they revise the code without remaking it, they must publish either the revisions or the code as revised (as they consider appropriate).
- (6) If the Welsh Ministers publish a code or revisions under subsection (5) they must lay a copy of the code or revisions before the Assembly.

#### Commencement Information

**I76** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 77 Equality of opportunity **U.K.**

- (1) The Welsh Ministers must make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) After each financial year the Welsh Ministers must publish a report containing—
  - (a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and
  - (b) an assessment of how effective those arrangements were in promoting equality of opportunity,
 and must lay a copy of the report before the Assembly.

### Commencement Information

**I77** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 78 The Welsh language **U.K.**

- (1) The Welsh Ministers must adopt a strategy (“the Welsh language strategy”) setting out how they propose to promote and facilitate the use of the Welsh language.
- (2) The Welsh Ministers must adopt a scheme (“the Welsh language scheme”) specifying measures which they propose to take, for the purpose mentioned in subsection (3), as to the use of the Welsh language in connection with the provision of services to the public in Wales by them, or by others who—
  - (a) are acting as servants or agents of the Crown, or
  - (b) are public bodies (within the meaning of Part 2 of the Welsh Language Act 1993 (c. 38)).
- (3) The purpose referred to in subsection (2) is that of giving effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that in the conduct of public business in Wales the English and Welsh languages should be treated on a basis of equality.
- (4) The Welsh Ministers—
  - (a) must keep under review both the Welsh language strategy and the Welsh language scheme, and
  - (b) may from time to time adopt a new strategy or scheme or revise them.
- (5) Before adopting or revising a strategy or scheme, the Welsh Ministers must consult such persons as they consider appropriate.
- (6) The Welsh Ministers must publish the Welsh language strategy and the Welsh language scheme when they first adopt it and—
  - (a) if they adopt a new strategy or scheme they must publish it, and
  - (b) if they revise the Welsh language strategy or the Welsh language scheme (rather than adopting a new strategy or scheme) they must publish either the revisions or the strategy or scheme as revised (as they consider appropriate).
- (7) If the Welsh Ministers publish a strategy or scheme, or revisions, under subsection (6) they must lay a copy of the strategy or scheme, or revisions, before the Assembly.



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- (8) After each financial year the Welsh Ministers must publish a report of—
- (a) how the proposals set out in the Welsh language strategy were implemented in that financial year and how effective their implementation has been in promoting and facilitating the use of the Welsh language, and
  - (b) how the proposals set out in the Welsh language scheme were implemented in that financial year,
- and must lay a copy of the report before the Assembly.

#### Commencement Information

**I78** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 79 Sustainable development **U.K.**

- (1) The Welsh Ministers must make a scheme (“the sustainable development scheme”) setting out how they propose, in the exercise of their functions, to promote sustainable development.
- (2) The Welsh Ministers—
- (a) must keep the sustainable development scheme under review, and
  - (b) may from time to time remake or revise it.
- (3) Before making, remaking or revising the sustainable development scheme, the Welsh Ministers must consult such persons as they consider appropriate.
- (4) The Welsh Ministers must publish the sustainable development scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (5) If the Welsh Ministers publish a scheme or revisions under subsection (4) they must lay a copy of the scheme or revisions before the Assembly.
- (6) After each financial year the Welsh Ministers must—
- (a) publish a report of how the proposals set out in the sustainable development scheme were implemented in that financial year, and
  - (b) lay a copy of the report before the Assembly.
- (7) In the year following that in which an ordinary general election is (or, apart from section 5(5), would be) held, the Welsh Ministers must—
- (a) publish a report containing an assessment of how effective their proposals (as set out in the scheme and implemented) have been in promoting sustainable development, and
  - (b) lay a copy of the report before the Assembly.

#### Commencement Information

**I79** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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*Community law, human rights and international obligations etc.*

**80 Community law** **U.K.**

- (1) A community obligation of the United Kingdom is also an obligation of the Welsh Ministers if and to the extent that the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions.
- (2) Subsection (1) does not apply in the case of a Community obligation of the United Kingdom if—
  - (a) it is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales).
- (3) But if such a Community obligation could (to any extent) be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions, a Minister of the Crown may by order provide for the achievement by the Welsh Ministers (in the exercise of their functions) of so much of the result to be achieved under the Community obligation as is specified in the order.
- (4) The order may specify the time by which any part of the result to be achieved by the Welsh Ministers is to be achieved.
- (5) No order is to be made by a Minister of the Crown under subsection (3) unless the Minister of the Crown has consulted the Welsh Ministers.
- (6) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Where an order under subsection (3) is in force in relation to a Community obligation, to the extent that the Community obligation involves achieving what is specified in the order it is also an obligation of the Welsh Ministers (enforceable as if it were an obligation of the Welsh Ministers under subsection (1)).
- (8) The Welsh Ministers have no power—
  - (a) to make, confirm or approve any subordinate legislation, or
  - (b) to do any other act,
 so far as the subordinate legislation or act is incompatible with Community law or an obligation under subsection (7).
- (9) Subsections (1) and (8) apply to the First Minister and the Counsel General as to the Welsh Ministers.

**Commencement Information**

**180** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**81 Human rights** **U.K.**

- (1) The Welsh Ministers have no power—

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- (a) to make, confirm or approve any subordinate legislation, or
  - (b) to do any other act,
- so far as the subordinate legislation or act is incompatible with any of the Convention rights.
- (2) Subsection (1) does not enable a person—
- (a) to bring any proceedings in a court or tribunal, or
  - (b) to rely on any of the Convention rights in any such proceedings,
- in respect of an act unless that person would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act.
- (3) Subsection (2) does not apply to the Attorney General, the Counsel General, the Advocate General for Scotland, the Advocate General for Northern Ireland or the Attorney General for Northern Ireland.
- (4) Subsection (1)—
- (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998 (c. 42), is not unlawful under subsection (1) of that section, and
  - (b) does not enable a court or tribunal to award in respect of any act any damages which it could not award on finding the act unlawful under that subsection.
- (5) Subsection (1) applies to the First Minister and the Counsel General as to the Welsh Ministers.
- (6) In subsection (2) “the Convention” has the same meaning as in the Human Rights Act 1998.

#### Commencement Information

**181** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 82 International obligations etc. **U.K.**

- (1) If the Secretary of State considers that any action proposed to be taken by the Welsh Ministers would be incompatible with any international obligation, the Secretary of State may by order direct that the proposed action is not to be taken.
- (2) If the Secretary of State considers that an action capable of being taken by the Welsh Ministers is required for the purposes of giving effect to any international obligation, the Secretary of State may by order direct the Welsh Ministers to take the action.
- (3) If the Secretary of State considers that any subordinate legislation made, or which could be revoked, by the Welsh Ministers is incompatible with any international obligation or the interests of defence or national security, the Secretary of State may by order revoke the legislation.
- (4) An order under subsection (3) may include provision for the order to have effect from a date earlier than that on which it is made; but—
- (a) such a provision does not affect any rights or liabilities acquired or incurred before the date on which the order is made, and
  - (b) no person is to be guilty of an offence merely because of such a provision.

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- (5) The Secretary of State may make an order containing provision such as is specified in subsection (6) where—
- (a) an international obligation is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales).
- (6) The provision referred to in subsection (5) is provision for the achievement by the Welsh Ministers (in the exercise of their functions) of so much of the result to be achieved under the international obligation as is specified in the order.
- (7) The order may specify the time by which any part of the result to be achieved by the Welsh Ministers is to be achieved.
- (8) Where an order under subsection (5) is in force in relation to an international obligation, references to the international obligation in subsections (1) to (3) are to an obligation to achieve so much of the result to be achieved under the international obligation as is specified in the order by the time or times so specified.
- (9) No order is to be made by the Secretary of State under subsection (2), (3) or (5) unless the Secretary of State has consulted the Welsh Ministers.
- (10) An order under this section must state the reasons for making it.
- (11) A statutory instrument containing—
- (a) subject to subsection (12), an order under subsection (1), or
  - (b) an order under subsection (5),
- is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A statutory instrument containing only an order under subsection (1) revoking a previous order under that subsection—
- (a) is not subject to annulment in pursuance of a resolution of either House of Parliament, but
  - (b) is to be laid before Parliament.
- (13) No order is to be made under subsection (2) or (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (14) Subsections (1), (2) and (3) apply to the First Minister and the Counsel General as to the Welsh Ministers; and where subsection (9) operates in relation to an order under subsection (2) or (3) relating to the First Minister or the Counsel General the reference in subsection (9) to the Welsh Ministers is to the First Minister or the Counsel General.
- (15) In this section “action” includes making, confirming or approving subordinate legislation and in subsection (2) also includes introducing into the Assembly a proposed Assembly Measure or a Bill.

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#### Commencement Information

**182** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Functions: supplementary*

### **83 Agency arrangements and provision of services** **U.K.**

- (1) Arrangements may be made between the Welsh Ministers and any relevant authority for—
  - (a) any functions of one of them to be exercised by the other,
  - (b) any functions of the Welsh Ministers to be exercised by members of staff of the relevant authority,
  - (c) any functions of the relevant authority to be exercised by members of the staff of the Welsh Assembly Government, or
  - (d) the provision of administrative, professional or technical services by one of them for the other.
- (2) Any arrangements under paragraph (a), (b) or (c) of subsection (1) for the exercise of functions of the Welsh Ministers do not affect the responsibility of the Welsh Ministers; and such arrangements for the exercise of any functions of a relevant authority do not affect the responsibility of the relevant authority.
- (3) The references in subsections (1) and (2) to functions do not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.
- (4) In this section “relevant authority” means any Minister of the Crown or government department, any public authority (including any local authority) in England and Wales or the holder of any public office in England and Wales.
- (5) This section applies to the First Minister and the Counsel General as to the Welsh Ministers.

#### Commencement Information

**183** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **84 Different exercise of functions by Welsh Ministers etc.** **U.K.**

- (1) This section applies where—
  - (a) an enactment confers or imposes a function exercisable in relation to England and Wales, and
  - (b) the function is to any extent conferred or imposed on the Welsh Ministers by the enactment or transferred to, or made exercisable by, the Welsh Ministers by or by virtue of this Act.
- (2) The enactment is to be taken to permit—
  - (a) the exercise of the function by the Welsh Ministers whether or not it is exercised otherwise than by the Welsh Ministers, and

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- (b) the exercise of the function differently by the Welsh Ministers (on the one hand) and otherwise than by the Welsh Ministers (on the other).
- (3) The reference in subsection (1)(a) to a function exercisable in relation to England and Wales includes a function exercisable in relation both to England and Wales and to another country or territory or other countries or territories.
- (4) Subsection (2) is subject to—
  - (a) the enactment by which the function is conferred or imposed on the Welsh Ministers, or
  - (b) any provision by or by virtue of which the function is transferred to, or made exercisable by, the Welsh Ministers.
- (5) Subsection (2) does not limit any power to exercise a function in relation to Wales whether or not it is exercised in relation to England, or to exercise a function differently in relation to Wales and England, where this section does not apply.
- (6) In this section “enactment” includes a future enactment.
- (7) This section applies in relation to the First Minister and the Counsel General as to the Welsh Ministers.

#### Commencement Information

**I84** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 85 Construction of references to Ministers and departments **U.K.**

- (1) So far as may be necessary for the purpose or in consequence of the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any reference in any enactment or other document to—
  - (a) a Minister of the Crown, or
  - (b) a government department,
 (whether by name or in general terms) is to be construed as being or including a reference to the Welsh Ministers, the First Minister or the Counsel General (according to by whom the function in question is exercisable).
- (2) References in any enactment to property vested in or held for the purposes of a government department is to be construed as including references to property vested in or held for the purposes of the Welsh Ministers, the First Minister or the Counsel General (and in relation to property so vested or held the Welsh Ministers, the First Minister or the Counsel General are each deemed to be a government department for the purposes of any enactment).
- (3) In this section “enactment” includes a future enactment.

