



# Government of Wales Act 2006

## 2006 CHAPTER 32

### [<sup>F1</sup>PART A1

#### PERMANENCE OF THE [<sup>F2</sup>SENEDD] AND WELSH GOVERNMENT

##### Textual Amendments

- F1** Pt. A1 inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 1, 71(2)(a)** (with [Sch. 7 paras. 1, 6](#))
- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### **A1 Permanence of the [<sup>F2</sup>Senedd] and Welsh Government**

- (1) The [<sup>F2</sup>Senedd] established by Part 1 and the Welsh Government established by Part 2 are a permanent part of the United Kingdom's constitutional arrangements.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to signify the commitment of the Parliament and Government of the United Kingdom to the [<sup>F2</sup>Senedd] and the Welsh Government.
- (3) In view of that commitment it is declared that the [<sup>F2</sup>Senedd] and the Welsh Government are not to be abolished except on the basis of a decision of the people of Wales voting in a referendum.

#### **A2 Recognition of Welsh law**

- (1) The law that applies in Wales includes a body of Welsh law made by the [<sup>F2</sup>Senedd] and the Welsh Ministers.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to recognise the ability of the [<sup>F2</sup>Senedd] and the Welsh Ministers to make law forming part of the law of England and Wales.]

*Status: Point in time view as at 17/03/2021.*

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## PART 1

### [<sup>F3</sup>SENEDD CYMRU]

#### Textual Amendments

**F3** Words in Pt. 1 heading substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(2\)](#)

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

**C1** Pt. 1 modified (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), [ss. 13\(5\)](#), 19(1)

### *The [<sup>F2</sup>Senedd]*

#### 1 The [<sup>F2</sup>Senedd]

(1) There is to be [<sup>F4</sup>a parliament] for Wales to be known as [<sup>F5</sup>Senedd Cymru or the Welsh Parliament (referred to in this Act as “the Senedd)].

(2) The [<sup>F2</sup>Senedd] is to consist of—

- (a) one member for each [<sup>F2</sup>Senedd] constituency (referred to in this Act as “[<sup>F2</sup>Senedd] constituency members”), and
- (b) members for each [<sup>F2</sup>Senedd] electoral region (referred to in this Act as “[<sup>F2</sup>Senedd] regional members”).

[<sup>F6</sup>(2A) Members of the Senedd are to be known by that name or as Aelodau o'r Senedd.]

(3) [<sup>F7</sup>Members of the Senedd] are to be returned in accordance with the provision made by and under this Act for—

- (a) the holding of general elections of [<sup>F8</sup>Members of the Senedd] (for the return of the entire [<sup>F2</sup>Senedd] ), and
- (b) the filling of vacancies in [<sup>F2</sup>Senedd] seats.

(4) The validity of any [<sup>F2</sup>Senedd] proceedings is not affected by any vacancy in its membership.

(5) In this Act “[<sup>F2</sup>Senedd] proceedings” means any proceedings of—

- (a) the [<sup>F2</sup>Senedd] ,
- (b) committees of the [<sup>F2</sup>Senedd] , or
- (c) sub-committees of such committees.

#### Textual Amendments

**F4** Words in s. 1(1) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(3\)\(a\)](#)

**F5** Words in s. 1(1) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 2](#), 42(2)

**F6** S. 1(2A) inserted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 4](#), 42(2)

**F7** Words in s. 1(3) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(3\)\(b\)](#)

*Status: Point in time view as at 17/03/2021.*

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**F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### Commencement Information

**I1** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 2 <sup>F2</sup>Senedd ] constituencies and electoral regions

<sup>F9</sup>(1) The <sup>F2</sup>Senedd ] constituencies are the constituencies specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 ( S.I. 2006/1041) as amended by—

- (a) the Parliamentary Constituencies and <sup>F2</sup>Senedd ] Electoral Regions (Wales) (Amendment) Order 2008 ( S.I. 2008/1791), and
- (b) any Order in Council under the Parliamentary Constituencies Act 1986 giving effect (with or without modifications) to a report falling within section 13(3) or (4) of the Parliamentary Voting System and Constituencies Act 2011.]

(2) There are five <sup>F2</sup>Senedd ] electoral regions.

(3) The <sup>F2</sup>Senedd ] electoral regions are as specified in the Parliamentary Constituencies and <sup>F2</sup>Senedd ] Electoral Regions (Wales) Order 2006.

(4) There are four seats for each <sup>F2</sup>Senedd ] electoral region.

<sup>F10</sup>(5) .....

<sup>F10</sup>(6) .....

#### Textual Amendments

**F9** S. 2(1) substituted (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), [ss. 13\(1\), 19\(1\)](#)

**F10** S. 2(5)(6) repealed (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), [ss. 13\(2\)\(a\), 19\(1\)](#), [Schs. 12](#)

#### 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

(1) The poll at an ordinary general election is to be held on the first Thursday in May in the <sup>F11</sup>fifth ] calendar year following that in which the previous ordinary general election was held, <sup>F12</sup>unless—

- (a) subsection (1A) prevents the poll being held on that day, or
- (b) the day of the poll is determined by a proclamation under section 4.]

<sup>F13</sup>(1A) The poll is not to be held on the same date as the date of the poll at—

- (a) a parliamentary general election (other than an early parliamentary general election), <sup>F14</sup>...

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<sup>F14</sup>(b) .....

(1B) Where subsection (1A) prevents the poll being held on the day specified in subsection (1), the poll is to be held on such day, subject to subsection (1A), as the Welsh Ministers may by order specify unless the day of the poll is determined by a proclamation under section 4(2) as modified by section 4(2A).]

(2) If the poll is to be held on the first Thursday in May [<sup>F15</sup> or on the day specified by an order under subsection (1B) ], the [<sup>F2</sup>Senedd] —

- (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.

[<sup>F16</sup>(5) No order is to be made under subsection (1B) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the [<sup>F2</sup>Senedd] .]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020](#) (anaw 1), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F11** Word in s. 3(1) substituted (17.2.2015) by [Wales Act 2014](#) (c. 29), [ss. 1\(1\)](#), 29(2)(a)
- F12** Words in s. 3(1) substituted (1.4.2018) by [Wales Act 2017](#) (c. 4), [ss. 6\(2\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F13** S. 3(1A)(1B) inserted (1.4.2018) by [Wales Act 2017](#) (c. 4), [ss. 6\(3\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F14** S. 3(1A)(b) and word omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018](#) (c. 16), s. 25(4), [Sch. 3 para. 28](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), [reg. 3\(1\)](#) (with [regs. 10, 22](#))
- F15** Words in s. 3(2) inserted (1.4.2018) by [Wales Act 2017](#) (c. 4), [ss. 6\(4\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F16** S. 3(5) inserted (1.4.2018) by [Wales Act 2017](#) (c. 4), [ss. 6\(5\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

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

- C2** S. 3(1) modified (15.9.2011) by [Fixed-term Parliaments Act 2011](#) (c. 14), [ss. 5\(2\)](#), 7(2) (with s. 6)
- C3** [S. 3\(1\)](#) modified (17.3.2021) by [Welsh Elections \(Coronavirus\) Act 2021](#) (asc 2), [ss. 2\(2\)](#), 6, 18 (with s. 13)
- C4** [S. 3\(2\)-\(4\)](#) excluded (17.3.2021) by [Welsh Elections \(Coronavirus\) Act 2021](#) (asc 2), [ss. 2\(1\)](#), 18 (with s. 13)

#### 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))

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

#### 4 Power to vary date of ordinary general election

[<sup>F17</sup>(1) Subject to section 3(1A), the Presiding Officer may propose, for the holding of the poll at an ordinary general election, a day which is not more than one month earlier, nor more than one month later, than the first Thursday in May.]

[<sup>F17</sup>(2) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh Seal—

- (a) dissolve the [<sup>F2</sup>Senedd],
- (b) require the poll at the election to be held on the day proposed, and
- (c) require the [<sup>F2</sup>Senedd] to meet within the period of seven days beginning immediately after the day of the poll.]

[<sup>F17</sup>(2A) Where a day is specified by an order under section 3(1B), subsection (1) applies as if the reference to the first Thursday in May were a reference to that day.]

(3) In calculating any period of days for the purposes of provision made by virtue of subsection [<sup>F18</sup>(2)(c)], 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) [<sup>F19</sup>The Welsh Ministers may by order] 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 [<sup>F8</sup>Members of the Senedd], to have effect with such modifications or exceptions as the [<sup>F20</sup>Welsh Ministers consider] appropriate in connection with the alteration of the day of the poll [<sup>F21</sup> under this section].

<sup>F22</sup>(5) .....

(6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of [<sup>F23</sup>the [<sup>F2</sup>Senedd]].

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F17** S. 4(1)-(2A) substituted for s. 4(1)(2) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(7\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F18** Word in s. 4(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(8\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F19** Words in s. 4(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(9\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F20** Words in s. 4(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(9\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F21** Words in s. 4(4) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(9\)\(c\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

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**F22** S. 4(5) omitted (1.4.2018) by virtue of Wales Act 2017 (c. 4), ss. 6(10), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)

**F23** Words in s. 4(6) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 6(11), 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)

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

**C5** S. 4(2)(c) excluded (17.3.2021) by Welsh Elections (Coronavirus) Act 2021 (asc 2), ss. 2(3), 18 (with s. 13)

#### 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

- (1) The [<sup>F24</sup>Presiding Officer] 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 [<sup>F2</sup>Senedd] resolves that it should be dissolved, and
  - (b) the resolution of the [<sup>F2</sup>Senedd ] is passed on a vote in which the number of [<sup>F8</sup>Members of the Senedd ] voting in favour of it is not less than two-thirds of the total number of [<sup>F2</sup>Senedd] seats.
- (3) This subsection applies if any period during which the [<sup>F2</sup>Senedd] is required under section 47 to nominate [<sup>F25</sup>a Member of the Senedd] for appointment as the First Minister ends without such a nomination being made.
- (4) If the [<sup>F26</sup>Presiding Officer] proposes a day under subsection (1), Her Majesty may by [<sup>F27</sup>proclamation under the Welsh Seal]—
  - (a) dissolve the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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.

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### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F24** Words in s. 5(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(13\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F26** Words in s. 5(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(14\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F27** Words in s. 5(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(14\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)

### 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

- (1) Each person entitled to vote at a general election in [<sup>F28</sup>a Senedd] 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 [<sup>F2</sup>Senedd] constituency member for the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] regional members for the [<sup>F2</sup>Senedd] electoral region in which the [<sup>F2</sup>Senedd] constituency is included, or
  - (b) an individual who is a candidate to be [<sup>F28</sup>a Senedd] regional member for that [<sup>F2</sup>Senedd] electoral region.
- (4) The [<sup>F2</sup>Senedd] constituency member for the [<sup>F2</sup>Senedd] constituency is to be returned under the simple majority system.
- (5) The [<sup>F2</sup>Senedd] regional members for the [<sup>F2</sup>Senedd] 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).

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(18\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

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### 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

- (1) At a general election a person may not be a candidate to be the [F<sup>2</sup>Senedd] constituency member for more than one [F<sup>2</sup>Senedd] constituency.
- (2) Any registered political party may submit a list of candidates for return as [F<sup>2</sup>Senedd] regional members for a particular [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] electoral region or any list submitted for another [F<sup>2</sup>Senedd] electoral region,
  - (b) who is an individual candidate to be [F<sup>28</sup>a Senedd] regional member for the [F<sup>2</sup>Senedd] electoral region or another [F<sup>2</sup>Senedd] electoral region,
  - [F<sup>29</sup>(c) who is a candidate to be the [F<sup>2</sup>Senedd] constituency member for [F<sup>28</sup>a Senedd] constituency which is not included in the [F<sup>2</sup>Senedd] electoral region, or
  - (d) who is a candidate to be the [F<sup>2</sup>Senedd] constituency member for [F<sup>28</sup>a Senedd] constituency included in the [F<sup>2</sup>Senedd] electoral region but is not a candidate of the party.]
- (6) A person may not be an individual candidate to be [F<sup>28</sup>a Senedd] regional member for the [F<sup>2</sup>Senedd] electoral region if that person is—
  - (a) included on a list submitted by a registered political party for the [F<sup>2</sup>Senedd] electoral region or another [F<sup>2</sup>Senedd] electoral region,
  - (b) an individual candidate to be [F<sup>28</sup>a Senedd] regional member for another [F<sup>2</sup>Senedd] electoral region,
  - [F<sup>30</sup>(c) a candidate to be the [F<sup>2</sup>Senedd] constituency member for [F<sup>28</sup>a Senedd] constituency which is not included in the [F<sup>2</sup>Senedd] electoral region, or
  - (d) a candidate of any registered political party to be the [F<sup>2</sup>Senedd] constituency member for [F<sup>28</sup>a Senedd] constituency included in the [F<sup>2</sup>Senedd] electoral region.]
- (7) In this Act “regional returning officer”, in relation to [F<sup>28</sup>a Senedd] electoral region, means the person designated as the regional returning officer for the [F<sup>2</sup>Senedd] electoral region in accordance with an order under section 13.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(18\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F29** S. 7(5)(c)(d) substituted for s. 7(5)(c) and word (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(2\)\(a\)](#), [29\(2\)\(a\)](#)
- F30** S. 7(6)(c)(d) substituted for s. 7(6)(c) and word (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(2\)\(b\)](#), [29\(2\)\(a\)](#)



*Status: Point in time view as at 17/03/2021.*

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#### 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))

## 8 Calculation of electoral region figures

- (1) This section and section 9 are about the return of [F<sup>2</sup>Senedd] regional members for an electoral region at a general election.
- (2) The person who is to be returned as the [F<sup>2</sup>Senedd] constituency member for each [F<sup>2</sup>Senedd] constituency in the [F<sup>2</sup>Senedd] electoral region is to be determined before it is determined who are to be returned as the [F<sup>2</sup>Senedd] regional members for the [F<sup>2</sup>Senedd] electoral region.
- (3) For each registered political party by which a list of candidates has been submitted for the [F<sup>2</sup>Senedd] electoral region—
  - (a) there is to be added together the number of electoral region votes given for the party in the [F<sup>2</sup>Senedd] constituencies included in the [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] constituency members for any of those [F<sup>2</sup>Senedd] constituencies.
- (4) For each individual candidate to be [F<sup>28</sup>a Senedd] regional member for the [F<sup>2</sup>Senedd] electoral region there is to be added together the number of electoral region votes given for the candidate in the [F<sup>2</sup>Senedd] constituencies included in the [F<sup>2</sup>Senedd] 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(19)** (with **Sch. 1 para. 2(11)-(14)**)
- F28** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(18)** (with **Sch. 1 para. 2(11)-(14)**)

#### Commencement Information

**I8** 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

- (1) The first seat for the [F<sup>2</sup>Senedd ] 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 [F<sup>2</sup>Senedd] 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.

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- (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 [<sup>F28</sup>a Senedd] 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.
- (4) An individual candidate already returned as an [<sup>F31</sup>[<sup>F2</sup>Senedd] constituency member or][<sup>F2</sup>Senedd] regional member is to be disregarded.
- (5) Seats for the [<sup>F2</sup>Senedd] 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[<sup>F32</sup> (disregarding anyone already returned as [<sup>F28</sup>a Senedd] constituency member, including anyone whose return is void)].
- (6) Once a party's list has been exhausted [<sup>F33</sup>(by the return of persons included on it as [<sup>F2</sup>Senedd] constituency members or 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 [<sup>F2</sup>Senedd] 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(18\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F31** Words in s. 9(4) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(3\)\(a\)](#), 29(2)(a)
- F32** Words in s. 9(5) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(3\)\(b\)](#), 29(2)(a)
- F33** Words in s. 9(6) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(3\)\(c\)](#), 29(2)(a)

#### Commencement Information

- I9** 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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*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

## Vacancies

### 10 Constituency vacancies

- (1) This section applies if the seat of [F28a Senedd] constituency member returned for [F28a Senedd] constituency is vacant.
- (2) Subject to subsection (7), an election must be held in the [F2Senedd] constituency to fill the vacancy.
- (3) At the election, each person entitled to vote only has a constituency vote; and the [F2Senedd] constituency member for the [F2Senedd] 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 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) [F25a Member of the Senedd], or
  - (b) a candidate in another such election.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F28** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(18)** (with *Sch. 1 para. 2(11)-(14)*)

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

- C6** *S. 10* modified (17.3.2021) by *Welsh Elections (Coronavirus) Act 2021* (asc 2), **ss. 2(4), 10, 18** (with s. 13)

#### 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))

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## 11 Electoral region vacancies

- (1) This section applies if the seat of [<sup>F28</sup>a Senedd] regional member returned for [<sup>F28</sup>a Senedd] electoral region is vacant.
- (2) If the [<sup>F2</sup>Senedd] 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 [<sup>F28</sup>a Senedd] regional member for the [<sup>F2</sup>Senedd] 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 [<sup>F28</sup>a Senedd] regional member for the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] regional member was returned as an individual candidate, or
  - (b) if that [<sup>F2</sup>Senedd] 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—
  - [<sup>F34</sup>(a) was returned as [<sup>F25</sup>a Member of the Senedd ] at that election (even if the return was void), or
  - (b) has subsequently been returned under section 10 or this section (even if the return was void),]
 is treated on and after the return of the person<sup>F35</sup> ..., as not having been included on the list.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

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- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(18\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F34** S. 11(8)(a)(b) substituted for s. 11(8)(a)-(c) (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 2\(4\)\(a\)](#), 29(2)(a)
- F35** Words in s. 11(8) omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [ss. 2\(4\)\(b\)](#), 29(2)(a)

#### Commencement Information

- I11** 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

- (1) The persons entitled to vote at an election of [<sup>F8</sup>Members of the Senedd] (or of [<sup>F25</sup>a Member of the Senedd]) in [<sup>F28</sup>a Senedd] constituency are those who on the day of the poll—
- would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the [<sup>F2</sup>Senedd] constituency [<sup>F36</sup>or fall within the extended franchise for Senedd elections as described in this section], and
  - are registered in the register of local government electors at an address within the [<sup>F2</sup>Senedd] constituency.

[<sup>F37</sup>(1A) A person falls within the extended franchise for Senedd elections if the person—

- has attained the age of 16, but not the age of 18, and
- would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.]

[<sup>F38</sup>(1B) A person falls within the extended franchise for Senedd elections if the person—

- is a qualifying foreign citizen (within the meaning given by section 203(1) of the Representation of the People Act 1983 (c. 2)), and
- would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.]

(2) But a person is not entitled as an elector—

- to cast more than one constituency vote, or more than one electoral region vote, in the same [<sup>F2</sup>Senedd] constituency at any general election,
- to vote in more than one [<sup>F2</sup>Senedd] constituency at any general election, or
- to cast more than one vote in any election held under section 10.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(18\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

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- F36** Words in s. 12(1)(a) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 10(2)(4)**, 42(1)(b)(i)
- F37** S. 12(1A) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 10(3)(4)**, 42(1)(b)(i)
- F38** S. 12(1B) inserted (15.1.2020 with effect for the purposes of an election for membership of the Senedd at which a poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 11(1)(2)**, 42(1)(b)(ii)

#### Commencement Information

- I12** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### <sup>F39</sup>13 Power of the Welsh Ministers to make provision about elections etc

- (1) The Welsh Ministers may by order make provision that would be within the legislative competence of the <sup>F2</sup>Senedd], if included in an Act of the <sup>F2</sup>Senedd], as to—
- the conduct of elections of <sup>F8</sup>Members of the Senedd],
  - the questioning of an election of <sup>F8</sup>Members of the Senedd] and the consequences of irregularities, and
  - the return of <sup>F25</sup>a Member of the Senedd] otherwise than at an election.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision—
- about the registration of electors,
  - for disregarding alterations in a register of electors,
  - about the limitation of the election expenses of candidates (and the creation of criminal offences in connection with the limitation of such expenses),
  - for the combination of polls,
  - for modifying the application of sections 6 and 8(2) where the poll at an election for the return of <sup>F28</sup>a Senedd] constituency member is abandoned (or notice of it is countermanded), and
  - for modifying section 9(7) to ensure the allocation of the correct number of seats for the region.
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying section 11(3) to (5).
- (4) An order under this section may—
- apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments, and
  - so far as may be necessary in consequence of any provision made by an order under this section, make modifications of any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (5) In subsection (4)(a) “the election enactments” means—
- the Representation of the People Acts,
  - the Political Parties, Elections and Referendums Act 2000,
  - <sup>F40</sup>... and

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- (d) any other enactments relating to parliamentary elections <sup>F41</sup>... or local government elections.
- (6) No return of [<sup>F25</sup>a Member of the Senedd] at an election may be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied or incorporated in an order under this section.
- (7) No order is to be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the [<sup>F2</sup>Senedd].]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(19)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(17)** (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(15)** (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F28** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(18)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F39** Ss. 13, 13A substituted for s. 13 (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 5(1)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F40** [S. 13\(5\)\(c\)](#) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 29(a)** (with [s. 19](#), [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), [reg. 3\(l\)](#) (with [regs. 10, 22](#))
- F41** Words in [s. 13\(5\)\(d\)](#) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 29(b)** (with [s. 19](#), [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), [reg. 3\(l\)](#) (with [regs. 10, 22](#))

#### [<sup>F39</sup>13A Power of the Secretary of State to make provision about the combination of polls

- (1) The Secretary of State may by regulations make provision for—
  - (a) the combination of polls at ordinary general elections of [<sup>F8</sup>Members of the Senedd] with polls at the elections listed in subsection (2), and
  - (b) the combination of polls at extraordinary general elections of [<sup>F8</sup>Members of the Senedd], and by-elections for the return of [<sup>F8</sup>Members of the Senedd], with polls at the elections listed in subsections (2) and (3).
- (2) The elections are—
  - (a) early parliamentary general elections, [<sup>F42</sup>and]
  - (b) parliamentary by-elections, <sup>F43</sup>...
  - <sup>F43</sup>(c) .....
- (3) The elections are—
  - (a) parliamentary general elections, <sup>F44</sup>...
  - <sup>F44</sup>(b) .....
- (4) The Secretary of State may not make regulations under this section without the agreement of the Welsh Ministers.
- (5) Regulations under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision made by or under the election enactments, and

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- (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections of [<sup>F8</sup>Members of the Senedd].
- (6) In subsection (5)(a) ““the election enactments”” has the meaning given by section 13(5).
- (7) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F39** Ss. 13, 13A substituted for s. 13 (1.4.2018) by *Wales Act 2017* (c. 4), **ss. 5(1)**, 71(4) (with *Sch. 7 paras. 1, 6*); *S.I. 2017/1179*, reg. 3(b)
- F42** Word in s. 13A(2)(a) inserted (31.12.2020) by *European Union (Withdrawal) Act 2018* (c. 16), s. 25(4), **Sch. 3 para. 30(2)(a)** (with s. 19, *Sch. 8 para. 37*); *S.I. 2020/1622*, reg. 3(l) (with reg. 10)
- F43** S. 13A(2)(c) and word omitted (31.12.2020) by virtue of *European Union (Withdrawal) Act 2018* (c. 16), s. 25(4), **Sch. 3 para. 30(2)(b)** (with s. 19, *Sch. 8 para. 37*); *S.I. 2020/1622*, reg. 3(l) (with regs. 10, 22)
- F44** S. 13A(3)(b) and word omitted (31.12.2020) by virtue of *European Union (Withdrawal) Act 2018* (c. 16), s. 25(4), **Sch. 3 para. 30(3)** (with s. 19, *Sch. 8 para. 37*); *S.I. 2020/1622*, reg. 3(l) (with regs. 10, 22)

#### *Duration of membership*

### 14 Term of office of [<sup>F8</sup>Members of the Senedd]

The term of office of [<sup>F25</sup>a Member of the Senedd] —

- (a) begins when the [<sup>F45</sup>Member of the Senedd] is declared to be returned, and
- (b) ends with the dissolution of the [<sup>F2</sup>Senedd].

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F45** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), *Sch. 1 para. 2(16)* (with *Sch. 1 para. 2(11)(12)(14)*)

#### 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))



*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

## 15 Resignation of members

[<sup>F25</sup>A Member of the Senedd] may at any time resign by giving notice in writing to the Presiding Officer.

### Textual Amendments

**F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

### Commencement Information

**I14** 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 [<sup>F45</sup>Member of the Senedd]

[<sup>F46</sup>(A1) A person is disqualified from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd, if that person—

- (a) falls within any of the categories of person specified in Part 1 of Schedule 1A, or
- (b) holds any of the offices specified in the Table in Part 2 of Schedule 1A.]

(1) [<sup>F47</sup>A person is disqualified from being a Member of the Senedd (but not from being a candidate to be a Member of the Senedd) if that person—]

[<sup>F48</sup>(za) is a member of the House of Commons (but see sections 17A and 17B),]

[<sup>F49</sup>(zb) is a member of the House of Lords (but see section 17C),

(zc) is a member of the council of a county or county borough in Wales (but see sections 17D, 17E and 17F),

(zd) is a member of the Scottish Parliament,

(ze) is a member of the Northern Ireland Assembly,

(zf) is a member of the European Parliament, or]

<sup>F50</sup>(a) .....

(b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being [<sup>F8</sup>Members of the Senedd],

<sup>F51</sup>(c) .....

<sup>F51</sup>(d) .....

<sup>F51</sup>(e) .....

[<sup>F52</sup>(1A) A person returned at an election as a Member of the Senedd is not disqualified under subsection (1)(zd), (ze), (zf) or (b) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).]

<sup>F53</sup>(2) .....

<sup>F54</sup>(3) .....

<sup>F53</sup>(4) .....

(5) An Order in Council under paragraph (b) of subsection (1)—

*Status: Point in time view as at 17/03/2021.*

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- (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 [<sup>F55</sup>for the purposes of this section] “office” includes any post or employment.
- (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 [<sup>F2</sup>Senedd].

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(16\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F46** S. 16(A1) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(2), 42(1)(c)
- F47** Words in s. 16(1) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(a), 42(1)(c)
- F48** S. 16(1)(za) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 3\(1\)](#), 29(2)(a)
- F49** S. 16(1)(zb)-(zf) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(b), 42(1)(c)
- F50** S. 16(1)(a) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(c), 42(1)(c)
- F51** S. 16(1)(c)-(e) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(3)(d), 42(1)(c)
- F52** S. 16(1A) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(4), 42(1)(c)
- F53** S. 16(2)-(4) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(5), 42(1)(c)
- F54** S. 16(2)-(4) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(5), 42(1)(c); and s. 16(3) in so far as it is still in force amended (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 31](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, [reg. 3\(l\)](#) (with [regs. 10, 22](#))
- F55** Words in s. 16(5) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 29(6), 42(1)(c)

### 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))

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

## 17 <sup>F56</sup>Relief from disqualification

<sup>F57</sup>(1) .....

<sup>F57</sup>(2) .....