#### Commencement Information

**I85** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 86 Laying of reports and statements **U.K.**

- (1) This section applies where—
  - (a) any enactment makes provision (“provision for Parliamentary laying”) for any report or statement to be laid before Parliament or either House of Parliament,
  - (b) the report or statement is not one which, by or by virtue of this Act, is to be made by or given to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission, and
  - (c) the report or statement relates to matters with respect to which functions are exercisable by the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission.
- (2) If no functions relating to the matters are exercisable by a Minister of the Crown, the provision for Parliamentary laying is to be construed as provision for the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) If any are, the provision for Parliamentary laying is to be construed as provision for the report or statement to be laid before the Assembly as well as before Parliament or either House of Parliament.
- (4) In this section—
  - (a) references to a report or statement include any other document (except one containing subordinate legislation), and
  - (b) “enactment” includes a future enactment.

### Commencement Information

**186** Ss. 1-94, 97-106 in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

### *Property, rights and liabilities*

## 87 Property, rights and liabilities of Welsh Ministers etc. **U.K.**

- (1) Property, rights and liabilities may belong to—
  - (a) the Welsh Ministers by that name,
  - (b) the First Minister by that name, or
  - (c) the Counsel General by that name.
- (2) Property and rights acquired by or transferred to the Welsh Ministers belong to, and liabilities incurred by the Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (3) Property and rights acquired by or transferred to any of the Welsh Ministers appointed under section 48 belong to, and liabilities incurred by any of those Welsh Ministers are liabilities of, the Welsh Ministers for the time being.
- (4) Property and rights acquired by or transferred to the First Minister belong to, and liabilities incurred by the First Minister are liabilities of, the First Minister for the time being.



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- (5) Property and rights acquired by or transferred to the Counsel General belong to, and liabilities incurred by the Counsel General are liabilities of, the Counsel General for the time being.
- (6) In relation to property and rights acquired by or transferred to (or belonging to), or to liabilities incurred by—
- (a) the Welsh Ministers or any of the Welsh Ministers appointed under section 48,
  - (b) the First Minister, or
  - (c) the Counsel General,
- references to the Welsh Ministers, the First Minister or the Counsel General in any register or other document are to be read in accordance with this section.

#### Commencement Information

**187** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 88 Transfer of Ministerial property, rights and liabilities **U.K.**

For provision about the transfer of property, rights and liabilities of Ministers of the Crown to the Welsh Ministers etc. see Schedule 4.

#### Commencement Information

**188** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Supplementary

### 89 Rights and liabilities of the Crown in different capacities **U.K.**

- (1) Rights and liabilities may arise between the Crown in right of Her Majesty's Government in the United Kingdom and the Crown in right of the Welsh Assembly Government by virtue of a contract, by operation of law or by virtue of an enactment as they may arise between subjects.
- (2) Property, rights and liabilities may be transferred between the Crown in one of those capacities and the Crown in the other capacity as they may be transferred between subjects; and they may together create, vary or extinguish any property, rights or liabilities as subjects may.
- (3) Proceedings in respect of—
- (a) any property, rights or liabilities to which the Crown in one of those capacities is entitled or subject under subsection (1) or (2), or
  - (b) the exercise of, or failure to exercise, any function exercisable by an office-holder of the Crown in one of those capacities,
- may be instituted by the Crown in either capacity; and the Crown in the other capacity may be a separate party in the proceedings.
- (4) This section applies to the Crown in right of a devolved administration (other than the Welsh Assembly Government) as it applies to the Crown in right of Her Majesty's Government in the United Kingdom.

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- (5) In this section “office-holder” means—
- (a) in relation to the Crown in right of Her Majesty's Government in the United Kingdom, any Minister of the Crown or other office-holder under the Crown in that capacity,
  - (b) in relation to the Crown in right of the Welsh Assembly Government, the First Minister, a Welsh Minister appointed under section 48 or the Counsel General, and
  - (c) in relation to the Crown in right of a devolved administration other than the Welsh Assembly Government, an office-holder in that administration;
- and “subject” means a person not acting on behalf of the Crown.

#### Commencement Information

**189** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 90 Documents **U.K.**

- (1) A document is validly executed by the Welsh Ministers if it is executed by the First Minister or any Welsh Minister appointed under section 48.
- (2) The application of the seal of the Welsh Ministers is to be authenticated by the First Minister, any Welsh Minister appointed under section 48 or any person authorised by the Welsh Ministers (whether generally or specifically) for that purpose.
- (3) A document purporting to be—
  - (a) duly executed under the seal of the Welsh Ministers, or
  - (b) signed on behalf of the Welsh Ministers,is to be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.
- (4) A certificate signed by the First Minister or a Welsh Minister appointed under section 48 that any document purporting to be executed by the Welsh Ministers or signed by them or on their behalf was so executed or signed is conclusive evidence of that fact.
- (5) A document purporting to be signed by or on behalf of—
  - (a) the First Minister, or
  - (b) the Counsel General,is to be received in evidence and, unless the contrary is proved, is to be taken to be so signed.
- (6) A certificate signed by the First Minister or the Counsel General that any document purporting to be signed by or on behalf of the First Minister or the Counsel General was so signed is conclusive evidence of that fact.
- (7) The Documentary Evidence Act 1868 (c. 37) (proof of documents) has effect as if—
  - (a) in the first column of Schedule 1 there were included a reference to the Welsh Ministers, the First Minister, a Welsh Minister appointed under section 48 and the Counsel General,

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- (b) in the second column of that Schedule there were included in connection with that reference a reference to a member of the staff of the Welsh Assembly Government, and
- (c) in section 2 of that Act the reference to regulations issued by or under the authority of an officer mentioned in the first column of the Schedule included a reference to any document issued by or under the authority of a person or persons within paragraph (a).

**Commencement Information**

**I90** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**91 Validity of acts** **U.K.**

- (1) The validity of any act of a person as First Minister is not affected by any defect in the person's nomination by the Assembly.
- (2) The validity of any act of a person as the Counsel General is not affected by any defect in the Assembly's agreement to the person's appointment.

**Commencement Information**

**I91** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**92 Official secrets** **U.K.**

The following are Crown servants for the purposes of the Official Secrets Act 1989 (c. 6)—

- (a) the First Minister and any person designated to exercise the functions of the First Minister,
- (b) each Welsh Minister appointed under section 48,
- (c) the Counsel General and any person designated to exercise the functions of the Counsel General, and
- (d) each Deputy Welsh Minister.

**Commencement Information**

**I92** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## PART 3 U.K.

### ASSEMBLY MEASURES

#### *Power*

#### 93 Assembly Measures U.K.

- (1) The Assembly may make laws, to be known as Measures of the National Assembly for Wales or Mesurau Cynulliad Cenedlaethol Cymru (referred to in this Act as “Assembly Measures”).
- (2) A proposed Assembly Measure is enacted by being passed by the Assembly and approved by Her Majesty in Council.
- (3) The validity of an Assembly Measure is not affected by any invalidity in the Assembly proceedings leading to its enactment.
- (4) Every Assembly Measure is to be judicially noticed.
- (5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

#### Commencement Information

193 Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### 94 Legislative competence U.K.

- (1) Subject to the provisions of this Part, an Assembly Measure may make any provision that could be made by an Act of Parliament.
- (2) An Assembly Measure is not law so far as any provision of the Assembly Measure is outside the Assembly's legislative competence.
- (3) A provision of an Assembly Measure is within the Assembly's legislative competence only if it falls within subsection (4) or (5).
- (4) A provision of an Assembly Measure falls within this subsection if—
  - (a) it relates to one or more of the matters specified in Part 1 of Schedule 5, and
  - (b) it neither applies otherwise than in relation to Wales nor confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales.
- (5) A provision of an Assembly Measure falls within this subsection if—
  - (a) it provides for the enforcement of a provision (of that or any other Assembly Measure) which falls within subsection (4) or it is otherwise appropriate for making such a provision effective, or
  - (b) it is otherwise incidental to, or consequential on, such a provision.
- (6) But a provision which falls within subsection (4) or (5) is outside the Assembly's legislative competence if—

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- (a) it breaches any of the restrictions in Part 2 of Schedule 5, having regard to any exception in Part 3 of that Schedule from those restrictions,
  - (b) it extends otherwise than only to England and Wales, or
  - (c) it is incompatible with the Convention rights or with Community law.
- (7) For the purposes of this section the question whether a provision of an Assembly Measure relates to one or more of the matters specified in Part 1 of Schedule 5 is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

#### Commencement Information

**I94** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 95 Legislative competence: supplementary **U.K.**

- (1) Her Majesty may by Order in Council—
- (a) amend Part 1 of Schedule 5 to add a matter which relates to one or more of the fields listed in that Part, or to vary or remove any matter,
  - (b) amend that Part to add a new field or to vary or remove any field, or
  - (c) amend Part 2 or 3 of that Schedule.
- (2) An Order in Council under this section does not have effect to amend Part 1 of Schedule 5 by adding a field if, at the time when the amendment comes into force, no functions in the field are exercisable by the Welsh Ministers, the First Minister or the Counsel General.
- (3) An Order in Council under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (4) An Order in Council under this section may make provision having retrospective effect.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
- (a) has been laid before, and approved by a resolution of, the Assembly, and
  - (b) having been so approved, has been laid before, and approved by a resolution of, each House of Parliament.
- (6) As soon as is reasonably practicable after the draft of an Order in Council under this section has been approved by a resolution of the Assembly, the First Minister must ensure that—
- (a) notice in writing of the resolution, and
  - (b) a copy of the draft,
- is sent to the Secretary of State.

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- (7) The Secretary of State must, before the end of the period of 60 days beginning immediately after the day on which notice of the Assembly's resolution is received, either—
  - (a) lay the draft before each House of Parliament, or
  - (b) give notice in writing to the First Minister of the Secretary of State's refusal to do so and the reasons for that refusal.
- (8) As soon as is reasonably practicable after the First Minister receives notice of the Secretary of State's refusal to lay the draft before each House of Parliament and the reasons for that refusal—
  - (a) the First Minister must lay a copy of the notice before the Assembly, and
  - (b) the Assembly must ensure that it is published.
- (9) In reckoning the period of 60 days mentioned in subsection (7) no account is to be taken of any period during which Parliament is dissolved or prorogued or both Houses are adjourned for more than four days.
- (10) The amendment of Schedule 5 by an Order in Council under this section does not affect—
  - (a) the validity of an Assembly Measure passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Assembly Measure.

## 96 Scrutiny of proposed Orders in Council **U.K.**

The Counsel General or the Attorney General may refer to the Supreme Court for decision the question whether a matter which a proposed Order in Council under section 95 proposes to add to Part 1 of Schedule 5 relates to a field listed in that Part.

### *Procedure*

## 97 Introduction of proposed Assembly Measures **U.K.**

- (1) A proposed Assembly Measure may, subject to the standing orders, be introduced in the Assembly—
  - (a) by the First Minister, any Welsh Minister appointed under section 48, any Deputy Welsh Minister or the Counsel General, or
  - (b) by any other Assembly member.
- (2) The person in charge of a proposed Assembly Measure must, on or before the introduction of the proposed Assembly Measure, state that, in that person's view, its provisions would be within the Assembly's legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a proposed Assembly Measure in the Assembly—
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the proposed Assembly Measure would be within the Assembly's legislative competence, and
  - (b) state that decision.

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- (4) A statement under this section must be made in both English and Welsh; but, subject to that, the form of the statement and the manner in which it is to be made are to be determined under the standing orders.
- (5) The standing orders—
  - (a) may provide for a statement under this section to be published, and
  - (b) if they do so, must provide for it to be published in both English and Welsh.