(3) The [<sup>F2</sup>Senedd] may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being [<sup>F25</sup>a Member of the Senedd] on a ground within section 16(1) <sup>F58</sup>... is to be disregarded if it appears to the [<sup>F2</sup>Senedd] —

- (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 [<sup>F2</sup>Senedd] to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

**F56** Words in s. 17 heading substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(4\)](#), [42\(1\)\(c\)](#)

**F57** S. 17(1)(2) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(2\)](#), [42\(1\)\(c\)](#)

**F58** Words in s. 17(3) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 30\(3\)](#), [42\(1\)\(c\)](#)

### 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))

## <sup>F59</sup>17A Exception from disqualification by virtue of being an MP: recently elected members

(1) A person returned at an election as [<sup>F25</sup>a Member of the Senedd] is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period of 8 days beginning with the day the person is so returned.

(2) Subsection (3) applies where a person—

- (a) is returned at an election as [<sup>F25</sup>a Member of the Senedd],
- (b) on being so returned is a candidate for election to the House of Commons, and
- (c) is subsequently returned at that election as a member of that House.

(3) The person is not disqualified under section 16(1)(za) at any time in the period of 8 days beginning with the day the person is returned as a member of the House of Commons.

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (4) A person is a “candidate for election to the House of Commons” if the person's nomination paper for election as a member of the House of Commons has been delivered to the returning officer under rule 6 of Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules).

#### Textual Amendments

**F25** Words in Act substituted (6.5.2020) by **Senedd and Elections (Wales) Act 2020 (anaw 1)**, s. 42(2), **Sch. 1 para. 2(15)** (with **Sch. 1 para. 2(11)(12)(14)**)

**F59** Ss. 17A, 17B inserted (17.2.2015) by **Wales Act 2014 (c. 29)**, **ss. 3(2)**, 29(2)(a)

### **17B Exception from disqualification by virtue of being an MP: general election of <sup>F8</sup>Members of the Senedd] within 372 days**

- (1) This section applies if—
- (a) [<sup>F25</sup>a Member of the Senedd] is returned as a member of the House of Commons, and
  - (b) the expected day of the next general election of [<sup>F8</sup>Members of the Senedd] is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period—
- (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of [<sup>F8</sup>Members of the Senedd].
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of [<sup>F8</sup>Members of the Senedd] is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).

[ Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general <sup>F60</sup>(3A) election being held on the day specified in section 3(1)—

- (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.
- (3B) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
- (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).]

(4) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (a) if [<sup>F61</sup>a proclamation under section 5(4) has been issued], the expected day is the day on which the poll is required to be held in accordance with that [<sup>F62</sup>proclamation];
  - (b) if no [<sup>F63</sup>proclamation under section 5(4) has been issued] but a day has been proposed under section 5(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).
- (5) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) [<sup>F64</sup>a day being proposed under section 4(1) (power to vary date of ordinary general election)] after the relevant time, or
  - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.
- (6) References in this section to the “day” of the election are to the day on which the poll at the election is held.]

#### Textual Amendments

- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F59** Ss. 17A, 17B inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 3\(2\)](#), 29(2)(a)
- F60** S. 17B(3A)(3B) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(2), 42(1)(c)
- F61** Words in s. 17B(4)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(a)(i), 42(1)(c)
- F62** Word in s. 17B(4)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(a)(ii), 42(1)(c)
- F63** Words in s. 17B(4)(b) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(3)(b), 42(1)(c)
- F64** Words in s. 17B(5)(a) substituted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), ss. 31(4), 42(1)(c)

#### [<sup>F65</sup>17C Exception from disqualification by virtue of being a member of the House of Lords

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zb) (disqualification by virtue of being a member of the House of Lords) at any time in the period of eight days beginning with the day the person is so returned.
- (2) A Member of the Senedd who becomes a member of the House of Lords is not disqualified under section 16(1)(zb) at any time before the end of the period of eight days beginning with the day the person makes and subscribes the oath required by the [Parliamentary Oaths Act 1866 \(c. 19\)](#) (or the corresponding affirmation).

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (3) A person is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time when the person—
- (a) has leave of absence from the House of Lords, or
  - (b) has made an application for leave of absence which has not been withdrawn or refused.
- (4) A person who is on leave of absence from the House of Lords immediately before Parliament is dissolved is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time in the period—
- (a) beginning with the dissolution of the old Parliament, and
  - (b) ending at the end of the period of eight days beginning with the day of the first meeting of the new Parliament.]

#### Textual Amendments

**F65** S. 17C inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 32, 42(1)(c)**

#### [<sup>F66</sup>17D Exception from disqualification by virtue of being a councillor: recently elected members

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).
- (2) A Member of the Senedd who is returned at an election as a member of the council of a county or county borough in Wales is not disqualified under section 16(1)(zc) at any time before the person makes a declaration of acceptance of office under section 83 of the [Local Government Act 1972 \(c. 70\)](#).

#### Textual Amendments

**F66** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33, 42(1)(c)**

#### 17E Exception from disqualification by virtue of being a councillor: ordinary election of councillors within 372 days

- (1) This section applies if—
- (a) a member of the council of a county or county borough in Wales is returned as a Member of the Senedd, and
  - (b) the expected day of the next ordinary election of members of the council is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (a) beginning with the return day, and
  - (b) ending with the fourth day after the day of the next ordinary election of members of the council.
- (3) For the purposes of subsection (1)(b) the expected day of the next ordinary election of members of the council is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) an order under section 37ZA(1) of the [Representation of the People Act 1983 \(c. 2\)](#) (power to vary ordinary day of local elections), or
  - (b) an order under section 87 of the [Local Government Act 2000 \(c. 22\)](#) (power to change year in which local election is held),
- being made after the relevant time.
- (5) References in this section and section 17F to the “day” of an election are to the day on which the poll at the election is held.

#### Textual Amendments

**F66** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33, 42(1)(c)**

#### **17F Exception from disqualification by virtue of being a councillor: general election of Members of the Senedd within 372 days**

- (1) This section applies if—
- (a) a Member of the Senedd is returned as a member of the council of a county or county borough in Wales, and
  - (b) the expected day of the next general election of Members of the Senedd is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
- (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of Members of the Senedd.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Members of the Senedd is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general election being held on the day specified in section 3(1)—
- (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (5) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
- (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).
- (6) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—
- (a) if a proclamation under section 5(4) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 5(4) has been issued but a day has been proposed under section 5(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).
- (7) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) a day being proposed under section 4(1) (power to vary date of ordinary general election) after the relevant time, or
  - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.]

#### Textual Amendments

**F66** Ss. 17D-17F inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 33, 42(1)(c)**

## 18 Effect of disqualification

[<sup>F67</sup>(A1) If a person who is disqualified from being a candidate to be a Member of the Senedd (see section 16(A1)) is nominated as a candidate at a general election of Members of the Senedd or an election to fill a vacancy under section 10, the person's nomination is void.]

(1) If a person who is disqualified from being [<sup>F25</sup>a Member of the Senedd] is returned as [<sup>F25</sup>a Member of the Senedd], the person's return is void and the person's seat is vacant.

<sup>F68</sup>(2) .....

(3) If a person who is [<sup>F25</sup>a Member of the Senedd] becomes disqualified—

(a) from being [<sup>F25</sup>a Member of the Senedd], <sup>F69</sup>...

<sup>F69</sup>(b) .....

the person ceases to be [<sup>F25</sup>a Member of the Senedd] (so that the person's seat is vacant).

(4) Subsections (1) to (3) have effect subject to any resolution of the [<sup>F2</sup>Senedd] under section 17(3).

(5) In addition, subsection (3) has effect subject to—

<sup>F70</sup>(a) .....



*Status: Point in time view as at 17/03/2021.*

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- (b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).
- (6) If, in consequence of [F71 the provision] mentioned in subsection (5), the seat of a person who is disqualified from being [F25 a Member of the Senedd] is not vacant, the person does not cease to be [F25 a Member of the Senedd] 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 [F2 Senedd] proceedings, and
- (b) any of the person's other rights and privileges as [F25 a Member of the Senedd] may be withdrawn by the [F2 Senedd].
- (8) The validity of any [F2 Senedd] proceedings is not affected by the disqualification of any person—
- (a) from being [F25 a Member of the Senedd], F72 ...
- F72(b) .....

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F67** S. 18(A1) inserted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 34\(2\)](#), 42(1)(c)
- F68** S. 18(2) omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 34\(3\)](#), 42(1)(c)
- F69** S. 18(3)(b) and word omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 34\(4\)](#), 42(1)(c)
- F70** S. 18(5)(a) omitted (28.4.2013) by virtue of [Mental Health \(Discrimination\) Act 2013 \(c. 8\)](#), s. 4(1), [Sch. para. 5\(1\)\(a\)](#)
- F71** Words in s. 18(6) substituted (28.4.2013) by [Mental Health \(Discrimination\) Act 2013 \(c. 8\)](#), s. 4(1), [Sch. para. 5\(1\)\(b\)](#)
- F72** S. 18(8)(b) and word omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 34\(5\)](#), 42(1)(c)

#### 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))

## 19 Judicial proceedings as to disqualification

- (1) Any person who claims that a person purporting to be [F25 a Member of the Senedd] is, or at any time since being returned as [F25 a Member of the Senedd] has been, disqualified from being—
- (a) [F25 a Member of the Senedd], F73 ...
- F73(b) .....
- may apply to the High Court for a declaration to that effect.

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- (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 [F2Senedd] under section 17(3) requires that any disqualification incurred by the person on that ground is to be disregarded.
- (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 [F2Senedd].

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F73** S. 19(1)(b) and word omitted (15.1.2020 with effect for the purposes of a Senedd election at which the poll is held on or after 5.4.2021) by virtue of *Senedd and Elections (Wales) Act 2020 (anaw 1)*, **ss. 34(6), 42(1)(c)**

#### 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))

*Remuneration, oaths etc.*

## 20 Remuneration of [F8Members of the Senedd ]

- (1) [F74Provision must be made] for the payment of salaries to [F8Members of the Senedd].
- (2) [F75Provision may be made] for the payment of allowances to [F8Members of the Senedd].
- (3) [F76Provision may be made] for the payment of pensions, gratuities or allowances to, or in respect of, any person who—
  - (a) has ceased to be [F25a Member of the Senedd], or

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- (b) has ceased to hold office as the Presiding Officer or Deputy Presiding Officer, or such other office in connection with the [F2Senedd] as the [F2Senedd] may determine, but continues to be [F25a Member of the Senedd].
- (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 [F2Senedd] 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.
- [F77(6) Provision under this section is to be made by determination made by the Board.]
- [F78(7) The [F2Senedd] Commission must give effect to any determination made by the Board under this section.
- (8) In this section (and in sections 22, 24, 53 and 54) “ the Board ” means the [F79Independent Remuneration Board of the Senedd] established by section 1 of the National [F2Senedd] for Wales (Remuneration) Measure 2010 (nawm 4 —). ]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F74** Words in s. 20(1) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 1 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F75** Words in s. 20(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 2 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F76** Words in s. 20(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 3 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F77** S. 20(6) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 4 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F78** S. 20(7)(8) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 5 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F79** Words in s. 20(8) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(4\)](#)

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### Commencement Information

**I19** 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 <sup>F8</sup>Members of the Senedd]

- (1) The <sup>F2</sup>Senedd] must make provision to ensure that the amount of the salary payable to <sup>F25</sup>a Member of the Senedd] in accordance with section 20 is reduced if a salary is payable to the <sup>F45</sup>Member of the Senedd] —
- <sup>F80</sup>(za) under section 4 of the Parliamentary Standards Act 2009 (salaries of members of the House of Commons), <sup>F81</sup>or]
- (a) pursuant to a resolution (or combination of resolutions) of <sup>F82</sup>the House of Lords] relating to the remuneration of members of that House, <sup>F83</sup>...
- <sup>F83</sup>(b) .....
- (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 <sup>F45</sup>Member of the Senedd] as mentioned in subsection <sup>F84</sup>(1)(za) or (a)], 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 <sup>F2</sup>Senedd],
- and may include provision conferring functions on the <sup>F2</sup>Senedd] Commission.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(16\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F80** S. 21(1)(za) inserted (24.5.2011) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), s. 52, [Sch. 5 para. 12\(2\)\(a\)](#); S.I. 2011/1274, art. 2(b)
- F81** Word in s. 21(1)(za) inserted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 32\(2\)\(a\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(1) (with reg. 10)
- F82** Words in s. 21(1)(a) substituted (24.5.2011) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), s. 52, [Sch. 5 para. 12\(2\)\(b\)](#); S.I. 2011/1274, art. 2(b)
- F83** S. 21(1)(b) and word omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 32\(2\)\(b\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(1) (with regs. 10, 22)
- F84** Words in s. 21(2)(b) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 32\(3\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(1) (with reg. 10)

### 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))

*Status: Point in time view as at 17/03/2021.*

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## 22 Remuneration: supplementary

- (1) Different provision may be made under section 20 or 21 for different cases.
- (2) <sup>F85</sup>The <sup>F2</sup>[Senedd] Commission] must ensure that information concerning—
  - (a) the amounts paid to each <sup>F45</sup>[Member of the Senedd] as salary and allowances, and
  - (b) the total amount paid to <sup>F8</sup>[Members of the Senedd] as salaries and allowances, is published for each financial year <sup>F86</sup>. . . .
- <sup>F87</sup>(3) The <sup>F2</sup>[Senedd] Commission must lay before the <sup>F2</sup>[Senedd] every determination made by the Board under section 20(6) 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 <sup>F25</sup>[a Member of the Senedd] when the <sup>F2</sup>[Senedd] is dissolved, but
  - (b) is nominated as a candidate at the subsequent general election,is to be treated as <sup>F25</sup>[a Member of the Senedd] until the end of the day on which the poll at the election is held.
- (5) Where a person—
  - (a) ceases to be <sup>F25</sup>[a Member of the Senedd] when the <sup>F2</sup>[Senedd] is dissolved, but
  - (b) continues to hold office as Presiding Officer or as a member of the <sup>F2</sup>[Senedd] Commission by virtue of paragraph 1(1) or (2) of Schedule 2,the fact that the person is no longer <sup>F25</sup>[a Member of the Senedd] 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 <sup>F2</sup>[Senedd] 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.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(16\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F85** Words in s. 22(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), [Sch. 3 para. 6](#) (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F86** Words in s. 22(2) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), [Sch. 3 para. 6](#) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F87** S. 22(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), [Sch. 3 para. 7](#) (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

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### 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))

## 23 Oath or affirmation of allegiance

- (1) [F25A Member of the Senedd] 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 [F25a Member of the Senedd] (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 [F25a Member of the Senedd] to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) by the [F45 Member of the Senedd] in compliance with section 55(2) since being returned (or last returned).
- (4) Until [F25a Member of the Senedd] has taken the oath (or made the affirmation) the [F45 Member of the Senedd] must not do anything as [F25a Member of the Senedd], other than—
  - (a) take part in proceedings of the [F2 Senedd] at which [F8 Members of the Senedd] 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 [F25a Member of the Senedd] has not taken the oath (or made the affirmation) within—
  - (a) the period of two months beginning with the day on which the [F45 Member of the Senedd] was declared to be returned, or
  - (b) such longer period as the [F2 Senedd] 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 [F45 Member of the Senedd] ceases to be [F25a Member of the Senedd] (so that the [F88 Member's] seat is vacant).
- (6) Until [F25a Member of the Senedd] 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 [F45 Member of the Senedd].
- (7) But subsection (6) does not affect any entitlement to payments in respect of the period before the [F45 Member of the Senedd] took the oath (or made the affirmation) once the [F45 Member of the Senedd] has done so.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)

*Status: Point in time view as at 17/03/2021.*

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**F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), Sch. 1 para. 2(16) (with Sch. 1 para. 2(11)(12)(14))

**F88** Word in s. 23(5) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(5\)](#)

#### 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))

## 24 Assistance to groups of <sup>F8</sup>Members of the Senedd]

(1) The <sup>F2</sup>Senedd] Commission must make to (or in respect of) political groups to which <sup>F8</sup>Members of the Senedd] belong such payments <sup>F89</sup>as the Board from time to time determines] for the purpose of assisting <sup>F8</sup>Members of the Senedd] who belong to those political groups to perform their functions as <sup>F8</sup>Members of the Senedd].

(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 <sup>F2</sup>Senedd] Commission.

(3) A determination under subsection (1) may make different provision for different political groups.

(4) <sup>F90</sup> .....

(5) The standing orders must include provision for determining for the purposes of this Act whether any <sup>F45</sup>Member of the Senedd] belongs to a political group and, if so, to which; and (in particular)—

- (a) may include provision for treating <sup>F25</sup>a Member of the Senedd] as not belonging to a political group unless a specified number of <sup>F8</sup>Members of the Senedd] 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.

<sup>F91</sup>(6) The <sup>F2</sup>Senedd] Commission must lay before the <sup>F2</sup>Senedd] every determination made by the Board under section 24(1) as soon as is reasonably practicable after it is made.]

<sup>F92</sup>(7) The <sup>F2</sup>Senedd] Commission must ensure that information concerning the sums paid under this section is published for each financial year.]

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

**F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

**F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), Sch. 1 para. 2(16) (with Sch. 1 para. 2(11)(12)(14))

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- F89** Words in s. 24(1) substituted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 8 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F90** S. 24(4) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 9 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F91** S. 24(6) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 10 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F92** S. 24(7) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 11 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### **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))

### *Presiding Officer and administration*

## **25 Presiding Officer etc.**

- (1) The [<sup>F2</sup>Senedd] must, at its first meeting following a general election, elect from among the [<sup>F8</sup>Members of the Senedd] —
  - (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 [<sup>F2</sup>Senedd] 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 [<sup>F25</sup>a Member of the Senedd] otherwise than by reason of a dissolution, and
  - (c) may be removed from office by the [<sup>F2</sup>Senedd].
- (6) If the Presiding Officer or the Deputy Presiding Officer ceases to hold office under subsection (5) (or dies), the [<sup>F2</sup>Senedd] must elect a replacement from among the [<sup>F8</sup>Members of the Senedd].
- (7) Subject to subsection (9), the Presiding Officer and the Deputy Presiding Officer must not belong to—
  - (a) the same political group, or



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- (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 [F2Senedd] 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 [F8Members of the Senedd] 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—
- (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 [F2Senedd] 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 [F2Senedd].
- (15) Subsections (10) to (12) are subject to paragraph 11 of Schedule 2.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(19)** (with **Sch. 1 para. 2(11)-(14)**)
- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(17)** (with **Sch. 1 para. 2(11)(12)(14)**)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(15)** (with **Sch. 1 para. 2(11)(12)(14)**)

#### 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))

## 26 Clerk of [F2Senedd]

- (1) The [F2Senedd] Commission must appoint a person to be the Clerk of the [F2Senedd] (referred to in this Act as "the Clerk").

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- (2) The person appointed under subsection (1) is to be known as the Clerk of the [F93Senedd, Clerc y Senedd] 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 [F2Senedd] (or person seconded to work at the [F2Senedd]) authorised by the [F2Senedd] 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 [F2Senedd] (or person seconded to work at the [F2Senedd]) to exercise functions on the Clerk's behalf.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F93** Words in s. 26(2) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 5, 42\(2\)](#)

#### 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))

## 27 A [F2Senedd] Commission

- (1) There is to be a body corporate to be known as the [F94Senedd Commission or Comisiwn y Senedd] (referred to in this Act as “the [F2Senedd] Commission”).
- (2) The members of the [F2Senedd] Commission are to be—
  - (a) the Presiding Officer, and
  - (b) four other [F8Members of the Senedd].
- (3) The standing orders must make provision for the appointment of the four other [F8Members of the Senedd] as members of the [F2Senedd] Commission.
- (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 [F2Senedd] Commission (other than the Presiding Officer) belongs to any one political group.
- (5) The [F2Senedd] Commission must—
  - (a) provide to the [F2Senedd], or
  - (b) ensure that the [F2Senedd] is provided with, the property, staff and services required for the [F2Senedd's] purposes.
- (6) The [F2Senedd] may give special or general directions to the [F2Senedd] Commission for the purpose of, or in connection with, the exercise of the [F2Senedd] Commission's functions.
- (7) Any property, rights or liabilities acquired or incurred in relation to matters to which the [F2Senedd] would otherwise be entitled or subject are to be treated for all purposes as property, rights or liabilities of the [F2Senedd] Commission.
- (8) For further provision about the [F2Senedd] Commission see Schedule 2.

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#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F94** Words in s. 27(1) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), [ss. 6, 42\(2\)](#)

#### 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))

### Committees

## 28 Committees and sub-committees

- (1) The standing orders may provide—
  - (a) for the appointment of committees of the [<sup>F2</sup>Senedd], and
  - (b) for such committees to have power to appoint sub-committees.
- (2) The members of a committee of the [<sup>F2</sup>Senedd], or of a sub-committee of such a committee, may not include anyone who is not [<sup>F25</sup>a Member of the Senedd ].
- (3) The standing orders must make provision about the membership, chairing and procedure of committees of the [<sup>F2</sup>Senedd] and sub-committees of such committees.
- (4) The standing orders may include provision for excluding from the proceedings of a committee of the [<sup>F2</sup>Senedd ], or a sub-committee of such a committee, [<sup>F25</sup>a Member of the Senedd] who is not a member of the committee or sub-committee.
- (5) The validity of any proceedings of a committee of the [<sup>F2</sup>Senedd], 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

## <sup>F95</sup>29 Composition of committees

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#### Textual Amendments

**F95** S. 29 omitted (31.3.2017) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 14**, 71(2)(b) (with [Sch. 7 paras. 1, 6](#))

### 30 Audit Committee

- (1) The committees of the [F2Senedd] must include one to be known as the Audit Committee or Pwyllgor Archwilio or by such other name as the [F2Senedd] may determine; and, if the [F2Senedd] 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 [F25a Member of the Senedd] who is a member of a political group with an executive role.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(19)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(15)** (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

*Proceedings etc.*

### 31 Standing orders

- (1) [F2Senedd] 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 [F2Senedd] proceedings, including provision for—
  - (a) preventing conduct which would constitute a criminal offence or contempt of court, and

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- (b) a sub judice rule.
- (3) The standing orders may include provision for excluding [<sup>F25</sup>a Member of the Senedd] from [<sup>F2</sup>Senedd] proceedings.
- (4) The standing orders may include provision for withdrawing from [<sup>F25</sup>a Member of the Senedd] any or all of the rights and privileges of membership of the [<sup>F2</sup>Senedd].
- (5) The standing orders—
  - (a) must include provision requiring the proceedings of the [<sup>F2</sup>Senedd] to be held in public, and for proceedings of a committee of the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd], and for reporting proceedings of committees of the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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 [<sup>F8</sup>Members of the Senedd] voting support it.
- (8) The Clerk must from time to time publish the standing orders.

**Textual Amendments**

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)

**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))

<sup>F96</sup>**32 Participation by UK Ministers etc.**

**Textual Amendments**

- F96** S. 32 omitted (31.3.2017) by virtue of *Wales Act 2017* (c. 4), **ss. 15(a), 71(2)(b)** (with *Sch. 7 paras. 1, 6*)

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### <sup>F97</sup>33 Consultation about UK Government's legislative programme

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#### Textual Amendments

**F97** S. 33 omitted (31.3.2017) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 15\(b\)](#), [71\(2\)\(b\)](#) (with [Sch. 7 paras. 1, 6](#))

### 34 Participation by Counsel General

- (1) If not [<sup>F25</sup>a Member of the Senedd] the Counsel General may participate in [<sup>F2</sup>Senedd] 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 [<sup>F25</sup>a Member of the Senedd ] as to [<sup>F25</sup>a Member of the Senedd].
- (3) The Counsel General may, in any [<sup>F2</sup>Senedd] 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

### 35 Equality of treatment

[<sup>F98</sup>(1) The [<sup>F2</sup>Senedd] must, in the conduct of [<sup>F2</sup>Senedd] 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.]

[<sup>F98</sup>(1) The official languages of the [<sup>F2</sup>Senedd] are English and Welsh.

- (1A) The official languages must, in the conduct of [<sup>F2</sup>Senedd] proceedings, be treated on a basis of equality.
- (1B) All persons have the right to use either official language when participating in [<sup>F2</sup>Senedd] proceedings.
- (1C) Reports of [<sup>F2</sup>Senedd] proceedings must, in the case of proceedings which fall within section 1(5)(a) (proceedings of the [<sup>F2</sup>Senedd]), contain a record of what was said, in the official language in which it was said, and also a full translation into the other official language.

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- (1D) Paragraph 8 of Schedule 2 makes provision about how the [F2Senedd] Commission must enable effect to be given to subsections (1) to (1C).]
- (2) The [F2Senedd] must make appropriate arrangements with a view to securing that [F2Senedd] proceedings are conducted with due regard to the principle that there should be equality of opportunity for all people.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F98** S. 35(1)-(1D) substituted for s. 35(1) (13.11.2012) by [National Assembly for Wales \(Official Languages\) Act 2012 \(anaw 1\), ss. 1, 3\(b\)](#)

#### Commencement Information

- I31** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 36 Integrity

- (1) The standing orders must include provision—
- for a register of interests of [F8Members of the Senedd], and
  - for the register to be published and made available for public inspection.
- (2) The standing orders must require [F8Members of the Senedd] to register in the register of interests registrable interests, as defined for the purposes of this subsection.
- (3) The standing orders must require any [F45Member of the Senedd] who has—
- a financial interest, as defined for the purposes of this subsection, or
  - any other interest, or an interest of any other kind, as so defined,
- in any matter to declare that interest before taking part in [F2Senedd] proceedings relating to that matter.
- (4) The standing orders may include provision for preventing or restricting the participation in any [F2Senedd] proceedings of [F25a Member of the Senedd ] who has an interest within subsection (2) or (3) in any matter to which the proceedings relate.
- (5) The standing orders must include provision prohibiting [F25a Member of the Senedd] from—
- 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
  - urging, in consideration of any such payment or benefit in kind, any other [F45Member of the Senedd] 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 [F2Senedd] constituency members and [F2Senedd] regional members; and—
- [F2Senedd] constituency members must not describe themselves in a manner which suggests that they are [F2Senedd] regional members, and

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- (b) [F<sup>2</sup>Senedd] regional members must not describe themselves in a manner which suggests that they are [F<sup>2</sup>Senedd] constituency members.
- (7) [F<sup>25</sup>a Member of the Senedd ] who—
- (a) takes part in [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>25</sup>a Member of the Senedd] (apart from those in subsection (6)) include the Counsel General, if not [F<sup>25</sup>a Member of the Senedd], and
- (b) “financial interest” includes a benefit in kind.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(16\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

### *Witnesses and documents*

#### 37 Power to call

- (1) Subject as follows, the [F<sup>2</sup>Senedd] may require any person—
- (a) to attend [F<sup>2</sup>Senedd] proceedings for the purpose of giving evidence, or
- (b) to produce for the purposes of the [F<sup>2</sup>Senedd] (or a committee of the [F<sup>2</sup>Senedd] 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[F<sup>99</sup>], relevant to the exercise of any of the Auditor General for Wales'



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- functions, or relevant to the oversight and supervision of the Auditor General for Wales, or to the oversight and supervision of the exercise of any of his or her functions].
- (2) The [F<sup>2</sup>Senedd] 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 [F<sup>100</sup> or the Welsh zone].
- (3) The [F<sup>2</sup>Senedd] may not impose a requirement under subsection (1) on a person who—
- is or has been a Minister of the Crown, or
  - 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 [F<sup>2</sup>Senedd] —
- may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and
  - 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 F<sup>101</sup>... Government (or a person seconded to work for the Welsh F<sup>101</sup>... 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—
- that the person on whom the requirement was imposed need not comply with it, and
  - that the requirement is instead to be complied with by another person specified in the direction.
- [F<sup>102</sup>(6A) Subsection (1) applies in relation to requirements imposed on a person in connection with the discharge of the functions of the Gas and Electricity Markets Authority in relation to Wales with the omission of the words after paragraph (b).]
- (7) The powers conferred by subsection (1)—
- may be exercised by and for the purposes of the Audit Committee, and
  - may be exercised by and for the purposes of any other committee of the [F<sup>2</sup>Senedd], or any sub-committee of any committee of the [F<sup>2</sup>Senedd], if the committee or sub-committee is expressly authorised to do so by the [F<sup>2</sup>Senedd] (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—
- 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

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- (b) has authorised the person to decline to answer the question or produce the document on that ground.
- (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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F99** Words in s. 37(1) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 71](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F100** Words in s. 37(2) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(2\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))
- F102** S. 37(6A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), ss. 66(1), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, [reg. 3\(m\)](#)

#### 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))

## 38 Notice

- (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 [F<sup>2</sup>Senedd] 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.