#### Commencement Information

**195** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 98 Proceedings on proposed Assembly Measures **U.K.**

- (1) The standing orders must include provision—
  - (a) for general debate on a proposed Assembly Measure with an opportunity for Assembly members to vote on its general principles,
  - (b) for the consideration of, and an opportunity for Assembly members to vote on, the details of a proposed Assembly Measure, and
  - (c) for a final stage at which a proposed Assembly Measure can be passed or rejected.
- (2) Subsection (1) does not prevent the standing orders making provision to enable the Assembly to expedite proceedings in relation to a particular proposed Assembly Measure.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to proposed Assembly Measures of any of the following kinds—
  - (a) proposed Assembly Measures which restate the law,
  - (b) proposed Assembly Measures which repeal or revoke spent enactments, and
  - (c) private proposed Assembly Measures.
- (4) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in accordance with the standing orders.
- (5) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure if the text of the proposed Assembly Measure is in both English and Welsh, unless the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.
- (6) The standing orders must provide for an opportunity for the reconsideration of a proposed Assembly Measure after its passing if (and only if)—
  - (a) the Supreme Court decides on a reference made in relation to the proposed Assembly Measure under section 99 that the proposed Assembly Measure or any provision of it would not be within the Assembly's legislative competence,
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 is withdrawn following a request for withdrawal of the reference under section 100(2)(b), or



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- (c) an order is made in relation to the proposed Assembly Measure under section 101.
- (7) The standing orders must, in particular, ensure that any proposed Assembly Measure amended on reconsideration is subject to a final stage at which it can be approved or rejected.
- (8) References in subsections (4), (5) and (6) of this section and sections 93(2) and 95(10) to the passing of a proposed Assembly Measure are, in the case of a proposed Assembly Measure which has been amended on reconsideration, to be read as references to its approval.

#### Commencement Information

**196** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 99 Scrutiny of proposed Assembly Measures by Supreme Court **U.K.**

- (1) The Counsel General or the Attorney General may refer the question whether a proposed Assembly Measure, or any provision of a proposed Assembly Measure, would be within the Assembly's legislative competence to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a proposed Assembly Measure at any time during—
  - (a) the period of four weeks beginning with the passing of the proposed Assembly Measure, and
  - (b) any period of four weeks beginning with any subsequent approval of the proposed Assembly Measure in accordance with provision included in the standing orders in compliance with section 98(7).
- (3) No reference may be made in relation to a proposed Assembly Measure—
  - (a) by the Counsel General if the Counsel General has notified the Clerk that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has notified the Clerk that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the proposed Assembly Measure has been approved as mentioned in subsection (2)(b) since the notification.

#### Commencement Information

**197** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 100 ECJ references **U.K.**

- (1) This section applies where—
  - (a) a reference has been made in relation to a proposed Assembly Measure under section 99,
  - (b) a reference for a preliminary European Court ruling has been made by the Supreme Court in connection with that reference, and

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- (c) neither of those references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the proposed Assembly Measure—
  - (a) the Clerk must notify the Counsel General and the Attorney General of that fact, and
  - (b) the person who made the reference in relation to the proposed Assembly Measure under section 99 must request the withdrawal of the reference.
- (3) In this section “a reference for a preliminary European Court ruling” means a reference of a question to the European Court under Article 234 of the Treaty establishing the European Community, Article 41 of the Treaty establishing the European Coal and Steel Community or Article 150 of the Treaty establishing the European Atomic Energy Community.

#### Commencement Information

**I98** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 101 Power to intervene in certain cases **U.K.**

- (1) This section applies if a proposed Assembly Measure contains provisions which the Secretary of State has reasonable grounds to believe—
  - (a) would have an adverse effect on any matter which is not specified in Part 1 of Schedule 5,
  - (b) might have a serious adverse impact on water resources in England, water supply in England or the quality of water in England,
  - (c) would have an adverse effect on the operation of the law as it applies in England, or
  - (d) would be incompatible with any international obligation or the interests of defence or national security.
- (2) The Secretary of State may make an order prohibiting the Clerk from submitting the proposed Assembly Measure for approval by Her Majesty in Council.
- (3) The order must identify the proposed Assembly Measure and the provisions in question and state the reasons for making the order.
- (4) The order may be made at any time during—
  - (a) the period of four weeks beginning with the passing of the proposed Assembly Measure,
  - (b) any period of four weeks beginning with any subsequent approval of the proposed Assembly Measure in accordance with provision included in the standing orders in compliance with section 98(7), or
  - (c) if a reference is made in relation to the proposed Assembly Measure under section 99, the period of four weeks beginning with the reference being decided or otherwise disposed of by the Supreme Court.
- (5) The Secretary of State must not make an order in relation to a proposed Assembly Measure if the Secretary of State has notified the Clerk that no order is to be made in relation to the proposed Assembly Measure.

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- (6) Subsection (5) does not apply if the proposed Assembly Measure has been approved as mentioned in subsection (4)(b) since the notification.
- (7) An order in force under this section at a time when such approval is given ceases to have effect.
- (8) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**199** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 102 Approval of proposed Assembly Measures **U.K.**

- (1) It is for the Clerk to submit proposed Assembly Measures for approval by Her Majesty in Council.
- (2) The Clerk may not submit a proposed Assembly Measure for approval by Her Majesty in Council at any time when—
  - (a) the Attorney General or the Counsel General is entitled to make a reference in relation to the proposed Assembly Measure under section 99,
  - (b) such a reference has been made but has not been decided or otherwise disposed of by the Supreme Court, or
  - (c) an order may be made in relation to the proposed Assembly Measure under section 101.
- (3) The Clerk may not submit a proposed Assembly Measure in its unamended form for approval by Her Majesty in Council if—
  - (a) the Supreme Court has decided on a reference made in relation to the proposed Assembly Measure under section 99 that the proposed Assembly Measure or any provision of it would not be within the Assembly's legislative competence, or
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 has been withdrawn following a request for withdrawal of the reference under section 100(2)(b).
- (4) Once an Assembly Measure has been approved by Her Majesty in Council, the Clerk of the Privy Council must send the Order in Council approving the Assembly Measure to the Clerk.
- (5) The date of the approval by Her Majesty in Council of an Assembly Measure is to be written on the Assembly Measure by the Clerk, and forms part of the Assembly Measure.
- (6) The Clerk must publish the Order in Council by which an Assembly Measure is approved.
- (7) The standing orders must include provision for the notification by the Clerk to the Assembly of the date of the approval of an Assembly Measure by Her Majesty in Council.

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- (8) The validity of an Assembly Measure is not affected by any failure to comply with provision made by or by virtue of subsection (4), (5) or (7).

**Commencement Information**

**I100** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 4** **U.K.**

ACTS OF THE ASSEMBLY

*Referendum*

**103** **Referendum about commencement of Assembly Act provisions** **U.K.**

- (1) Her Majesty may by Order in Council cause a referendum to be held throughout Wales about whether the Assembly Act provisions should come into force.
- (2) If the majority of the voters in a referendum held by virtue of subsection (1) vote in favour of the Assembly Act provisions coming into force, the Assembly Act provisions are to come into force in accordance with section 105.
- (3) But if they do not, that does not prevent the making of a subsequent Order in Council under subsection (1).
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under subsection (1) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.
- (5) But subsection (4) is not satisfied unless the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.
- (6) A draft of a statutory instrument containing an Order in Council under subsection (1) may not be laid before either House of Parliament, or the Assembly, until the Secretary of State has undertaken such consultation as the Secretary of State considers appropriate.
- (7) For further provision about referendums held by virtue of subsection (1) see Schedule 6.
- (8) In this Act “the Assembly Act provisions” means—
  - (a) sections 107 and 108, and
  - (b) sections 110 to 115.

**Commencement Information**

**I101** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 104 Proposal for referendum by Assembly **U.K.**

- (1) This section applies if—
  - (a) the Assembly passes a resolution moved by the First Minister or a Welsh Minister appointed under section 48 that, in its opinion, a recommendation should be made to Her Majesty in Council to make an Order in Council under section 103(1), and
  - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.
- (2) The First Minister must, as soon as is reasonably practicable after the resolution is passed, ensure that notice in writing of the resolution is given to the Secretary of State.
- (3) The Secretary of State must, within the period of 120 days beginning immediately after the day on which it is received—
  - (a) lay a draft of a statutory instrument containing an Order in Council under section 103(1) before each House of Parliament, or
  - (b) give notice in writing to the First Minister of the Secretary of State's refusal to do so and the reasons for that refusal.
- (4) As soon as is reasonably practicable after the First Minister receives notice given under subsection (3)(b)—
  - (a) the First Minister must lay a copy of the notice before the Assembly, and
  - (b) the Assembly must ensure that the notice is published.

### Commencement Information

**I102** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 105 Commencement of Assembly Act provisions **U.K.**

- (1) This section applies where the majority of the voters in a referendum held by virtue of section 103(1) are in favour of the Assembly Act provisions coming into force.
- (2) The Welsh Ministers may by order make provision for the Assembly Act provisions to come into force on the date specified in the order.
- (3) An order under subsection (2) may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as the Welsh Ministers consider appropriate in connection with the coming into force of the Assembly Act provisions.
- (4) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

### Commencement Information

**I103** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## 106 Effect on Measures of commencement of Assembly Act provisions **U.K.**

- (1) Part 3 ceases to have effect on the day on which the Assembly Act provisions come into force.
- (2) But that does not affect the continuing operation on and after that day of any Assembly Measure enacted before that day.

### Commencement Information

**I104** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Power

VALID FROM 05/05/2011

## 107 Acts of the Assembly **U.K.**

- (1) The Assembly may make laws, to be known as Acts of the National Assembly for Wales or Deddfau Cynulliad Cenedlaethol Cymru (referred to in this Act as “Acts of the Assembly”).
- (2) Proposed Acts of the Assembly are to be known as Bills; and a Bill becomes an Act of the Assembly when it has been passed by the Assembly and has received Royal Assent.
- (3) The validity of an Act of the Assembly is not affected by any invalidity in the Assembly proceedings leading to its enactment.
- (4) Every Act of the Assembly is to be judicially noticed.
- (5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

VALID FROM 01/04/2018

## <sup>F1</sup>108 Legislative competence **U.K.**

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### Textual Amendments

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

## 109 Legislative competence: supplementary **U.K.**

- (1) Her Majesty may by Order in Council amend Schedule 7.

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- (2) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (3) An Order in Council under this section may make provision having retrospective effect.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
  - (a) has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) except where the Order in Council is the first of which a draft has been laid under paragraph (a), has been laid before, and approved by a resolution of, the Assembly.
- (5) The amendment of Schedule 7 by an Order in Council under this section does not affect—
  - (a) the validity of an Act of the Assembly passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Act of the Assembly.

### Procedure

VALID FROM 05/05/2011

#### 110 Introduction of Bills **U.K.**

- (1) A Bill may, subject to the standing orders, be introduced in the Assembly—
  - (a) by the First Minister, any Welsh Minister appointed under section 48 any Deputy Welsh Minister or the Counsel General, or
  - (b) by any other Assembly member.
- (2) The person in charge of a Bill must, on or before the introduction of the Bill, state that, in that person's view, its provisions would be within the Assembly's legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a Bill in the Assembly—
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the Bill would be within the Assembly's legislative competence, and
  - (b) state that decision.
- (4) A statement under this section must be made in both English and Welsh; but, subject to that, the form of the statement and the manner in which it is to be made are to be determined under the standing orders.
- (5) The standing orders—
  - (a) may provide for a statement under this section to be published, and



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- (b) if they do so, must provide for it to be published in both English and Welsh.

VALID FROM 05/05/2011

## 111 Proceedings on Bills **U.K.**

- (1) The standing orders must include provision—
  - (a) for general debate on a Bill with an opportunity for Assembly members to vote on its general principles,
  - (b) for the consideration of, and an opportunity for Assembly members to vote on, the details of a Bill, and
  - (c) for a final stage at which a Bill can be passed or rejected.
- (2) Subsection (1) does not prevent the standing orders making provision to enable the Assembly to expedite proceedings in relation to a particular Bill.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to Bills of any of the following kinds—
  - (a) Bills which restate the law,
  - (b) Bills which repeal or revoke spent enactments, and
  - (c) private Bills.
- (4) The standing orders must include provision for securing that the Assembly may only pass a Bill containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in accordance with the standing orders.
- (5) The standing orders must include provision for securing that the Assembly may only pass a Bill if the text of the Bill is in both English and Welsh, unless the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.
- (6) The standing orders must provide for an opportunity for the reconsideration of a Bill after its passing if (and only if)—
  - (a) the Supreme Court decides on a reference made in relation to the Bill under section 112 that the Bill or any provision of it would not be within the Assembly's legislative competence,
  - (b) a reference made in relation to the Bill under section 112 is withdrawn following a request for withdrawal of the reference under section 113(2)(b), or
  - (c) an order is made in relation to the Bill under section 114.
- (7) The standing orders must, in particular, ensure that any Bill amended on reconsideration is subject to a final stage at which it can be approved or rejected.
- (8) References in subsections (4), (5) and (6) of this section and sections 107(2), 109(5) and 116(3) to the passing of a Bill are, in the case of a Bill which has been amended on reconsideration, to be read as references to its approval.

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VALID FROM 05/05/2011

## 112 Scrutiny of Bills by Supreme Court **U.K.**

- (1) The Counsel General or the Attorney General may refer the question whether a Bill, or any provision of a Bill, would be within the Assembly's legislative competence to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill at any time during—
  - (a) the period of four weeks beginning with the passing of the Bill, and
  - (b) any period of four weeks beginning with any subsequent approval of the Bill in accordance with provision included in the standing orders in compliance with section 111(7).
- (3) No reference may be made in relation to a Bill—
  - (a) by the Counsel General if the Counsel General has notified the Clerk that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has notified the Clerk that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has been approved as mentioned in subsection (2)(b) since the notification.

VALID FROM 01/04/2018

## 113 ECJ references **U.K.**

- (1) This section applies where—
  - (a) a reference has been made in relation to a Bill under section 112,
  - (b) a reference for a preliminary European Court ruling has been made by the Supreme Court in connection with that reference, and
  - (c) neither of those references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the Bill—
  - (a) the [<sup>F2</sup>Presiding Officer] must notify the Counsel General and the Attorney General of that fact, and
  - (b) the person who made the reference in relation to the Bill under section 112 must request the withdrawal of the reference.
- (3) In this section “a reference for a preliminary European Court ruling” means a reference of a question to the European Court under [<sup>F3</sup>Article 267 of the Treaty on the Functioning of the European Union] or Article 150 of the Treaty establishing the European Atomic Energy Community.

### Textual Amendments

- F2** Words in s. 113(2)(a) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 12\(2\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)

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**F3** Words in s. 113(3) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

#### Commencement Information

**I105** S. 113 in force at 5.5.2011 by [S.I. 2011/1011](#), **art. 3**

VALID FROM 05/05/2011

#### 114 Power to intervene in certain cases **U.K.**

- (1) This section applies if a Bill contains provisions which the Secretary of State has reasonable grounds to believe—
  - (a) would have an adverse effect on any matter which is not listed under any of the headings in Part 1 of Schedule 7 (or falls within any of the exceptions specified in that Part of that Schedule),
  - (b) might have a serious adverse impact on water resources in England, water supply in England or the quality of water in England,
  - (c) would have an adverse effect on the operation of the law as it applies in England, or
  - (d) would be incompatible with any international obligation or the interests of defence or national security.
- (2) The Secretary of State may make an order prohibiting the Clerk from submitting the Bill for Royal Assent.
- (3) The order must identify the Bill and the provisions in question and state the reasons for making the order.
- (4) The order may be made at any time during—
  - (a) the period of four weeks beginning with the passing of the Bill,
  - (b) any period of four weeks beginning with any subsequent approval of the Bill in accordance with provision included in the standing orders in compliance with section 111(7), or
  - (c) if a reference is made in relation to the Bill under section 112, the period of four weeks beginning with the reference being decided or otherwise disposed of by the Supreme Court.
- (5) The Secretary of State must not make an order in relation to a Bill if the Secretary of State has notified the Clerk that no order is to be made in relation to the Bill.
- (6) Subsection (5) does not apply if the Bill has been approved as mentioned in subsection (4)(b) since the notification.
- (7) An order in force under this section at a time when such approval is given ceases to have effect.
- (8) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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VALID FROM 05/05/2011

## 115 Royal Assent **U.K.**

- (1) It is for the Clerk to submit Bills for Royal Assent.
- (2) The Clerk may not submit a Bill for Royal Assent at any time when—
  - (a) the Attorney General or the Counsel General is entitled to make a reference in relation to the Bill under section 112,
  - (b) such a reference has been made but has not been decided or otherwise disposed of by the Supreme Court, or
  - (c) an order may be made in relation to the Bill under section 114.
- (3) The Clerk may not submit a Bill in its unamended form for Royal Assent if—
  - (a) the Supreme Court has decided on a reference made in relation to the Bill under section 112 that the Bill or any provision of it would not be within the Assembly's legislative competence, or
  - (b) a reference made in relation to the Bill under section 112 has been withdrawn following a request for withdrawal of the reference under section 113(2)(b).
- (4) A Bill receives Royal Assent when Letters Patent under the Welsh Seal signed with Her Majesty's own hand signifying Her Assent are notified to the Clerk.
- (5) The date of Royal Assent is to be written on the Act of the Assembly by the Clerk, and forms part of the Act.
- (6) The standing orders must include provision for notification by the Clerk to the Assembly of the date of Royal Assent to an Act of the Assembly.
- (7) The validity of an Act of the Assembly is not affected by any failure to comply with provision made by or by virtue of subsection (4), (5) or (6).

## 116 Welsh Seal and Letters Patent **U.K.**

- (1) There is to be a Welsh Seal.
- (2) The First Minister is to be the Keeper of the Welsh Seal.
- (3) Her Majesty may by Order in Council make provision as to—
  - (a) the form and manner of preparation, and
  - (b) the publication,of Letters Patent signed with Her Majesty's own hand signifying Her Assent to a Bill passed by the Assembly.
- (4) A statutory instrument containing an Order in Council under subsection (3) is subject to annulment in pursuance of a resolution of the Assembly.

### Commencement Information

**1106** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## PART 5 U.K.

### FINANCE

#### *Welsh Consolidated Fund*

#### 117 Welsh Consolidated Fund U.K.

- (1) There is to be a Welsh Consolidated Fund.
- (2) The Welsh Consolidated Fund is to be held with the Paymaster General.

#### *Payments into Welsh Consolidated Fund*

#### 118 Grants U.K.

- (1) The Secretary of State must from time to time make payments into the Welsh Consolidated Fund out of money provided by Parliament of such amounts as the Secretary of State may determine.
- (2) Any Minister of the Crown, and any government department, may make payments to the Welsh Ministers, the First Minister or the Counsel General of such amounts as may be determined by the Minister of the Crown or those responsible in the department.

#### 119 Statement of estimated payments U.K.

- (1) The Secretary of State must, for each financial year, make a written statement showing—
  - (a) the total amount of the payments which the Secretary of State estimates will be made for the financial year under section 118(1),
  - (b) the total amount of the payments which the Secretary of State estimates will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year by Ministers of the Crown and government departments, and
  - (c) the total amount of the payments which the Secretary of State estimates will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year otherwise than by a Minister of the Crown or government department.
- (2) A statement under this section must also include such other information as the Secretary of State considers appropriate.
- (3) A statement under this section for any financial year must also show the total amount which the Secretary of State for Wales proposes to expend for the financial year out of money provided by Parliament otherwise than on making payments into the Welsh Consolidated Fund.
- (4) A statement under this section for a financial year must include details of how the total amounts mentioned in subsections (1)(a), (b) and (c) and (3) have been arrived at.
- (5) A statement under this section for a financial year is to be made no later than four months before the beginning of the financial year.
- (6) The Secretary of State must lay before the Assembly each statement under this section.

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## 120 Destination of receipts **U.K.**

- (1) Any sum received by or on behalf of—
- (a) the Welsh Ministers, the First Minister or the Counsel General,
  - (b) the Assembly Commission,
  - (c) the Auditor General, or
  - (d) the Public Services Ombudsman for Wales,
- is to be paid into the Welsh Consolidated Fund (unless it is paid out of that Fund, and subject as follows); and this subsection applies in spite of provision contained in any other enactment unless the enactment provides expressly that any such sum is not to be paid into the Welsh Consolidated Fund.
- (2) If and to the extent that sums received as mentioned in subsection (1) are received in connection with resources—
- (a) which are within a category specified by resolution of the Assembly for the purposes of this subsection,
  - (b) which accrued to a person within subsection (1), and
  - (c) the retention of which by that person is authorised by a Budget resolution of the Assembly for the financial year in which the resources accrued,
- the sums may be retained for use for the services and purposes specified in a Budget resolution of the Assembly for the financial year in which they are received as services and purposes for which retained resources may be used.
- (3) The Treasury may, after consulting the Welsh Ministers, by order designate any description of sums received as mentioned in subsection (1).
- (4) The Welsh Ministers must make payments to the Secretary of State of sums equal to the total amount of sums of that description.
- (5) Payments by the Welsh Ministers under subsection (4) are to be made at such times, and by such methods, as the Treasury may from time to time determine.
- (6) Sums required for the making of the payments are to be charged on the Welsh Consolidated Fund.
- (7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In this Act “Budget resolution of the Assembly” means a resolution on an annual Budget motion (see section 125) or a supplementary Budget motion (see section 126).

### Modifications etc. (not altering text)

**C1** S. 120(3) restricted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\)](#), [ss. 26\(7\)](#), 30; [S.I. 2009/490](#), [art. 2](#) (with [art. 3](#))

### Commencement Information

**I107** [S. 120\(3\)\(7\)](#) in force immediately after "the 2007 election" by [s. 161\(1\)](#) (subject to [s. 161\(4\)\(5\)](#)); [s. 120\(1\)\(2\)\(4\)-\(6\)\(8\)](#) in force at 1.4.2007, see [s. 161\(3\)](#)

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## Borrowing

### 121 Borrowing by Welsh Ministers **U.K.**

- (1) The Welsh Ministers may borrow from the Secretary of State any amounts it appears to them are required by them for the purpose of—
  - (a) meeting a temporary excess of sums paid out of the Welsh Consolidated Fund over sums paid into that Fund, or
  - (b) providing a working balance in that Fund.
- (2) Amounts borrowed under this section must be repaid to the Secretary of State at such times and by such methods, and interest on such sums must be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (3) Sums required for the repayment of, or the payment of interest on, amounts borrowed under this section are to be charged on the Welsh Consolidated Fund.

### 122 Lending by Secretary of State **U.K.**

- (1) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as the Secretary of State needs for making loans under section 121.
- (2) The aggregate outstanding in respect of the principal of sums borrowed under that section must not exceed £500 million.
- (3) The Secretary of State may by order made with the consent of the Treasury substitute for the amount for the time being specified in subsection (2) such greater amount as is specified in the order.
- (4) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (5) Sums received by the Secretary of State under section 121(2) must be paid into the National Loans Fund.

### 123 Accounts relating to loans **U.K.**

- (1) The Secretary of State must for each financial year prepare accounts in such form and manner as the Treasury may direct of—
  - (a) loans made by the Secretary of State under section 121 or treated as made by paragraph 11(6) of Schedule 3 or paragraph 44(6) of Schedule 11, and
  - (b) repayments and payments of interest made to the Secretary of State in respect of those loans.
- (2) The Secretary of State must send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (3) The Comptroller and Auditor General must—
  - (a) examine, certify and report on accounts sent under subsection (2), and
  - (b) lay copies of the accounts, together with the report prepared under paragraph (a), before each House of Parliament.