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- (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 [F2Senedd] , 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

### 39 Offences

- (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.

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### 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))

## 40 General

- (1) The Presiding Officer or such other person as may be authorised by the standing orders may—
  - (a) require any person giving evidence in [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd ] 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 [F<sup>2</sup>Senedd] proceedings.
- (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 [F<sup>2</sup>Senedd] proceedings for the purpose of giving evidence, or
  - (b) producing for the purposes of the [F<sup>2</sup>Senedd] (or a committee of the [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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.

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 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))

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### Legal issues

#### 41 Proceedings by or against [F2Senedd] etc.

- (1) Proceedings by or against the [F2Senedd] are to be instituted by or against the [F2Senedd] Commission on behalf of the [F2Senedd] .
- (2) Proceedings by or against—
  - (a) the Presiding Officer or Deputy Presiding Officer, or
  - (b) a member of the staff of the [F2Senedd] ,are (unless instituted against or by the [F2Senedd] Commission) to be instituted by or against the [F2Senedd] Commission on behalf of the Presiding Officer, Deputy Presiding Officer or member of staff.
- (3) In any proceedings against the [F2Senedd ] 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 [F45Member of the Senedd] ,
  - (b) the Presiding Officer or Deputy Presiding Officer,
  - (c) any member of the staff of the [F2Senedd] , or
  - (d) the [F2Senedd] 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 [F2Senedd] which could not have been given in proceedings against the [F2Senedd] .
- (5) References in this section to an order include an order which is not final.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F45** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), *Sch. 1 para. 2(16)* (with *Sch. 1 para. 2(11)(12)(14)*)

#### 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))

#### 42 Defamation

- (1) For the purposes of the law of defamation—
  - (a) any statement made in [F2Senedd] proceedings, and
  - (b) the publication under the authority of the [F2Senedd] 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).

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- (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 [F2Senedd] .
- (4) In this section “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

### 43 Contempt of court

- (1) The strict liability rule does not apply in relation to any publication—
- made in, for the purposes of, or for purposes incidental to, [F2Senedd] proceedings, or
  - to the extent that it consists of a report of [F2Senedd] proceedings which either is made by or under the authority of the [F2Senedd] 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).

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

### <sup>F103</sup>44 Corrupt practices

.....

#### Textual Amendments

**F103** S. 44 repealed (1.7.2011) by [Bribery Act 2010 \(c. 23\)](#), s. 19(1), [Sch. 2](#) (with ss. 16, 19(5)); S.I. 2011/1418, art. 2

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## PART 2

### <sup>F101</sup>WELSH ... GOVERNMENT

#### *Government*

#### 45 Welsh <sup>F101</sup>... Government

- (1) There is to be a Welsh <sup>F101</sup>... Government, or Llywodraeth <sup>F104</sup>... 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 <sup>F101</sup>... Government or Cwnsler Cyffredinol i Lywodraeth <sup>F104</sup>... 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.

#### **Textual Amendments**

**F104** Words in s. 45(1) omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **ss. 4(2)(b)**, 29(2)(a) (with s. 4(3))

#### **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))

#### *Ministers, staff etc.*

#### 46 The First Minister

- (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.
- (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 [<sup>F25</sup>a Member of the Senedd][<sup>F105</sup>otherwise than by reason of a dissolution].

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- (6) A person may not be designated to exercise the functions of the First Minister unless the person is—
- (a) [<sup>F25</sup>a Member of the Senedd], or
  - (b) if the [<sup>F2</sup>Senedd] has been dissolved, a person who ceased to be [<sup>F25</sup>a Member of the Senedd] 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 [<sup>F2</sup>Senedd] is dissolved.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F105** Words in s. 46(5)(c) inserted (17.2.2015) by *Wales Act 2014* (c. 29), **ss. 5, 29(2)(a)**

#### 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))

## 47 Choice of First Minister

- (1) If one of the following events occurs, the [<sup>F2</sup>Senedd] must, before the end of the relevant period, nominate [<sup>F25</sup>a Member of the Senedd] for appointment as First Minister.
- (2) The events are—
- (a) the holding of a poll at a general election,
  - (b) the [<sup>F2</sup>Senedd] resolving that the Welsh Ministers no longer enjoy the confidence of the [<sup>F2</sup>Senedd],
  - (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 [<sup>F25</sup>a Member of the Senedd] 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 [<sup>F2</sup>Senedd] passes a resolution under section 5(2)(a) or when Her Majesty appoints a person as the First Minister.
- (4) The Presiding Officer must recommend to Her Majesty the appointment of the person nominated by the [<sup>F2</sup>Senedd] under subsection (1).



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#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

### 48 Welsh Ministers

- (1) The First Minister may, with the approval of Her Majesty, appoint Welsh Ministers from among the [<sup>F8</sup>Members of the Senedd].
- (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 [<sup>F2</sup>Senedd] resolves that the Welsh Ministers no longer enjoy the confidence of the [<sup>F2</sup>Senedd].
- (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 [<sup>F25</sup>a Member of the Senedd] otherwise than by reason of a dissolution.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

### 49 Counsel General

- (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 [<sup>F2</sup>Senedd].

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- (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 [<sup>F25</sup>a Member of the Senedd] 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.
- (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 [<sup>F25</sup>a Member of the Senedd ] 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

## 50 Deputy Welsh Ministers

- (1) The First Minister may, with the approval of Her Majesty, appoint Deputy Welsh Ministers from among the [<sup>F8</sup>Members of the Senedd ] 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 [<sup>F2</sup>Senedd] resolves that the Welsh Ministers no longer enjoy the confidence of the [<sup>F2</sup>Senedd].
- (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 [<sup>F25</sup>a Member of the Senedd] otherwise than by reason of a dissolution.

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#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### 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))

## 51 Limit on number of Ministers

- (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.

#### 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))

## 52 Staff

- (1) The Welsh Ministers may appoint persons to be members of the staff of the Welsh <sup>F101</sup>... Government.
- (2) Service as a member of the staff of the Welsh <sup>F101</sup>... Government is service in the [<sup>F106</sup>civil service of the State].
- [<sup>F107</sup>(3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
  - (a) subsection (1), and
  - (b) any other enactment about the appointment of persons as members of the staff of the Welsh <sup>F101</sup>... Government.]
- [<sup>F108</sup>(4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc.]
- (5) The Welsh Ministers are to pay the salaries and expenses of the members of the staff of the Welsh <sup>F101</sup>... 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.

*Status: Point in time view as at 17/03/2021.*

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- (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 <sup>F101</sup>... 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 <sup>F101</sup>... Government.
- (9) Without prejudice to any rule of law with respect to the carrying out of functions by members of the [<sup>F106</sup>civil service of the State ] under authority, the Welsh Ministers, the First Minister or the Counsel General may authorise the staff of the Welsh <sup>F101</sup>... Government to carry out any function on their behalf.
- (10) <sup>F109</sup> .....

**Textual Amendments**

**F106** Words in s. 52(2)(9) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(2\); S.I. 2010/2703, art. 2\(a\)](#)

**F107** S. 52(3) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(3\); S.I. 2010/2703, art. 2\(a\)](#)

**F108** S. 52(4) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(4\); S.I. 2010/2703, art. 2\(a\)](#)

**F109** S. 52(10) omitted (11.11.2010) by virtue of [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 19, 52\(2\), Sch. 2 para. 15\(5\); S.I. 2010/2703, art. 2\(a\)](#)

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**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))

*Remuneration, oaths etc.*

**53 Remuneration**

- (1) [<sup>F110</sup>Provision must be made] for the payment of salaries to persons to whom this section applies.
- (2) [<sup>F111</sup>Provision may be made] for the payment of allowances to persons to whom this section applies.
- (3) [<sup>F112</sup>Provision may be made] 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 [<sup>F2</sup>Senedd] Commission or otherwise) of one or more pension schemes.

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- (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.
- [<sup>F113</sup>(7) Provision under this section is to be made by determination made by the Board.]
- [<sup>F114</sup>(8) The [<sup>F2</sup>Senedd] Commission must give effect to any determination made by the Board under this section.]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F110** Words in s. 53(1) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 12 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F111** Words in s. 53(2) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 13 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F112** Words in s. 53(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 14 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F113** S. 53(7) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 15 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)
- F114** S. 53(8) inserted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 16 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### 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))

## 54 Remuneration: supplementary

- (1) Different provision may be made under section 53 for different cases.
- (2) [<sup>F115</sup>The [<sup>F2</sup>Senedd] Commission] 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 <sup>F116</sup> . . .

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[<sup>F117</sup>(3) The [<sup>F2</sup>Senedd] Commission must lay before the [<sup>F2</sup>Senedd] every determination made by the Board under section 53(7) 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F115** Words in s. 54(2) substituted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 17 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

**F116** Words in s. 54(2) omitted (24.9.2010) by virtue of National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 17 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

**F117** S. 54(3) substituted (24.9.2010) by National Assembly for Wales (Remuneration) Measure 2010 (nawm 4), ss. 16, 20(3)(4), Sch. 3 para. 18 (with s. 19) (the amending provision coming into force the day after notice under s. 20(3)(4) of the amending Measure was laid before the Assembly on 23.9.2010)

#### Commencement Information

**I49** 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

(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 [<sup>F25</sup>a Member of the Senedd] 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 [<sup>F25</sup>a Member of the Senedd] .

(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

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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.

#### Textual Amendments

**F25** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(15)** (with Sch. 1 para. 2(11)(12)(14))

#### Commencement Information

**I50** 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

- (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

**I51** 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

- (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.

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### 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))

## 58 Transfer of Ministerial functions

(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 [<sup>F118</sup>or the Welsh zone],
- (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 [<sup>F119</sup>—
  - (i) concurrently or jointly with a Minister of the Crown, or
  - (ii) only with the agreement of, or after consultation with, a Minister of the Crown,] or
- (c) direct that any function so far as exercisable by a Minister of the Crown in relation to Wales [<sup>F120</sup>or the Welsh zone] 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.

[<sup>F121</sup>(1A) An Order in Council under this section may not make provision about a function of a Minister of the Crown exercisable in relation to the area of the Welsh zone beyond the seaward limit of the territorial sea unless the function is connected with fishing, fisheries or fish health.

(1B) Subsection (1A) does not have effect in relation to an Order in Council to the extent that it contains provision made by virtue of paragraph 4 of Schedule 3 (functions exercisable beyond the territorial sea).]

(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.

[<sup>F122</sup>(2A) Her Majesty may by Order in Council—

- (a) make provision modifying (by reference to geographical extent or otherwise) a previously conferred or transferred water-related function;
- (b) provide for such a function to be exercisable—
  - (i) concurrently or jointly with a Minister of the Crown or the Welsh Ministers, or
  - (ii) only with the agreement of, or after consultation with, a Minister of the Crown or the Welsh Ministers.

(2B) In subsection (2A)—

"previously conferred or transferred function" means a function exercisable by—

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



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

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

- (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.

#### Textual Amendments

- F118** Words in s. 58(1)(a) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(a\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F119** Words in s. 58(1)(b) substituted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 21\(1\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/893, [reg. 2](#)
- F120** Words in s. 58(1)(c) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(b\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F121** S. 58(1A)(1B) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(3\)\(c\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F122** S. 58(2A)(2B) inserted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 49](#), 71(4) (with [Sch. 7 paras. 1, 6, 7](#)); S.I. 2017/893, [reg. 2](#)

#### 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))

### <sup>F123</sup>58A Executive ministerial functions

- (1) Executive ministerial functions, so far as exercisable within devolved competence, are exercisable by the Welsh Ministers.
- (2) Executive ministerial functions that are ancillary to a function of the Welsh Ministers exercised outside devolved competence are also exercisable by the Welsh Ministers.

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- (3) Functions exercisable by the Welsh Ministers under subsection (1) or (2) are not exercisable by a Minister of the Crown unless they are functions to which subsection (4) applies.

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

- (4) This subsection applies to—
- (a) functions ancillary to a function of the Welsh Ministers that is exercisable concurrently or jointly with a Minister of the Crown;
  - (b) functions ancillary to a function of a Minister of the Crown;
  - (c) functions that are not ancillary to another function;
  - (d) functions in relation to observing and implementing [<sup>F124</sup>retained EU obligations].