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#### Commencement Information

**I108** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Expenditure

#### 124 Payments out of Welsh Consolidated Fund **U.K.**

- (1) A sum may only be paid out of the Welsh Consolidated Fund if—
  - (a) it has been charged on that Fund by any enactment, or
  - (b) its payment out is authorised or deemed to be authorised by a Budget resolution of the Assembly (see sections 125 to 128) for or in connection with either of the purposes mentioned in subsection (2),and an approval to draw the payment of the sum out of the Welsh Consolidated Fund is granted by the Auditor General (see section 129).
- (2) Those purposes are—
  - (a) meeting expenditure of a relevant person, and
  - (b) meeting expenditure payable pursuant to a relevant enactment.
- (3) For the purposes of this section and sections 125 to 128 the relevant persons are—
  - (a) the Welsh Ministers, the First Minister and the Counsel General,
  - (b) the Assembly Commission,
  - (c) the Auditor General, and
  - (d) the Public Services Ombudsman for Wales.
- (4) For the purposes of this section and sections 125 to 128 a relevant enactment is an enactment which provides for payment out of the Welsh Consolidated Fund.
- (5) This section does not apply to sums paid out of the Welsh Consolidated Fund by virtue of section 130.
- (6) Any enactment which—
  - (a) charges the payment of sums on the Consolidated Fund or requires or authorises the payment of any sum from the Consolidated Fund, or
  - (b) requires or authorises the payment of sums out of money provided by Parliament,does not have effect if the sums are payable by any of the relevant persons.

#### 125 Annual Budget motions **U.K.**

- (1) For each financial year there is to be moved in the Assembly a motion (referred to in this Act as an “annual Budget motion”) for the purpose of authorising—
  - (a) the amount of resources which may be used in the financial year by the relevant persons, or pursuant to a relevant enactment, for the services and purposes specified in the motion,
  - (b) the amount of resources accruing to the relevant persons in the financial year which may be retained by them to be used for the services and purposes so specified (rather than being paid into the Welsh Consolidated Fund), and

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- (c) the amount which may be paid out of the Welsh Consolidated Fund in the financial year to the relevant persons, or for use pursuant to a relevant enactment, for the services and purposes so specified.
- (2) An annual Budget motion may only be moved by the First Minister or a Welsh Minister appointed under section 48.
- (3) An annual Budget motion must be accompanied by a written statement made by the Welsh Ministers showing—
  - (a) the total amount of the payments which they estimate will be made for the financial year under section 118(1),
  - (b) the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year by Ministers of the Crown and government departments, and
  - (c) the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year otherwise than by a Minister of the Crown or government department.
- (4) In this Act a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

## 126 Supplementary Budget motions **U.K.**

- (1) For any financial year there may be moved in the Assembly one or more motions (referred to in this Act as a “supplementary Budget motion”) for either or both of the purposes specified in subsections (2) and (3).
- (2) A supplementary Budget motion may approve a variation in any one or more of the following—
  - (a) the amount of resources authorised to be used in the financial year by a relevant person, or pursuant to a relevant enactment, for any service or purpose,
  - (b) the amount of resources accruing to a relevant person in the financial year and authorised to be retained by that person to be used for any service or purpose, and
  - (c) the amount authorised to be paid out of the Welsh Consolidated Fund in the financial year to a relevant person, or for use pursuant to a relevant enactment, for any service or purpose.
- (3) A supplementary Budget motion may authorise any one or more of the following—
  - (a) the amount of resources which may be used in the financial year by a relevant person, or pursuant to a relevant enactment, for a service or purpose specified in the motion,
  - (b) the amount of resources accruing to a relevant person in the financial year which may be retained by that person to be used for a service or purpose so specified, and
  - (c) the amount which may be paid out of the Welsh Consolidated Fund in the financial year to a relevant person, or for use pursuant to a relevant enactment, for a service or purpose so specified.
- (4) A supplementary Budget motion for any financial year may be expressed to have effect from a time before it is made; but that time may not be earlier than—

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- (a) the date on which the last supplementary Budget motion for the financial year was passed, or
  - (b) (if none has) the date on which the annual Budget motion for the financial year was passed.
- (5) A supplementary Budget motion may only be moved by the First Minister or a Welsh Minister appointed under section 48.

VALID FROM 11/11/2010

**[<sup>F4</sup>126A Inclusion in Budget motions of resources used by designated bodies U.K.]**

- (1) A Budget motion for a financial year may include information relating to resources expected to be used by any body that is a designated body in relation to a relevant person.
- (2) For the purposes of this section a body is a “designated” body in relation to a relevant person if—
  - (a) it is designated in relation to the relevant person by an order made by the Welsh Ministers, or
  - (b) it falls within a description of body designated in relation to the relevant person by such an order.
- (3) A body, or a description of body, may be designated in relation to a relevant person for a particular financial year or generally.
- (4) If the Welsh Ministers expect the use of resources by a body in a financial year to involve payments out of a relevant Consolidated Fund to or for the benefit of the body, they may not make an order under which the body would be a designated body for the year unless the Treasury have consented to the making of the order.
- (5) “A relevant Consolidated Fund” means—
  - (a) the Consolidated Fund of the United Kingdom,
  - (b) the Scottish Consolidated Fund, or
  - (c) the Consolidated Fund of Northern Ireland.
- (6) The Welsh Ministers must, where they think it appropriate, consult the Treasury before designating a body or a description of body.
- (7) In determining for any purpose whether a body has a particular relationship with a relevant person (for example, whether it is controlled by, or otherwise dependent on, the person), the following must be disregarded—
  - (a) the fact that the provisions of a Budget motion relating to the relevant person in respect of a financial year include information relating to the body, and
  - (b) the fact that the relevant person's accounts for a financial year prepared under this or any other Act include information relating to the body.
- (8) An order under subsection (2) is to be made by statutory instrument.
- (9) A statutory instrument containing an order under that subsection is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (10) But subsection (9) does not apply if a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.]

#### Textual Amendments

- F4** S. 126A inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), **ss. 44(2)**, **52(2)**; [S.I. 2010/2703](#), **art. 2(c)**

### 127 Appropriation without Budget resolution **U.K.**

- (1) If a Budget resolution for a financial year is not passed before the beginning of the financial year, the following are deemed to have been authorised by a Budget resolution of the Assembly for that year—
- (a) the use in the year for any service or purpose of the relevant percentage of the amount of the resources authorised to be used in the preceding financial year for the service or purpose,
  - (b) the retention in the year for use for any service or purpose of the relevant percentage of the amount of the resources authorised to be retained in the previous financial year for use for the service or purpose, and
  - (c) the payment out of the Welsh Consolidated Fund in the year for any service or purpose of the relevant percentage of the amount authorised to be paid out of the Fund in the previous financial year for the service or purpose.
- (2) “The relevant percentage” is—
- (a) where a Budget resolution for the financial year is not passed before the end of July in the financial year, 95%, and
  - (b) otherwise, 75%.

#### Commencement Information

- I109** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

### 128 Contingencies **U.K.**

- (1) This section applies where it is proposed—
- (a) that resources be used in any financial year by any of the relevant persons, or pursuant to a relevant enactment, otherwise than as authorised by virtue of sections 125 to 127, or
  - (b) that amounts be paid out of the Welsh Consolidated Fund in the year to the relevant persons, or for use pursuant to a relevant enactment, otherwise than as authorised by virtue of those sections.
- (2) The resources may be so used, or the amounts may be so issued, only with the authority of the Welsh Ministers.
- (3) The Welsh Ministers may authorise the use of resources, or the payment of amounts, only if they consider that—

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- (a) the use of the resources, or the payment of the amounts, is necessary in the public interest, and
  - (b) it is not reasonably practicable, for reasons of urgency, for a motion to be moved under section 125 or 126 to authorise the use of the resources or the payment of the amounts.
- (4) The aggregate amount of resources which the Welsh Ministers may at any time authorise to be used under this section by any person, or pursuant to any enactment, in any financial year must not exceed 0.5% of—
- (a) the aggregate amount of the resources which, at the time, have been authorised by virtue of sections 125 and 126 to be used by that person, or pursuant to that enactment, in that financial year, or
  - (b) (if none have) the aggregate amount of the resources which were so authorised to be used by that person, or pursuant to that enactment, in the immediately preceding financial year.
- (5) The aggregate amount which the Welsh Ministers may at any time authorise to be paid out of the Welsh Consolidated Fund under this section to any person, or for use pursuant to any enactment, in any financial year must not exceed 0.5% of—
- (a) the aggregate of the amounts which, at the time, have been authorised by virtue of sections 125 and 126 to be paid to that person, or for use pursuant to that enactment, in that financial year, or
  - (b) (if none have) the aggregate of the amounts which were so authorised to be paid to that person, or for use pursuant to that enactment, in the immediately preceding financial year.
- (6) The use of resources, or the payment of amounts, authorised by the Welsh Ministers in accordance with this section is deemed to have been authorised by a Budget resolution of the Assembly.
- (7) Where the Welsh Ministers authorise the use of resources or the payment of amounts under this section, they must, as soon as possible, lay before the Assembly a report setting out—
- (a) the resources authorised to be used or the amounts authorised to be paid,
  - (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
  - (c) why they considered it to be necessary to authorise the use of the resources, or the payment of the amounts, under this section.

## 129 Approvals to draw **U.K.**

- (1) The Auditor General must grant approvals to draw payments out of the Welsh Consolidated Fund from time to time at the request of the Welsh Ministers.
- (2) An approval to draw may only be granted if, in the Auditor General's opinion, the proposed payment out of the Welsh Consolidated Fund would comply with section 124.
- (3) A request for the grant of an approval to draw is to be made in any manner which the Welsh Ministers, with the approval of the Auditor General, decide to adopt.
- (4) Where an approval to draw is granted the Paymaster General must make the funds available to the Welsh Ministers, the First Minister, the Counsel General, the Assembly

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Commission, the Auditor General or the Public Services Ombudsman for Wales (as appropriate).

- (5) The Paymaster General must make available to—
- (a) the Auditor General, and
  - (b) the principal accounting officer for the Welsh Ministers,
- a daily statement regarding all the issues made out of the Welsh Consolidated Fund in respect of sums charged on that Fund and other payments out of it.
- (6) For the purposes of this Act the principal accounting officer for the Welsh Ministers is the Permanent Secretary to the Welsh Assembly Government.
- (7) But the Treasury may designate another member of the staff of the Welsh Assembly Government to be the principal accounting officer for the Welsh Ministers if and for so long as—
- (a) the Permanent Secretary to the Welsh Assembly Government is incapable of discharging the responsibilities of principal accounting officer for the Welsh Ministers, or
  - (b) the office of Permanent Secretary to the Welsh Assembly Government is vacant.
- (8) In this section “Permanent Secretary to the Welsh Assembly Government” means the person appointed in accordance with section 52 to be the head of the staff of the Welsh Assembly Government (whether or not that person is known by the title of Permanent Secretary to the Welsh Assembly Government).

### 130 Payments in by mistake **U.K.**

Where a sum is paid into the Welsh Consolidated Fund which should not or need not have been paid into the Fund, the Auditor General may grant an approval to draw a payment equal to the amount of that sum out of the Fund.

#### Commencement Information

**I110** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Financial accountability of Welsh Ministers*

### 131 Welsh Ministers' accounts **U.K.**

- (1) The Welsh Ministers must, for each financial year, prepare accounts in accordance with directions given to them by the Treasury.
- (2) The accounts must include details of the financial affairs and transactions of the Counsel General.
- (3) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Welsh Ministers.
- (4) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—

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- (a) the financial affairs and transactions to which the accounts are to relate,
  - (b) the information to be contained in the accounts and the manner in which it is to be presented,
  - (c) the methods and principles in accordance with which the accounts are to be prepared, and
  - (d) the additional information (if any) that is to accompany the accounts.
- (5) Any accounts which the Welsh Ministers are directed under this section to prepare for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (6) The Auditor General must—
  - (a) examine and certify any accounts submitted under this section, and
  - (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (7) In examining accounts submitted under this section, the Auditor General must, in particular, be satisfied—
  - (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.
- (8) Where—
  - (a) by virtue of any enactment other than this section the Welsh Ministers are under an obligation to prepare accounts dealing with any matters, and
  - (b) it appears to the Treasury that those matters fall to be dealt with in accounts directed to be prepared under this section,the Treasury may relieve the Welsh Ministers of that obligation for or in respect of such periods as the Treasury may direct.

#### **Commencement Information**

**III1** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### **132 Account relating to Welsh Consolidated Fund U.K.**

- (1) The Welsh Ministers must, for each financial year, prepare an account of the payments into and out of the Welsh Consolidated Fund.
- (2) The account must be prepared in accordance with directions given to the Welsh Ministers by the Treasury.
- (3) The directions which the Treasury may give under subsection (2) include, in particular, directions as to—
  - (a) the information to be contained in the account and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the account is to be prepared, and
  - (c) the additional information (if any) that is to accompany the account.



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- (4) Any account which the Welsh Ministers are directed under this section to prepare for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (5) The Auditor General must—
  - (a) examine and certify any account submitted under this section, and
  - (b) no later than four months after the account is submitted, lay before the Assembly a copy of it as certified by the Auditor General together with the Auditor General's report on it.
- (6) In examining an account submitted under this section the Auditor General must, in particular, be satisfied—
  - (a) that any payment out of the Welsh Consolidated Fund to which the account relates was paid out in compliance with section 124 or 130, and
  - (b) that money which is required to be paid into the Welsh Consolidated Fund has been paid into that Fund.

#### Commencement Information

**I112** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 133 Accounting officers for Welsh Ministers **U.K.**

- (1) The principal accounting officer for the Welsh Ministers has—
  - (a) in relation to the accounts of the Welsh Ministers and the finances of the Welsh Ministers and the Counsel General, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,
 the responsibilities which are from time to time specified by the Treasury.
- (2) The principal accounting officer for the Welsh Ministers may designate other members of the staff of the Welsh Assembly Government as additional accounting officers.
- (3) An additional accounting officer has, in relation to such of the accounts of the Welsh Ministers and the finances of the Welsh Ministers and the Counsel General as may be specified by the principal accounting officer for the Welsh Ministers, the responsibilities which are from time to time specified by the principal accounting officer for the Welsh Ministers.

#### Commencement Information

**I113** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 134 Accounts of subsidiaries of Welsh Ministers **U.K.**

- (1) For the purposes of the examination by the Auditor General of any accounts of the Welsh Ministers the Auditor General—
  - (a) has a right of access at all reasonable times to every document relating to the accounts of any subsidiary of the Welsh Ministers (whether or not the

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- accounts of the Welsh Ministers being examined relate to the financial affairs and transactions of the subsidiary),
- (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which the Auditor General reasonably thinks necessary for those purposes, and
  - (c) may require any subsidiary of the Welsh Ministers to provide the Auditor General at times specified by the Auditor General with accounts of such of the subsidiary's transactions as the Auditor General may specify.
- (2) The Treasury may, by directions given to a subsidiary of the Welsh Ministers, require the subsidiary to include in any accounts which the subsidiary prepares (under, for example, the law relating to companies or charities) such additional information as may be specified in the directions.
  - (3) The inclusion of information in any accounts in compliance with such directions does not constitute a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
  - (4) In this section “subsidiary of the Welsh Ministers” means—
    - (a) any body corporate or other undertaking in relation to which, if the Welsh Ministers were an undertaking, the Welsh Ministers would be a parent undertaking,
    - (b) any trust of which the Welsh Ministers are settlors, or
    - (c) any charitable institution of which the Welsh Ministers are founders but which is neither a body corporate nor a trust.
  - (5) For the purposes of subsection (4)(a)—
 

“undertaking” has the meaning given by [F5section 1161(1) of the Companies Act 2006], and

“parent undertaking” is to be construed in accordance with [F6section 1162] of that Act.

#### Textual Amendments

**F5** Words in s. 134(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), [Sch. 1 para. 243\(2\)](#) (with arts. 6, 11, 12)

**F6** Words in s. 134(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), [Sch. 1 para. 243\(2\)](#) (with arts. 6, 11, 12)

#### Commencement Information

**I114** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 135 Examinations into Welsh Ministers' use of resources **U.K.**

- (1) The Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the Welsh Ministers and the Counsel General have used their resources in discharging their functions.
- (2) Subsection (1) does not entitle the Auditor General to question the merits of the policy objectives of the Welsh Ministers or the Counsel General.

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- (3) In determining how to exercise functions under this section the Auditor General must take into account the views of the Audit Committee as to the examinations to be carried out under this section.
- (4) The Auditor General may lay before the Assembly a report of the results of any examination carried out under this section.

#### Commencement Information

**I115** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 136 Examinations by Comptroller and Auditor General **U.K.**

- (1) The Comptroller and Auditor General may carry out examinations into the payments into and out of the Welsh Consolidated Fund.
- (2) The Comptroller and Auditor General may report the results of any examination carried out under subsection (1) to the House of Commons.
- (3) If a report is made under subsection (2), the Comptroller and Auditor General must at the same time lay a report of the results of the examination before the Assembly.
- (4) For the purpose of enabling examinations under subsection (1) to be carried out the Comptroller and Auditor General—
  - (a) has a right of access at all reasonable times to all such documents in the custody or under the control of any of the persons mentioned in subsection (5) as the Comptroller and Auditor General may reasonably require for that purpose, and
  - (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which the Comptroller and Auditor General reasonably thinks necessary for that purpose.
- (5) The persons referred to in subsection (4) are—
  - (a) the Welsh Ministers and the Counsel General,
  - (b) the Assembly Commission,
  - (c) any other person audited by the Auditor General other than a Welsh NHS body (within the meaning given in section 60 of the Public Audit (Wales) Act 2004 (c. 23)), and
  - (d) the Auditor General.
- (6) Before carrying out an examination under subsection (1) or acting in reliance on subsection (4) the Comptroller and Auditor General must—
  - (a) consult the Auditor General, and
  - (b) take into account any relevant work done or being done by the Auditor General.

#### Commencement Information

**I116** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Financial accountability of Assembly Commission*

#### **137 Assembly Commission's accounts** U.K.

- (1) The Assembly Commission must, for each financial year, prepare accounts in accordance with directions given to it by the Treasury.
- (2) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Assembly Commission.
- (3) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—
  - (a) the financial affairs and transactions to which the accounts are to relate,
  - (b) the information to be contained in the accounts and the manner in which it is to be presented,
  - (c) the methods and principles in accordance with which the accounts are to be prepared, and
  - (d) the additional information (if any) that is to accompany the accounts.
- (4) Any accounts which the Assembly Commission is directed under this section to prepare for any financial year must be submitted by the Assembly Commission to the Auditor General no later than 30th November in the following financial year.
- (5) The Auditor General must—
  - (a) examine and certify any accounts submitted under this section, and
  - (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (6) In examining accounts submitted under this section the Auditor General must, in particular, be satisfied—
  - (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received by the Assembly Commission for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.

#### **Commencement Information**

**I117** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### **138 Accounting officers for Assembly Commission** U.K.

- (1) For the purposes of this Act the principal accounting officer for the Assembly Commission is the Clerk.
- (2) But the Treasury may designate another member of the staff of the Assembly to be the principal accounting officer for the Assembly Commission if and for so long as—
  - (a) the Clerk is incapable of discharging the responsibilities of the principal accounting officer for the Assembly Commission, or
  - (b) the office of Clerk is vacant.

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- (3) The principal accounting officer for the Assembly Commission has—
- (a) in relation to the Assembly Commission's accounts and finances, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,
- the responsibilities which are from time to time specified by the Treasury.
- (4) The principal accounting officer for the Assembly Commission may designate other members of the staff of the Assembly as additional accounting officers.
- (5) An additional accounting officer has, in relation to such of the Assembly Commission's accounts and finances as may be specified by the principal accounting officer for the Assembly Commission, the responsibilities which are from time to time specified by the principal accounting officer for the Assembly Commission.

#### Commencement Information

**I118** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 139 Accounts of subsidiaries of Assembly Commission **U.K.**

- (1) For the purposes of the examination by the Auditor General of any accounts of the Assembly Commission the Auditor General—
- (a) has a right of access at all reasonable times to every document relating to the accounts of any subsidiary of the Assembly Commission (whether or not the accounts of the Assembly Commission being examined relate to the financial affairs and transactions of the subsidiary),
  - (b) is entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which the Auditor General reasonably thinks necessary for those purposes, and
  - (c) may require any subsidiary of the Assembly Commission to provide the Auditor General at times specified by the Auditor General with accounts of such of the subsidiary's transactions as the Auditor General may specify.
- (2) The Treasury may, by directions given to a subsidiary of the Assembly Commission, require the subsidiary to include in any accounts which the subsidiary prepares (under, for example, the law relating to companies or charities) such additional information as may be specified in the directions.
- (3) The inclusion of information in any accounts in compliance with such directions does not constitute a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
- (4) In this section “subsidiary of the Assembly Commission” means—
- (a) any body corporate or other undertaking in relation to which the Assembly Commission is a parent undertaking,
  - (b) any trust of which the Assembly Commission is settlor, or
  - (c) any charitable institution of which the Assembly Commission is founder but which is neither a body corporate nor a trust.
- (5) For the purposes of subsection (4)(a)—

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“undertaking” has the meaning given by [F7section 1161(1) of the Companies Act 2006], and

“parent undertaking” is to be construed in accordance with [F8section 1162] of that Act.

#### Textual Amendments

- F7** Words in s. 139(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(3)** (with arts. 6, 11, 12)
- F8** Words in s. 139(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(3)** (with arts. 6, 11, 12)

#### Commencement Information

- I119** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 140 Examinations into Assembly Commission's use of resources **U.K.**

- (1) The Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the Assembly Commission has used its resources in discharging its functions.
- (2) Subsection (1) does not entitle the Auditor General to question the merits of the policy objectives of the Assembly Commission.
- (3) In determining how to exercise functions under this section the Auditor General must take into account the views of the Audit Committee as to the examinations to be carried out under this section.
- (4) The Auditor General may lay before the Assembly a report of the results of any examination carried out under this section.

#### Commencement Information

- I120** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Whole of Government of Wales accounts*

### 141 Whole of government accounts: Welsh Ministers **U.K.**

- (1) This section applies in respect of a financial year for which the Treasury make arrangements with the Welsh Ministers under section 10(8) of the Government Resources and Accounts Act 2000 (c. 20) (whole of government accounts: consolidation of Welsh accounts).
- (2) The Welsh Ministers must prepare a set of accounts for the group of bodies which provide information to the Welsh Ministers in accordance with the arrangements under section 10(8).
- (3) Accounts prepared under this section may include information referring wholly or partly to activities which—
  - (a) are not activities of bodies falling within subsection (2), but



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- (b) appear to the Welsh Ministers to be activities of a public nature.
- (4) The accounts must contain such information in such form as the Treasury may direct.
- (5) The Treasury must exercise the power under subsection (4) with a view to ensuring that the accounts—
  - (a) present a true and fair view, and
  - (b) conform to generally accepted accounting practice subject to such adaptations as are necessary in the context.
- (6) For the purposes of subsection (5)(a) and (b) the Treasury must in particular—
  - (a) have regard to any relevant guidance issued by the Accounting Standards Board Limited or any other body prescribed for the purposes of [F9 section 464 of the Companies Act 2006](accounting standards) or to international accounting standards (as defined in section 262 of that Act), and
  - (b) require the accounts to include, subject to paragraph (a), a statement of financial performance, a statement of financial position and a cash flow statement.
- (7) Any accounts which the Welsh Ministers are required to prepare under this section for any financial year must be submitted by the Welsh Ministers to the Auditor General no later than 30th November in the following financial year.
- (8) But the Welsh Ministers may by order substitute another date for the date for the time being specified in subsection (7).
- (9) No order may be made under subsection (7) unless the Welsh Ministers have consulted—
  - (a) the Treasury, and
  - (b) the Auditor General.
- (10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

**F9** Words in s. 141(6)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 243(4)** (with arts. 6, 11, 12)

#### Commencement Information

**I121** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 142 Functions of Auditor General **U.K.**

- (1) The Auditor General must examine accounts submitted under section 141 with a view to being satisfied that they present a true and fair view.
- (2) Where the Auditor General has conducted an examination of accounts under subsection (1), the Auditor General must—
  - (a) certify them and issue a report, and
  - (b) no later than four months after the accounts are submitted, lay before the Assembly a copy of them as certified by the Auditor General together with the Auditor General's report on them.