- (5) In this section—

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

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

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

- (7) It is outside devolved competence—

- (a) to make any provision by subordinate legislation that would be outside the legislative competence of the [<sup>F2</sup>Senedd] if it were included in an Act of the [<sup>F2</sup>Senedd] (see section 108A), or
- (b) to confirm or approve any subordinate legislation containing such provision.

- (8) In the case of a function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that a provision of an Act of the [<sup>F2</sup>Senedd] conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the [<sup>F2</sup>Senedd] .]

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with Sch. 1 para. 2(11)-(14))

**F123** S. 58A inserted (1.4.2018) by *Wales Act 2017* (c. 4), **ss. 19(1), 71(4)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(e)

**F124** Words in s. 58A(4)(d) substituted (31.12.2020) by *European Union (Withdrawal) Act 2018* (c. 16), s. 25(4), **Sch. 3 para. 33** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

<sup>F125</sup>**58B Implementation of EU law: general**

.....

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### Textual Amendments

**F125** S. 58B omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 34](#) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

## 59 [F126] Fees and charges in relation to international law

F127(1) .....

F127(2) .....

F127(2A) .....

F127(3) .....

F127(4) .....

(5) The power conferred by section 56 of the Finance Act 1973 (c. 51) (services provided [F128] in pursuance of an international obligation) 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 [F2] Senedd].

(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 [F129] Wales, the Welsh zone or a part of Wales or the Welsh zone)].

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with Sch. 1 para. 2(11)-(14))

**F126** S. 59 heading substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 35\(2\)](#) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

**F127** S. 59(1)-(4) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 35\(3\)](#) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

**F128** Words in s. 59(5) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 35\(4\)](#) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

**F129** Words in s. 59(7)(c) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 43, 324, Sch. 4 Pt. 2 para. 6\(4\)\(b\); S.I. 2009/3345, art. 2, Sch. para. 7](#)

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

**C7** S. 59(3) modified (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 143(2)(b)**, 182(1)(c) (with s. 180)

### [<sup>F130</sup>59A Shared powers

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

#### Textual Amendments

**F130** S. 59A inserted (8.1.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 21(3)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/893](#), reg. 2

## 60 Promotion etc. of well-being

- (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,
  - (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

**I54** 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.

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,

*Status: Point in time view as at 17/03/2021.*

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- (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**

**I55** 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**

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

**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))

<sup>F131</sup>**63 Consultation about cross-border bodies**

.....

**Textual Amendments**

**F131** S. 63 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 22, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)

**64 Polls for ascertaining views of the public**

- (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.

*Status: Point in time view as at 17/03/2021.*

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- (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 [F<sup>2</sup>Senedd].

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

## 65 Private bills

- (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

**I58** 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

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

**I59** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## [F<sup>132</sup> 66A Provision of information to the Office for Budget Responsibility

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

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that it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).

- (2) The Office is entitled to require from any person holding or accountable for such information any assistance or explanation that the Office reasonably thinks necessary for that purpose.
- (3) No regulations are to be made under subsection (1)(b) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) This section is subject to any enactment or rule of law that operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.]

#### Textual Amendments

**F132** S. 66A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 65, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(m\)](#)

## 67 Legal proceedings

- (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

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

## 68 Contracts

- (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.
- (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

**I61** 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

- (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.

*Status: Point in time view as at 17/03/2021.*

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- (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

**I62** 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

- (1) [<sup>F133</sup>The First Minister] may give financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which [<sup>F134</sup>the First Minister considers] will secure, or help to secure, the attainment of any objective which [<sup>F135</sup>the Minister aims] to attain in the exercise of any of [<sup>F136</sup>the Minister's functions].
- (2) [<sup>F137</sup>The First Minister] may attach conditions to the giving of financial assistance [<sup>F138</sup>by the Minister]; 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.
- [<sup>F139</sup>(3) This section applies in relation to the Counsel General as in relation to the First Minister.
- (As regards the Welsh Ministers, see section 58A.)]

#### Textual Amendments

- F133** Words in s. 70(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(a\)\(i\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F134** Words in s. 70(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(a\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F135** Words in s. 70(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(a\)\(iii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F136** Words in s. 70(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(a\)\(iv\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F137** Words in s. 70(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(b\)\(i\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F138** Words in s. 70(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)
- F139** S. 70(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 19\(2\)\(c\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(e\)](#)

#### 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))



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## 71 Supplementary

(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.

[<sup>F140</sup>(2) This section applies to the First Minister and the Counsel General.

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

### Textual Amendments

**F140** S. 71(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 19(3), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(e\)](#)

### 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))

*“Inclusive” approach to exercise of functions*

## 72 Partnership Council

(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) [<sup>F141</sup>police and crime commissioners] 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.

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- (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 [F2Senedd] .

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F141** Words in s. 72(5)(c) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 352](#); S.I. 2012/2892, art. 2(i)

#### 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))

### 73 Local government scheme

- (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—
- must keep the local government scheme under review, and
  - 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 [F2Senedd] .
- (6) After each financial year the Welsh Ministers must—
- publish a report of how the proposals set out in the local government scheme were implemented in that financial year, and
  - lay a copy of the report before the [F2Senedd] .

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

*Status: Point in time view as at 17/03/2021.*

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## 74 Voluntary sector scheme

- (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
  - (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 [F2Senedd] .
- (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 [F2Senedd] .

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 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))

*Status: Point in time view as at 17/03/2021.*

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## 75 Business scheme

- (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 [F2Senedd] .
- (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 [F2Senedd] a copy of each report published under subsection (7).

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 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))

## 76 Regulatory impact assessments

- (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”).

*Status: Point in time view as at 17/03/2021.*

*Changes to legislation: Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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)*

- (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 [F2Senedd] .
- (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 [F2Senedd] .

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

## 77 Equality of opportunity

- (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 [F2Senedd] .

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

*Status: Point in time view as at 17/03/2021.*

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## 78 The Welsh language

- (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.
- <sup>F142</sup>(2) .....
- <sup>F142</sup>(3) .....
- (4) The Welsh Ministers—
- must keep under review <sup>F143</sup> ... the Welsh language strategy <sup>F143</sup> ..., and
  - may from time to time adopt a new strategy or [<sup>F144</sup>revise it].
- (5) Before adopting or revising a strategy <sup>F145</sup> ..., the Welsh Ministers must consult such persons as they consider appropriate.
- (6) The Welsh Ministers must publish the Welsh language strategy <sup>F146</sup> ... when they first adopt it and—
- if they adopt a new strategy <sup>F147</sup> ... they must publish it, and
  - if they revise the Welsh language strategy <sup>F148</sup> ... (rather than adopting a new strategy <sup>F147</sup> ...) they must publish either the revisions or the strategy [<sup>F147</sup>or scheme] as revised (as they consider appropriate).
- (7) If the Welsh Ministers publish a strategy <sup>F149</sup> ..., or revisions, under subsection (6) they must lay a copy of the strategy or scheme, or revisions, before the [<sup>F2</sup>Senedd].
- <sup>F150</sup>(8) After each financial year the Welsh Ministers must publish a report of 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 must lay a copy of the report before the [<sup>F2</sup>Senedd].]
- <sup>F151</sup>(9) For each financial year, the Welsh Ministers must publish a plan setting out how they will implement the proposals set out in the Welsh language strategy during that year.
- (10) The plan must be published as soon as reasonably practicable before the commencement of the financial year to which it relates.]

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by Senedd and Elections (Wales) Act 2020 (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with Sch. 1 para. 2(11)-(14))
- F142** S. 78(2)(3) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(i)**
- F143** Words in s. 78(4)(a) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(ii)**
- F144** Words in s. 78(4)(b) substituted (31.3.2016) by The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(iii)**
- F145** Words in s. 78(5) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(iv)**
- F146** Words in s. 78(6) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(v)**
- F147** Words in s. 78(6) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(iv)**
- F148** Words in s. 78(6)(b) omitted (31.3.2016) by virtue of The Welsh Language (Wales) Measure 2011 (Consequential Provisions) Order 2016 (S.I. 2016/409), arts. 1(2), **2(a)(vi)**

*Status: Point in time view as at 17/03/2021.*

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- F149** Words in s. 78(7) omitted (31.3.2016) by virtue of [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(iv)**
- F150** S. 78(8) substituted (31.3.2016) by [The Welsh Language \(Wales\) Measure 2011 \(Consequential Provisions\) Order 2016 \(S.I. 2016/409\)](#), arts. 1(2), **2(a)(vii)**
- F151** S. 78(9)(10) inserted (5.2.2012) by [Welsh Language \(Wales\) Measure 2011 \(nawm 1\)](#), **ss. 148(2), 156(2)**; S.I. 2012/223, art. 2(a)

#### 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))

### [<sup>F152</sup>79 Sustainable development

- (1) The Welsh Ministers must, in the exercise of their functions, make appropriate arrangements to promote sustainable development.
- (2) After each financial year the Welsh Ministers must publish a report containing a statement of the arrangements made in pursuance of subsection (1) that had effect during that financial year and must lay a copy of the report before the [<sup>F2</sup>Senedd].
- (3) The arrangements referred to in subsection (1) may be made by the Welsh Ministers exercising their functions under section (2) of the Well-being of Future Generations (Wales) Act 2015 (duty of Welsh public bodies to set objectives and take steps to meet them in accordance with the sustainable development principle).]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(19)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F152** S. 79 substituted (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), **ss. 16, 56(2)**; S.I. 2016/86, art. 3

[<sup>F153</sup>Retained][<sup>F154</sup>EU] law, human rights and international obligations etc.

#### Textual Amendments

- F153** Word in s. 80 cross-heading inserted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 36** (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(1) (with reg. 10)
- F154** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, **3-6**

### 80 [<sup>F155</sup>Retained][<sup>F154</sup>EU] law

- (1) [<sup>F156</sup>A retained EU 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 [<sup>F157</sup>a retained EU obligation] of the United Kingdom if—

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- (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 <sup>F158</sup>the whole or part of Wales or of the Welsh zone)].
- (3) But if such <sup>F159</sup>a retained EU 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 <sup>F160</sup>the retained EU 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 <sup>F161</sup>a retained EU obligation], to the extent that <sup>F162</sup>the retained EU 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)).
- <sup>F163</sup>(8) The Welsh Ministers have no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.
- (8A) But subsection (8) does not apply—
- (a) so far as the modification would be within the <sup>F2</sup>Senedd's] legislative competence if it were included in an Act of the <sup>F2</sup>Senedd], or
  - (b) to the making of regulations under <sup>F164</sup>—
    - (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
    - (ii) Schedule 4 to that Act (powers in connection with fees and charges), <sup>F165</sup>...
    - (iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)]<sup>F166</sup>, or
    - (iv) section 31, 32 or 33 of the European Union (Future Relationship) Act 2020 (powers in connection with future relationship agreements etc.)]
- (8B) No regulations are to be made under subsection (8) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (8C) A Minister of the Crown must not lay a draft as mentioned in subsection (8B) unless—
- (a) the <sup>F2</sup>Senedd] has made a consent decision in relation to the laying of the draft, or
  - (b) the 40 day period has ended without the <sup>F2</sup>Senedd] having made such a decision.



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- (8D) For the purposes of subsection (8C) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
  - (b) a decision not to agree a motion consenting to the laying of the draft, or
  - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the [F<sup>2</sup>Senedd] first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (8E) In subsection (8C)—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers, and, in calculating that period, no account is to be taken of any time during which the [F<sup>2</sup>Senedd] is dissolved or during which it is in recess for more than four days.
- (8F) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (8B) must—
- (a) provide a copy of the draft to the Welsh Ministers, and
  - (b) inform the Presiding Officer that a copy has been so provided.
- (8G) See also section 157ZA (duty to make explanatory statement about regulations under subsection (8) including a duty to explain any decision to lay a draft without the consent of the [F<sup>2</sup>Senedd] ).
- (8H) No regulations may be made under subsection (8) after the end of the period of two years beginning with exit day.
- (8I) Subsection (8H) does not affect the continuation in force of regulations made under subsection (8) at or before the end of the period mentioned in subsection (8H).
- (8J) Any regulations under subsection (8) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (8K) Subsections (8C) to (8I) do not apply in relation to regulations which only relate to a revocation of a specification.
- (8L) The restriction in subsection (8) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of the Welsh Ministers to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.]
- (9) Subsections (1) [F<sup>167</sup>, (8) and (8L)] apply to the First Minister and the Counsel General as to the Welsh Ministers.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F155** Word in s. 80 heading inserted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 37\(2\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F156** Words in s. 80(1) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 37\(3\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)

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- F157** Words in s. 80(2) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(4)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F158** Words in s. 80(2)(b) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 43, 324, **Sch. 4 Pt. 2 para. 6(5)**; S.I. 2009/3345, **art. 2**, Sch. para. 7
- F159** Words in s. 80(3) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(5)(a)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F160** Words in s. 80(3) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(5)(b)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F161** Words in s. 80(7) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(6)(a)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F162** Words in s. 80(7) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(6)(b)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F163** S. 80(8)-(8L) substituted for s. 80(8) (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(3)(b), **Sch. 3 para. 2** (with s. 19, Sch. 2 para. 3(5)(6), 14(5)(6), Sch. 8 paras. 37, 41, 42); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F164** S. 80(8A)(b)(i)-(iii) substituted for words (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 28** (with s. 38(3)); S.I. 2020/75, reg. 4(n)(ix); S.I. 2020/1622, reg. 5(j) (with reg. 10)
- F165** Word in s. 80(8A)(b)(ii) omitted (31.12.2020) by virtue of European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 3**; S.I. 2020/1662, reg. 2(ff)
- F166** S. 80(8A)(b)(iv) and word inserted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 3**; S.I. 2020/1662, reg. 2(ff)
- F167** Words in s. 80(9) substituted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 37(7)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

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

- C8** S. 80(8)-(8L): power to repeal conferred (4.7.2018) by European Union (Withdrawal) Act 2018 (c. 16), **ss. 12(9)-(11)**, 25(4) (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)
- C9** S. 80(8) restricted (1.3.2019) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), Sch. 8 para. 41(7)(9) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2
- C10** S. 80(8) excluded (19.5.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 64** (with s. 38(3)); S.I. 2020/518, reg. 2(p)(v)
- C11** S. 80(8) restricted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(6)(g), **Sch. 6 para. 12**

#### 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))

## 81 Human rights

- (1) 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 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,

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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**

**I73** 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.**

- (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.
- (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

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- (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 [<sup>F168</sup>the whole or part of Wales or of the Welsh zone]).
- (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 [<sup>F2</sup>Senedd] a proposed Assembly Measure or a Bill.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F168** Words in s. 82(5)(b) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(6\)](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)

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#### **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))

*Functions: supplementary*

### **83 Agency arrangements and provision of services**

- (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 <sup>F101</sup>... 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.