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- (3) A person who acts as auditor for the purposes of section 10(2)(c) or (8)(c) of the Government Resources and Accounts Act 2000 (c. 20) must give the Auditor General such information and explanations as the Auditor General may reasonably require for the purposes of this section.

#### Commencement Information

**I122** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Treatment of accounts and audit reports etc.*

### 143 Audit Committee reports **U.K.**

- (1) The Audit Committee may consider, and lay before the Assembly a report on, any accounts, statement of accounts or report laid before the Assembly by—
- (a) the Auditor General, or
  - (b) the auditor appointed under paragraph 14 of Schedule 8 (auditor of Auditor General's accounts).
- (2) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from any of the persons mentioned in subsection (3), and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (3) The persons referred to in subsection (2)(a) are—
- (a) the principal accounting officer for the Welsh Ministers,
  - (b) the principal accounting officer for the Assembly Commission, and
  - (c) additional accounting officers designated under section 133 or 138.

#### Commencement Information

**I123** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 144 Publication of accounts and audit reports etc. **U.K.**

- (1) The Assembly must publish a document to which this subsection applies as soon after the document is laid before the Assembly as is reasonably practicable.
- (2) The documents to which subsection (1) applies are—
- (a) any accounts, statement of accounts or report laid before the Assembly by the Auditor General,
  - (b) any accounts or report laid before the Assembly by the auditor appointed under paragraph 14 of Schedule 8, and
  - (c) any report or estimate laid before the Assembly by the Audit Committee under section 143(1) or paragraph 12(3) of Schedule 8.

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**Commencement Information**

**I124** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Auditor General for Wales*

**145 Auditor General** **U.K.**

- (1) There is to be an office of Auditor General for Wales or Archwilydd Cyffredinol Cymru (referred to in this Act as “the Auditor General”).
- (2) For provision about the Auditor General see Schedule 8.
- (3) The Welsh Ministers must co-operate with the Auditor General where it seems to them appropriate to do so for the efficient and effective discharge of their functions in relation to Welsh NHS bodies.
- (4) “Welsh NHS bodies” has the meaning given by section 60 of the Public Audit (Wales) Act 2004 (c. 23).

**Commencement Information**

**I125** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 6** **U.K.**

MISCELLANEOUS AND SUPPLEMENTARY

*Welsh public records*

**146 Status of Welsh public records** **U.K.**

- (1) Welsh public records are not public records for the purposes of the Public Records Act 1958 (c. 51).
- (2) But that Act has effect in relation to Welsh public records (as if they were public records for the purpose of that Act) until an order under section 147 imposes a duty to preserve them on the Welsh Ministers (or a member of the staff of the Welsh Assembly Government).
- (3) Subsection (2) applies to Welsh public records whether or not, apart from subsection (1), they would be public records for the purposes of the Public Records Act 1958.

**Commencement Information**

**I126** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status:* Point in time view as at 10/04/2008. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Government of Wales Act 2006 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 147 Transfer of responsibility **U.K.**

- (1) The Lord Chancellor may by order make provision—
  - (a) imposing or conferring on the Welsh Ministers (or a member of the staff of the Welsh Assembly Government) functions relating to Welsh public records (including, in particular, functions of preserving them and of making them available for inspection by the public), and
  - (b) imposing on persons responsible for Welsh public records duties relating to the selection of such records for permanent preservation, the safe-keeping of such records and their transfer to a place specified in, or appointed under, the order.
- (2) An order under this section may (in particular) make in relation to Welsh public records provision analogous to that made by the Public Records Act 1958 (c. 51) in relation to records which are public records for the purposes of that Act.
- (3) An order under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as the Lord Chancellor considers appropriate in connection with the provision made by the order.
- (4) An order under this section which imposes on the Welsh Ministers (or a member of the staff of the Welsh Assembly Government) a duty to preserve Welsh public records, or Welsh public records of a particular description, must include provision for the Lord Chancellor to make such arrangements as appear appropriate for the transfer of Welsh public records, or Welsh public records of that description, which are in—
  - (a) the Public Record Office, or
  - (b) a place of deposit appointed under the Public Records Act 1958,to a place specified in, or appointed under, the order.
- (5) No order is to be made under this section unless the Lord Chancellor has consulted the Welsh Ministers.
- (6) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

**I127** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 148 Meaning of “Welsh public records” **U.K.**

- (1) The following are Welsh public records—

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**Status:** Point in time view as at 10/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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- (a) administrative and departmental records belonging to Her Majesty which are records of the Welsh Assembly Government,
  - (b) administrative and departmental records of the Auditor General,
  - (c) administrative and departmental records belonging to Her Majesty which are records of or held in any government department which is wholly or mainly concerned with Welsh affairs,
  - (d) administrative and departmental records belonging to Her Majesty which are records of any office, commission or other body or establishment under Her Majesty's Government which is wholly or mainly concerned with Welsh affairs in a field or fields in which the Welsh Ministers have functions, or the First Minister or the Counsel General has functions,
  - (e) administrative and departmental records of the bodies and establishments specified in subsection (2) (but not records of health service hospitals in Wales which are of the descriptions excepted from being public records for the purposes of the Public Records Act 1958 (c. 51) in the case of health service hospitals in England), and
  - (f) any other description of records (other than records of the Assembly or the Assembly Commission or records of any court or tribunal or held in any department of the Senior Courts) which is specified by order made by the Lord Chancellor.
- (2) The bodies and establishments referred to in subsection (1)(e) are—
- (a) the Care Council for Wales,
  - (b) the Countryside Council for Wales,
  - (c) the Curriculum and Assessment Authority for Wales,
  - (d) Family Practitioner Committees for localities in Wales,
  - (e) the Further Education Funding Council for Wales,
  - (f) the General Teaching Council for Wales,
  - (g) health service hospitals, within the meaning of the [<sup>F10</sup>National Health Service (Wales) Act 2006], in Wales,
  - (h) the Higher Education Funding Council for Wales,
  - (i) the Local Government Boundary Commission for Wales,
  - (j) the National Council for Education and Training for Wales,
  - (k) National Health Service Authorities for districts or localities in Wales, or for areas in or consisting of Wales, including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales,
  - (l) the Qualifications, Curriculum and Assessment Authority for Wales,
  - (m) the Wales Centre for Health, and
  - (n) the Welsh Board of Health.
- (3) An order under subsection (1)(f) may be made in relation to a description of records—
- (a) which (immediately before the order is made) are public records for the purposes of the Public Records Act 1958, or
  - (b) which (at that time) are not public records for those purposes.
- (4) No order under subsection (1)(f) may be made—
- (a) in relation to records within paragraph (a) of subsection (3), unless the Lord Chancellor has consulted the Welsh Ministers, and
  - (b) in relation to records within paragraph (b) of that subsection, without the agreement of the Welsh Ministers.

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- (5) A statutory instrument containing an order under subsection (1)(f) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “records” includes—
- (a) written records, and
  - (b) records conveying information by any other means.

#### Textual Amendments

**F10** Words in s. 148(2)(g) substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 303](#) (with [Sch. 3 Pt. 1](#))

#### Commencement Information

**I128** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Miscellaneous

#### 149 Resolution of devolution issues **U.K.**

For provision about the resolution of devolution issues see Schedule 9.

#### Commencement Information

**I129** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### 150 Power to make consequential provision **U.K.**

- (1) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of—
- (a) any provision made by an Assembly Measure or Act of the Assembly,
  - (b) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly,
  - (c) any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General, or
  - (d) any provision of subordinate legislation made, or purporting to be made, by any other person (not being a Minister of the Crown) in the exercise of a function conferred or imposed by Act of Parliament where the statutory instrument (or a draft of the statutory instrument) containing the subordinate legislation is required to be laid before the Assembly.
- (2) An order under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as the Secretary of State considers appropriate.
- (3) An order under this section may not make provision with respect to matters within the legislative competence of the Scottish Parliament.

*Status: Point in time view as at 10/04/2008. This version of this Act contains provisions that are not valid for this point in time.*

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- (4) An order under this section may make provision having retrospective effect.
- (5) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In subsection (1) “made” includes confirmed or approved.

**Commencement Information**

**I130** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**151 Power to remedy ultra vires acts** **U.K.**

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers appropriate in consequence of—
  - (a) an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, which is not, or may not be, within the Assembly's legislative competence, or
  - (b) any purported exercise by any person of a function conferred or imposed by or under an Assembly Measure or Act of the Assembly which is not, or may not be, an exercise or proper exercise of that function.
- (2) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
 as Her Majesty considers appropriate.
- (3) An Order in Council under this section may make provision having retrospective effect.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I131** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status:* Point in time view as at 10/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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## 152 Intervention in case of functions relating to water etc. **U.K.**

- (1) This section applies where it appears to the Secretary of State that the exercise of a relevant function (or the failure to exercise a relevant function) in any particular case might have a serious adverse impact on—
  - (a) water resources in England,
  - (b) water supply in England, or
  - (c) the quality of water in England.
- (2) The Secretary of State may intervene under this paragraph in that case, so that—
  - (a) the Secretary of State may in that case exercise the function, and
  - (b) the person or persons on whom the function is conferred or imposed may not in that case exercise the function.
- (3) “Relevant function” means—
  - (a) a function conferred or imposed on any person by or under an Assembly Measure or Act of the Assembly, or
  - (b) a function which is not so conferred or imposed but is exercisable by the Welsh Ministers, the First Minister or the Counsel General.
- (4) An intervention by the Secretary of State under this section in relation to a function is to be made by giving notice to the person or persons on whom it is conferred or imposed.
- (5) The notice—
  - (a) must state the reason for the Secretary of State's intervention,
  - (b) may make provision about the effect of any steps previously taken by the person or persons on whom the function is conferred or imposed, and
  - (c) may extend the time for the taking of any steps by the Secretary of State or any other person (even if the time for taking them would otherwise have expired before the notice is given).
- (6) Where an intervention has been made under this section in a case, the Secretary of State must, in addition to the notice under subsection (4), give notice to—
  - (a) any person who has previously been given notice of any steps taken, or proposed to be taken, in the case,
  - (b) the Environment Agency, if concerned in the case, and
  - (c) any water undertaker or sewerage undertaker concerned in the case.

### Commencement Information

**I132** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 153 Power to vary retrospective decisions **U.K.**

- (1) This section applies where any court or tribunal decides—
  - (a) that an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, is outside the Assembly's legislative competence,



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- (b) that any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly is outside the powers under which it was, or purported to be, made, or
  - (c) that any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General is outside the powers under which it was, or purported to be, made.
- (2) The court or tribunal may make an order—
- (a) removing or limiting any retrospective effect of the decision, or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In determining whether to make an order under this section, the court or tribunal must (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected by the decision.
- (4) Where a court or tribunal is considering whether to make an order under this section, it must order notice (or intimation) of that fact to be given to the persons specified in subsection (5) (unless a party to the proceedings).
- (5) The persons mentioned in subsection (4) are—
- (a) in relation to proceedings in England and Wales, the Attorney General and the Counsel General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.
- (6) A person to whom notice (or intimation) is given in pursuance of subsection (4) may take part as a party in the proceedings, so far as they relate to the making of the order.
- (7) In deciding any question as to costs or expenses, the court or tribunal may—
- (a) take account of any additional expense which it considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of subsection (6), and
  - (b) award the whole or part of the additional expense as costs or expenses to the party who incurred it (whether or not it makes an order under this section and whatever the terms of any such order it does make).
- (8) Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this section including, in particular, provision for determining the manner in which and the time within which any notice (or intimation) is to be given.
- (9) In subsection (1) “made” includes confirmed or approved.