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

**C12** S. 83 modified by 2005 c. 11, s. 15(3) (as inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 7\(3\)](#), [29\(2\)\(b\)](#), (3))

#### **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))

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

- (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—

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- (a) the exercise of the function by the Welsh Ministers whether or not it is exercised otherwise than by the Welsh Ministers, and
  - (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**

**I76** 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**

- (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**

**I77** 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

- (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 [F2Senedd] 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 [F2Senedd] 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 [F2Senedd] 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 [F2Senedd] 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.

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 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))

## *Property, rights and liabilities*

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

- (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.

*Status: Point in time view as at 17/03/2021.*

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- (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.
- (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

**I79** 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

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

**I80** 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

- (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 <sup>F101</sup>... 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.



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- (4) This section applies to the Crown in right of a devolved administration (other than the Welsh<sup>F101</sup>... Government) as it applies to the Crown in right of Her Majesty's Government in the United Kingdom.
- (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<sup>F101</sup>... 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<sup>F101</sup>... Government, an office-holder in that administration;
- and “subject” means a person not acting on behalf of the Crown.

#### 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))

## 90 Documents

- (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—

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- (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,
- (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 <sup>F101</sup>... 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

**I82** 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

- (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 [<sup>F2</sup>Senedd] .
- (2) The validity of any act of a person as the Counsel General is not affected by any defect in the [<sup>F2</sup>Senedd's] agreement to the person's appointment.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

**I83** 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

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

**I84** 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 17/03/2021.*

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## [<sup>F169</sup>PART 3

### ASSEMBLY MEASURES

#### Textual Amendments

**F169** Pt. 3 ceases to have effect (5.5.2011) by virtue of [Government of Wales Act 2006 \(c. 32\), s. 106\(1\)\(1\)](#) (with [ss. 106\(2\), 106A](#)) (as amended (5.5.2011) by [S.I. 2011/1011](#), art. 4; see [S.I. 2011/1011](#), arts. 2, 3 for date of commencement of the Assembly Act provisions)

#### Power

### 93 Assembly Measures

- (1) The [<sup>F2</sup>Senedd] may make laws, to be known as Measures of the National [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] and approved by Her Majesty in Council.
- (3) The validity of an Assembly Measure is not affected by any invalidity in the [<sup>F2</sup>Senedd] 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

### 94 Legislative competence

- (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 [<sup>F2</sup>Senedd's] legislative competence.
- (3) A provision of an Assembly Measure is within the [<sup>F2</sup>Senedd'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 [<sup>F170</sup> and does not fall within any of the exceptions specified in paragraph A1 of Part 2 of

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- that Schedule (whether or not the exception is under a heading corresponding to the field which includes the matter).], 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 [F2]Senedd's legislative competence if—
- (a) it breaches any of the restrictions in [F171] paragraphs 1 to 6 of] 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 [F154]EU 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 [F172](or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)] is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F154** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6
- F170** Words in s. 94(4)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(2\)](#)
- F171** Words in s. 94(6)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(3\)](#)
- F172** Words in s. 94(7) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(4\)](#)

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

- C13** S. 94(6)(b) restricted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), 2(2)

#### Commencement Information

- I86** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### [F28]95 Legislative competence: supplementary

- (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,

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- (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 [F2Senedd], 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 [F2Senedd], 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.
- (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 [F2Senedd'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 [F2Senedd], and
  - (b) the [F2Senedd] 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

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- (b) the previous or continuing operation of such an Assembly Measure.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F28** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(18)** (with *Sch. 1 para. 2(11)-(14)*)

## 96 Scrutiny of proposed Orders in Council

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

- (1) A proposed Assembly Measure may, subject to the standing orders, be introduced in the [<sup>F2</sup>Senedd] —
  - (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 [<sup>F45</sup>Member of the Senedd] .
- (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 [<sup>F2</sup>Senedd's] legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a proposed Assembly Measure in the [<sup>F2</sup>Senedd ] —
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the proposed Assembly Measure would be within the [<sup>F2</sup>Senedd'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
  - (b) if they do so, must provide for it to be published in both English and Welsh.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)
- F45** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), *Sch. 1 para. 2(16)* (with *Sch. 1 para. 2(11)(12)(14)*)

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#### **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))

### **98 Proceedings on proposed Assembly Measures**

- (1) The standing orders must include provision—
  - (a) for general debate on a proposed Assembly Measure with an opportunity for [F<sup>8</sup>Members of the Senedd ] to vote on its general principles,
  - (b) for the consideration of, and an opportunity for [F<sup>8</sup>Members of the Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd'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
  - (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

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Assembly Measure which has been amended on reconsideration, to be read as references to its approval.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))

#### Commencement Information

- I88** 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

- (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 [<sup>F2</sup>Senedd'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—
- the period of four weeks beginning with the passing of the proposed Assembly Measure, and
  - 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—
- 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
  - 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

- I89** 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

- (1) This section applies where—
- a reference has been made in relation to a proposed Assembly Measure under section 99,



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- (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 [F2Senedd] 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### 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))

## 101 Power to intervene in certain cases

- (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 [F173(or falls within any of the exceptions specified in paragraph A1 of Part 2 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 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

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- (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.
- (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.

#### Textual Amendments

**F173** Words in s. 101(1)(a) inserted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), [art. 2\(5\)](#)

#### 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))

## 102 Approval of proposed Assembly Measures

- (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 [F2Senedd'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.

*Status: Point in time view as at 17/03/2021.*

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- (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 [<sup>F2</sup>Senedd] of the date of the approval of an Assembly Measure by Her Majesty in Council.
- (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).]]

**Textual Amendments**

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**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))

**PART 4**

ACTS OF THE [<sup>F2</sup>SENEDD]

*F174* ...

**Textual Amendments**

**F174** S. 103 cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

<sup>F175</sup>**103 Referendum about commencement of Assembly Act provisions**

.....

**Textual Amendments**

**F175** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

<sup>F175</sup>**104 Proposal for referendum by Assembly**

.....

*Status: Point in time view as at 17/03/2021.*

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**Textual Amendments**

**F175** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); S.I. 2017/1179, reg. 3(q)

**F175 105 Commencement of Assembly Act provisions**

.....

**Textual Amendments**

**F175** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); S.I. 2017/1179, reg. 3(q)

**F175 106 Effect on Measures of commencement of Assembly Act provisions**

.....

**Textual Amendments**

**F175** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); S.I. 2017/1179, reg. 3(q)

**F175 106A Enactment of proposed Assembly Measures**

.....

**Textual Amendments**

**F175** Ss. 103-106A and cross-heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 2](#) (with [Sch. 7 paras. 1, 4, 5, 6](#)); S.I. 2017/1179, reg. 3(q)

*Power*

**107 Acts of the [F2Senedd]**

- (1) The [F2Senedd] may make laws, to be known as Acts of [F176Senedd Cymru or Deddfau Senedd Cymru (referred to in this Act as “Acts of the Senedd”)].
- (2) Proposed Acts of the [F2Senedd] are to be known as Bills; and a Bill becomes an Act of the [F2Senedd] when it has been passed by the [F2Senedd] and has received Royal Assent.
- (3) The validity of an Act of the [F2Senedd] is not affected by any invalidity in the [F2Senedd] proceedings leading to its enactment.
- (4) Every Act of the [F2Senedd] is to be judicially noticed.

*Status: Point in time view as at 17/03/2021.*

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(5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

[<sup>F177</sup>(6) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the [<sup>F2</sup>Senedd].]

#### Textual Amendments

**F176** Words in s. 107(1) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), **ss. 3, 42(2)**

**F177** S. 107(6) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 2, 71(2)(a)** (with [Sch. 7 paras. 1, 6](#))

#### Commencement Information

**I93** S. 107 in force at 5.5.2011 by [S.I. 2011/1011](#), **art. 3**

### <sup>F178</sup>108 Legislative competence

.....

#### Textual Amendments

**F178** 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**

### [<sup>F178</sup>108A] Legislative competence

- (1) An Act of the [<sup>F2</sup>Senedd] is not law so far as any provision of the Act is outside the [<sup>F2</sup>Senedd's] legislative competence.
- (2) A provision is outside that competence so far as any of the following paragraphs apply—
  - (a) it extends otherwise than only to England and Wales;
  - (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales;
  - (c) it relates to reserved matters (see Schedule 7A);
  - (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions;
  - (e) it is incompatible with the Convention rights or [<sup>F179</sup>in breach of the restriction in section 109A(1)].
- (3) But subsection (2)(b) does not apply to a provision that—
  - (a) is ancillary to a provision of any Act of the [<sup>F2</sup>Senedd] or Assembly Measure or to a devolved provision of an Act of Parliament, and
  - (b) has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision.
- (4) For this purpose, a provision of an Act of Parliament is ““devolved”” if it would be within the [<sup>F2</sup>Senedd's] legislative competence if it were contained in an Act of

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the [F2Senedd] (ignoring any requirement for consent or consultation imposed under paragraph 8, 10 or 11 of Schedule 7B or otherwise).

[ References in subsections (2)(b) and (3) to Wales include, in relation to a relevant F180(4A) provision of an Act of the Senedd, the area of the Welsh zone beyond the seaward limit of the territorial sea.

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

- (5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the [F2Senedd] is disregarded.
- (6) The question whether a provision of an Act of the [F2Senedd] relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.
- (7) For the purposes of this Act a provision is ancillary to another provision if it—
  - (a) provides for the enforcement of the other provision or is otherwise appropriate for making that provision effective, or
  - (b) is otherwise incidental to, or consequential on, that provision.]

#### Textual Amendments

- F178** 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](#)
- F179** Words in s. 108A(2)(e) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), ss. 12\(3\), 25\(4\)](#) (with [s. 19, Sch. 8 paras. 37, 41](#)); [S.I. 2020/1622, reg. 3\(g\)](#) (with [reg. 10](#))
- F180** S. 108A(4A) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\), ss. 45\(2\), 54\(2\)](#) (with [Sch. 4 para. 31](#))

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

- C14** S. 108A modified by [2000 c. 22, s. 7\(9\)](#) (as amended) (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 57](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)
- C15** S. 108A(2)(e) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 8 para. 41\(4\)\(9\)](#) (with [s. 19, Sch. 8 para. 37](#)); [S.I. 2019/399, reg. 2](#)

## 109 Legislative competence: supplementary

- (1) Her Majesty may by Order in Council amend [F181Schedule 7A or 7B].
- (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

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Order in Council <sup>F182</sup> has been laid before, and approved by a resolution of, each House of Parliament and the <sup>F2</sup>Senedd] .]

- <sup>F183</sup>(5) Any alteration of Schedule 7A or 7B, whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise, does not (unless an enactment provides otherwise) affect—
- (a) the validity of an Act of the <sup>F2</sup>Senedd] passed before the alteration takes effect, or
  - (b) the previous or continuing operation of such an Act of the <sup>F2</sup>Senedd] .]

#### Textual Amendments

- F181** Words in s. 109(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)
- F182** Words in s. 109(4) substituted for s. 109(4)(a)(b) (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)
- F183** S. 109(5) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 3\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

#### <sup>F184</sup>109A Legislative competence: restriction relating to retained EU law

- (1) An Act of the <sup>F2</sup>Senedd] cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before <sup>F185</sup>IP completion day], have been within the <sup>F2</sup>Senedd's] legislative competence.
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—
  - (a) the <sup>F2</sup>Senedd] has made a consent decision in relation to the laying of the draft, or
  - (b) the 40 day period has ended without the <sup>F2</sup>Senedd] having made such a decision.
- (5) For the purposes of subsection (4) a consent decision is—
  - (a) a decision to agree a motion consenting to the laying of the draft,
  - (b) a decision not to agree a motion consenting to the laying of the draft, or
  - (c) a decision to agree a motion refusing to consent to the laying of the draft;and a consent decision is made when the <sup>F2</sup>Senedd] first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
  - (a) provide a copy of the draft to the Welsh Ministers, and
  - (b) inform the Presiding Officer that a copy has been so provided.

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- (7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the [F2Senedd] ).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the [F2Senedd] which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section—  
“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers, and, in calculating that period, no account is to be taken of any time during which the [F2Senedd] is dissolved or during which it is in recess for more than four days.]