#### Commencement Information

**I133** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 154 Interpretation of legislation **U.K.**

- (1) This section applies to—

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- (a) any provision of an Assembly Measure, or proposed Assembly Measure, which could be read in such a way as to be outside the Assembly's legislative competence,
  - (b) any provision of an Act of the Assembly, or a Bill for such an Act, which could be read in such a way as to be outside the Assembly's legislative competence, and
  - (c) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly which could be read in such a way as to be outside the powers under which it was, or purported to be, made.
- (2) The provision is to be read as narrowly as is required for it to be within competence or within the powers, if such a reading is possible, and is to have effect accordingly.
- (3) In subsection (1)(c) “made” includes confirmed or approved.

#### Commencement Information

**I134** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 155 Functions exercisable in relation to Wales **U.K.**

- (1) Her Majesty may by Order in Council specify functions which are to be treated for such purposes of this Act as may be specified in the Order in Council—
- (a) as being, or as not being, functions which are exercisable by the Welsh Ministers, the First Minister or the Counsel General, or
  - (b) as being, or as not being, functions which are exercisable in relation to Wales.
- (2) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I135** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 156 English and Welsh texts of legislation **U.K.**

- (1) The English and Welsh texts of—
- (a) any Assembly Measure or Act of the Assembly which is in both English and Welsh when it is enacted, or
  - (b) any subordinate legislation which is in both English and Welsh when it is made,
- are to be treated for all purposes as being of equal standing.
- (2) The Welsh Ministers may by order provide in respect of any Welsh word or phrase that, when it appears in the Welsh text of any Assembly Measure or Act of the Assembly, or any subordinate legislation made under an Assembly Measure or Act of the Assembly or by the Welsh Ministers, it is to be taken as having the same meaning as the English word or phrase specified in relation to it in the order.
- (3) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

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- (4) An Assembly Measure or Act of the Assembly, or any subordinate legislation made under an Assembly Measure or Act of the Assembly or by the Welsh Ministers, is to be construed in accordance with any order under subsection (2); but this is subject to anything to the contrary contained in the Assembly Measure, Act of the Assembly or subordinate legislation.
- (5) This section applies in relation to subordinate legislation made by the First Minister or the Counsel General as in relation to subordinate legislation made by the Welsh Ministers.

#### Commencement Information

**I136** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Supplementary

#### 157 Orders and directions **U.K.**

- (1) Any power of a Minister of the Crown or the Welsh Ministers under this Act to make an order is exercisable by statutory instrument.
- (2) Any such power and any power under this Act to make an Order in Council—
- may be exercised so as to make different provision for different cases or classes of case or different purposes,
  - may be exercised so as to make provision which applies generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case, and
  - includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.
- (3) Any power conferred by this Act to give a direction includes power to vary or revoke the direction.

#### 158 Interpretation **U.K.**

- (1) In this Act (except where the context otherwise requires)—
- “Community law” means—
- all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Treaties, and
  - all the remedies and procedures from time to time provided for by or under the Community Treaties,
- “the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42),
- “cross-border body” means any body (including a government department) or undertaker exercising functions, or carrying on activities, in or with respect to Wales (or any part of Wales) and anywhere else,
- “enactment” includes an Assembly Measure, an Act of the Assembly and subordinate legislation (but see also subsection (2)),
- “English border area” means a part of England adjoining Wales (but not the whole of England),

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“financial year” means the twelve months ending with 31st March,

“function” means power or duty,

“government department” means any department of the Government of the United Kingdom,

“international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement Community law or the Convention rights,

“Minister of the Crown” includes the Treasury,

“modifications” includes amendments, repeals and revocations,

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (including an instrument made under an Assembly Measure or Act of the Assembly),

“tribunal” means any tribunal in which legal proceedings may be brought, and

“Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.

- (2) In sections 95(3), 109(2) and 151(2) “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.
- (3) The Secretary of State may by order determine, or make provision for determining, for the purposes of the definition of “Wales” any boundary between—
  - (a) the parts of the sea which are to be treated as adjacent to Wales, and
  - (b) those which are not.
- (4) An Order in Council under section 58 may include any provision that may be included in an order under subsection (3).
- (5) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as for those of that Act.

## 159 Index of defined expressions **U.K.**

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

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the 2007 election	section 161(1)
Acts of the Assembly	section 107(1)
annual Budget motion	section 125(1)
the Assembly	section 1(1)
the Assembly Act provisions	section 103(8)
the Assembly Commission	section 27(1)
Assembly constituency	section 2(1)

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Assembly constituency member	section 1(2)(a)
Assembly electoral region	section 2(2) and (3) and Schedule 1
Assembly Measures	section 93(1)
Assembly member	section 1(3)
Assembly proceedings	section 1(5)
Assembly regional member	section 1(2)(b)
Assembly's legislative competence (in relation to Acts of the Assembly)	section 108
Assembly's legislative competence (in relation to Assembly Measures)	section 94
the Audit Committee	section 30(1)
the Auditor General	section 145(1)
Budget resolution of the Assembly	section 120(8)
the Clerk	section 26(1)
the Committee of Public Accounts	section 158(6)
Community law	section 158(1)
constituency vote	section 6(2)
the Convention rights	section 158(1)
the Counsel General	section 45(1)(c)
cross-border body	section 158(1)
the Deputy Presiding Officer	section 25(1)(b)
Deputy Welsh Minister	section 50
electoral region figure	section 8(5)
electoral region vote	section 6(3)
enactment	section 158(1) and (2)
English border area	section 158(1)
financial year	section 158(1)
the First Minister	sections 46 and 47
function	section 158(1)
government department	section 158(1)
the initial period	section 161(5)
international obligations	section 158(1)
member of the staff of the Assembly	paragraph 3(2) of Schedule 2
member of the staff of the Welsh Assembly Government	section 52
Minister of the Crown	section 158(1)

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modifications	section 158(1)
political group	section 24(5)
political group with an executive role	section 25(8)
the Presiding Officer	section 25(1)(a)
the principal accounting officer for the Assembly Commission	section 138(1) and (2)
the principal accounting officer for the Welsh Ministers	section 129(6) and (7)
regional returning officer	section 7(7)
registered political party	section 6(6)
relevant enactment (in sections 124 to 128)	section 124(4)
the relevant persons (in sections 124 to 128)	section 124(3)
the standing orders	section 31(1)
subordinate legislation	section 158(1)
supplementary Budget motion	section 126(1)
tribunal	section 158(1)
use of resources	section 125(4)
Wales	section 158(1), (3) and (4)
Welsh Assembly Government	section 45(1)
Welsh Consolidated Fund	section 117
the Welsh Ministers	section 45(2)

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## 160 Minor and consequential amendments **U.K.**

- (1) For minor and consequential amendments see Schedule 10.
- (2) The Secretary of State may by order make such modifications of—
  - (a) any enactment contained in an Act passed before or in the same session as this Act, or
  - (b) any enactment contained in an instrument made before the passing of this Act or in the session in which this Act is passed,as the Secretary of State considers appropriate in consequence of this Act.
- (3) No order containing provision under subsection (2)(a) is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

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### Commencement Information

**I137** S. 160(1) in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5)); s. 160(2)-(4) in force at Royal Assent, see s. 161(2)

## 161 Commencement **U.K.**

- (1) Subject as follows, this Act comes into force immediately after the ordinary election under section 3 of the Government of Wales Act 1998 (c. 38) held in 2007 (referred to in this Act as "the 2007 election").
- (2) The following provisions come into force on the day on which this Act is passed—
  - paragraphs 5, 6 and 12 of Schedule 2,
  - sections 95 and 96 and Schedule 5,
  - section 109 and Schedule 7,
  - section 119 and the repeal by Schedule 12 of section 81 of the Government of Wales Act 1998,
  - section 120(3) and (7),
  - section 125 and the repeal by Schedule 12 of section 86 of the Government of Wales Act 1998,
  - sections 157 to 159,
  - section 160(2) to (4),
  - the amendment made by paragraph 61 of Schedule 10 in section 13 of the Political Parties, Elections and Referendums Act 2000 (c. 41),
  - this section,
  - section 162 and Schedule 11,
  - the repeal by Schedule 12 of section 12(1)(d) of the Government of Wales Act 1998, and
  - sections 164 to 166.
- (3) The following provisions come into force on 1st April 2007—
  - sections 117 and 118 and the repeal by Schedule 12 of section 80 of the Government of Wales Act 1998,
  - section 120(1) and (2), (4) to (6) and (8) and the repeal by Schedule 12 of section 84 of that Act,
  - sections 121 and 122 and the repeal by Schedule 12 of section 82 of that Act,
  - section 124 and the repeal by Schedule 12 of sections 85(1) and 89 of that Act,
  - section 126,
  - sections 128 and 129, and
  - the amendments in the Local Government, Planning and Land Act 1980 (c. 65), the Local Government Finance Act 1988 (c. 41) and the Housing Act 1988 (c. 50) made by Schedule 10.
- (4) Subject to subsections (2), (3) and (6), the following provisions come into force immediately after the end of the initial period—
  - (a) any provision of this Act so far as relating to functions of the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission,
  - (b) any provision of this Act so far as relating to the Auditor General or the Comptroller and Auditor General,



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- (c) any other provision consisting of an amendment made in the Government of Wales Act 1998 (c. 38) by Schedule 10, and
  - (d) the repeal by Schedule 12 of provisions falling to be repealed in consequence of any provision within paragraph (a), (b) or (c).
- (5) In this Act “the initial period” means the period—
- (a) beginning with the day of the poll at the 2007 election, and
  - (b) ending with the day on which the first appointment is made under section 46.
- (6) The repeals by Schedule 12 of each of sections 83, 88, 93(8), 97 and 101A of the Government of Wales Act 1998 (and of the other provisions of that Act so far as relating to them) come into force when the section has been complied with for the financial year ending with 31st March 2007 (and earlier financial years); and sections 123, 131, 132 and 141 do not apply for that financial year.
- (7) The Assembly Act provisions come into force in accordance with section 105.

## 162 Transitional etc. provision **U.K.**

- (1) For transitional and transitory provisions and savings see Schedule 11.
- (2) The Secretary of State may by order make any other transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) An order under subsection (2) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act.
- (4) Nothing in Schedule 11 limits the power conferred by subsection (2); and such an order may, in particular, make modifications of that Schedule.
- (5) Nothing in that Schedule, or in any provision made by virtue of subsection (2), prejudices the operation of sections 16 and 17 of the Interpretation Act 1978 (c. 30).
- (6) No order under subsection (2) which contains provisions in the form of amendments or repeals of any provision contained in any of paragraphs 30 to 35, 50 and 51 of Schedule 11 is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

## 163 Repeals and revocations **U.K.**

For repeals and revocations of enactments (including some spent enactments) see Schedule 12.

### Commencement Information

**I138** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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#### 164 Financial provision **U.K.**

- (1) There is to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by a Minister of the Crown or government department by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable under any other Act out of money provided by Parliament.
- (2) There are to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act (other than any required to be paid into the National Loans Fund).

#### 165 Extent **U.K.**

- (1) The following provisions—
  - section 36(7) to (9),
  - section 39, and
  - section 40(2) and (3),extend only to England and Wales.
- (2) The amendments, and repeals and revocations, made by this Act have the same extent as the enactments amended or repealed or revoked.

#### 166 Short title **U.K.**

This Act may be cited as the Government of Wales Act 2006.

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