#### Textual Amendments

**F184** S. 109A inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), **ss. 12(4), 25(2)(b)** (with s. 19, Sch. 2 paras. 3(5), 14(5), Sch. 8 para. 37, Sch. 8 para. 41); S.I. 2020/1622, reg. 3(g) (with reg. 10)

**F185** Words in s. 109A(2) substituted (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 29** (with s. 38(3)); S.I. 2020/75, reg. 4(n)(x); S.I. 2020/1622, reg. 5(j) (with reg. 10)

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

**C16** S. 109A: power to repeal conferred (4.7.2018) by European Union (Withdrawal) Act 2018 (c. 16), **ss. 12(9)-(11), 25(4)** (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

**C17** S. 109A excluded (31.12.2020) by United Kingdom Internal Market Act 2020 (c. 27), **ss. 10(6)(b), 59(3)** (with s. 55(2)); S.I. 2020/1621, reg. 2(a)

**C18** S. 109A excluded (31.12.2020) by United Kingdom Internal Market Act 2020 (c. 27), **ss. 18(6)(b), 59(3)** (with s. 55(2)); S.I. 2020/1621, reg. 2(b)

### Procedure

#### 110 Introduction of Bills

- (1) A Bill may, subject to the standing orders, be introduced in the [F2Senedd] —
- by the First Minister, any Welsh Minister appointed under section 48 any Deputy Welsh Minister or the Counsel General, or
  - by any other [F45Member of the Senedd] .



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- (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 [F2Senedd's] legislative competence.
- (3) The Presiding Officer must, on or before the introduction of a Bill in the [F2Senedd] —
  - (a) decide whether or not, in the view of the Presiding Officer, the provisions of the Bill would be within the [F2Senedd'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
  - (b) if they do so, must provide for it to be published in both English and Welsh.

#### Textual Amendments

**F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), Sch. 1 para. 2(16) (with Sch. 1 para. 2(11)(12)(14))

#### Commencement Information

**I94** S. 110 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

### [F186] 110A Introduction of Bills: justice impact assessment

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

#### Textual Amendments

**F186** S. 110A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 11, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)

## 111 Proceedings on Bills

- (1) The standing orders must include provision—
  - (a) for general debate on a Bill with an opportunity for [F8Members of the Senedd] to vote on its general principles,
  - (b) for the consideration of, and an opportunity for [F8Members of the Senedd] to vote on, the details of a Bill, and
  - (c) for a final stage at which a Bill can be passed or rejected.

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- (2) Subsection (1) does not prevent the standing orders making provision to enable the [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd ] 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 [F<sup>2</sup>Senedd] 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)—
- [F<sup>187</sup>(za) the Supreme Court decides on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer's decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter,]
  - (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 [F<sup>2</sup>Senedd's] legislative competence,
  - (b) F<sup>188</sup> ... or
  - (c) an order is made in relation to the Bill under section 114.
- [F<sup>189</sup>(6A) The standing orders must provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), on a reference made in relation to the Bill under section 111B(2)(a) (reference following Presiding Officer's decision that Bill contains protected subject-matter), the Supreme Court decides that no provision that is subject to the reference relates to a protected subject-matter.]
- [F<sup>190</sup>(7) The standing orders must, in particular, ensure that—
- (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (6)(a) F<sup>191</sup> ... or (c), and
  - (b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (6)(za) or (6A),
- is subject to a final stage at which it can be approved or rejected.]
- (8) References in subsections (4), (5) and (6) of this section and sections 107(2), 109(5) [F<sup>192</sup>, 111A(3) and (4), 111B(2)(b)] [F<sup>193</sup>, 116(3) and 116C (4)] to the passing of a Bill are, in the case of a Bill [F<sup>194</sup> to which subsection (7)(a) or (b) applies], to be read as references to its approval.

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### Textual Amendments

- F8** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(17\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F187** S. 111(6)(za) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 10\(2\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F188** S. 111(6)(b) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 38\(a\)](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), [reg. 3\(l\)](#) (with [regs. 10, 14, 22](#))
- F189** S. 111(6A) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 10\(3\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F190** S. 111(7) substituted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 10\(4\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F191** Word in s. 111(7)(a) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 38\(b\)](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), [reg. 3\(l\)](#) (with [regs. 10, 14, 22](#))
- F192** Words in s. 111(8) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 10\(5\)\(a\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)
- F193** Words in s. 111(8) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 6\(4\)](#), [29\(2\)\(b\)\(3\)](#)
- F194** Words in s. 111(8) substituted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\)](#), [ss. 10\(5\)\(b\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(c\)](#)

### Commencement Information

- I95** S. 111 in force at 5.5.2011 by [S.I. 2011/1011](#), [art. 3](#)

## [<sup>F195</sup>111] Bills with protected subject-matter: super-majority requirement

- (1) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (2) (but not if the provision is incidental to or consequential on another provision of the Bill).
- (2) The matters are—
  - (a) the name of the [<sup>F2</sup>Senedd] ,
  - (b) the persons entitled to vote as electors at an election for membership of the [<sup>F2</sup>Senedd] ,
  - (c) the system by which members of the [<sup>F2</sup>Senedd] are returned,
  - (d) the specification or number of constituencies, regions or any equivalent electoral area,
  - (e) the number of members to be returned for each constituency, region or equivalent electoral area, and
  - (f) the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.
- (3) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it—
  - (a) decide whether or not, in the view of the Presiding Officer, any provision of the Bill relates to a protected subject-matter, and
  - (b) state that decision.

*Status: Point in time view as at 17/03/2021.*

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- (4) If the Presiding Officer decides that any provision of the Bill relates to a protected subject-matter, the Bill is not passed unless the number of [<sup>F8</sup>Members of the Senedd] voting in favour of it at the final stage is at least two-thirds of the total number of [<sup>F2</sup>Senedd] seats.

#### Textual Amendments

- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F195** Ss. 111A, 111B inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by *Wales Act 2017 (c. 4)*, **ss. 9, 71(2)(c)** (with *Sch. 7 paras. 1, 6*); S.I. 2017/1179, reg. 3(c)

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

- (1) The Counsel General or the Attorney General may refer the question whether any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill—
- at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has decided under section 111A(3) that a provision of the Bill relates to a protected subject-matter, or
  - at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has decided under section 111A(3) that no provision of the Bill relates to a protected subject-matter, unless the number of [<sup>F8</sup>Members of the Senedd] voting in favour of the Bill at its passing is at least two-thirds of the total number of [<sup>F2</sup>Senedd] seats.
- (3) No reference may be made in relation to a Bill—
- by the Counsel General if the Counsel General has notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or
  - by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has, since the notification, been approved or rejected in accordance with standing orders made by virtue of section 111(7).]

#### Textual Amendments

- F8** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020 (anaw 1)*, s. 42(2), **Sch. 1 para. 2(17)** (with *Sch. 1 para. 2(11)(12)(14)*)
- F195** Ss. 111A, 111B inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by *Wales Act 2017 (c. 4)*, **ss. 9, 71(2)(c)** (with *Sch. 7 paras. 1, 6*); S.I. 2017/1179, reg. 3(c)

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## 112 Scrutiny of Bills by Supreme Court [<sup>F196</sup>(legislative competence)]

- (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 [<sup>F2</sup>Senedd'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 <sup>F197</sup>... 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 [<sup>F198</sup>Presiding Officer] 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 [<sup>F198</sup>Presiding Officer] that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has been approved as mentioned in subsection (2)(b) since the notification.

### Textual Amendments

**F196** Words in s. 112 heading inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(6\)\(a\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

**F197** Word in s. 112(2)(b) omitted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of [Wales Act 2017 \(c. 4\), ss. 10\(6\)\(b\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

**F198** Words in s. 112(3)(a)(b) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(a\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

### Commencement Information

**I96** S. 112 in force at 5.5.2011 by [S.I. 2011/1011, art. 3](#)

## <sup>F199</sup>113 ECJ references

.....

### Textual Amendments

**F199** S. 113 omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 39](#) (with [s. 19, Sch. 8 para. 37](#)); [S.I. 2020/1622, reg. 3\(l\)](#) (with [regs. 10, 14, 22](#))

## 114 Power to intervene in certain cases

- (1) This section applies if a Bill contains provisions which the Secretary of State has reasonable grounds to believe—

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- (a) would have an adverse effect on [<sup>F200</sup>a reserved matter],
  - <sup>F201</sup>(b) .....
  - (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 [<sup>F202</sup>Presiding Officer] 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 <sup>F203</sup>... 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 [<sup>F204</sup>111B or] 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 [<sup>F205</sup>Presiding Officer] 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.

#### Textual Amendments

- F200** Words in s. 114(1)(a) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\)](#), [Sch. 6 para. 4](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)
- F201** S. 114(1)(b) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\), ss. 52\(1\)\(a\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(k\)](#)
- F202** Words in s. 114(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(c\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F203** Word in s. 114(4)(b) omitted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of [Wales Act 2017 \(c. 4\), ss. 10\(7\)\(a\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F204** Words in s. 114(4)(c) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(7\)\(b\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F205** Words in s. 114(5) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(2\)\(c\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)

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### Commencement Information

**I97** S. 114 in force at 5.5.2011 by S.I. 2011/1011, art. 3

## 115 Royal Assent

- (1) It is for the [<sup>F206</sup>Presiding Officer] to submit Bills for Royal Assent.
- (2) The [<sup>F207</sup>Presiding Officer] 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 [<sup>F208</sup>111B or] 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 [<sup>F209</sup>Presiding Officer] 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 [<sup>F2</sup>Senedd's] legislative competence, <sup>F210</sup> ...
  - <sup>F210</sup>(b) .....
- [<sup>F211</sup>(3A) The Presiding Officer may not submit a Bill for Royal Assent if the Supreme Court has decided on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer's decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter unless, since the decision, the Bill has been approved in accordance with standing orders made by virtue of section 111(7).]
- (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.
- [<sup>F212</sup>(4A) The Keeper of the Welsh Seal (*see* section 116(2)) must make arrangements to send the Letters Patent to the National Library of Wales.]
- (5) The date of Royal Assent is to be written on the Act of the [<sup>F2</sup>Senedd] by the Clerk, and forms part of the Act.
- [<sup>F213</sup>(5A) On the copy of the Act of the [<sup>F2</sup>Senedd ] on which the Clerk writes the date of Royal Assent the Clerk must write—
  - (a) the calendar year, and
  - (b) any prefix and number which has been assigned to that Act of the [<sup>F2</sup>Senedd] .
- (5B) The information written on the Act of the [<sup>F2</sup>Senedd] in pursuance of subsection (5A) forms part of the Act .
- (5C) The copy of the Act of the [<sup>F2</sup>Senedd] on which the date of Royal Assent and the information in subsection (5A) is written is to be known as the official print of the Act .
- (5D) The Clerk must make a copy of the official print and certify it as a true copy.
- (5E) The Clerk must send the certified copy to the Queen's Printer and the official print to the National Library of Wales.

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- (5F) The National Library of Wales must ensure that the official prints and Letters Patent it receives are preserved and open to public inspection at all reasonable times.]
- (6) The standing orders must include provision for notification by the Clerk to the [F2Senedd] of the date of Royal Assent to an Act of the [F2Senedd] .
- (7) The validity of an Act of the [F2Senedd] is not affected by any failure to comply with provision made by or by virtue of subsection (4), (5) or (6).

#### Textual Amendments

- F206** Words in s. 115(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F207** Words in s. 115(2) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F208** Words in s. 115(2)(a) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(8\)\(a\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F209** Words in s. 115(3) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 12\(1\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F210** [S. 115\(3\)\(b\)](#) and word omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(4\), Sch. 3 para. 40](#) (with [s. 19, Sch. 8 para. 37](#)); [S.I. 2020/1622, reg. 3\(1\)](#) (with [regs. 10, 14, 22](#))
- F211** [S. 115\(3A\)](#) inserted (31.3.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Wales Act 2017 \(c. 4\), ss. 10\(8\)\(b\), 71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(c\)](#)
- F212** [S. 115\(4A\)](#) inserted (5.5.2011) by [The Government of Wales Act 2006 \(Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications\) Order 2011 \(S.I. 2011/1011\), art. 5\(2\)](#)
- F213** [S. 115\(5A\)-\(5F\)](#) inserted (5.5.2011) by [The Government of Wales Act 2006 \(Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications\) Order 2011 \(S.I. 2011/1011\), art. 5\(3\)](#)

#### Commencement Information

- I98** [S. 115](#) in force at 5.5.2011 by [S.I. 2011/1011, art. 3](#)

## 116 Welsh Seal [F214: Letters Patent and proclamations]

- (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 [F2Senedd][F215] and all royal proclamations under section 4(2) and section 5(4), which have passed under the Welsh Seal].
- (4) A statutory instrument containing an Order in Council under subsection (3) is subject to annulment in pursuance of a resolution of the [F2Senedd] .



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### Textual Amendments

**F214** Words in s. 116 heading substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 5\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

**F215** Words in s. 116(3) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 5\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

### Commencement Information

**I99** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## [<sup>F216</sup>PART 4A

### TAXATION

### Textual Amendments

**F216** Pt. 4A inserted (17.2.2015) by [Wales Act 2014 \(c. 29\), ss. 6\(2\), 29\(2\)\(b\)\(3\)](#)

## CHAPTER 1

### INTRODUCTORY

#### 116A Overview of Part 4A

- (1) In this Part [<sup>F217</sup>—
  - (a) Chapter 2 confers on the [<sup>F2</sup>Senedd] power to set rates of income tax to be paid by Welsh taxpayers, and
  - (b) Chapters 3 and 4 specify particular taxes as devolved taxes about which the [<sup>F2</sup>Senedd] may make provision in the exercise of the power conferred by section 107(1).
- (2) The power to make provision about a devolved tax is subject to the restrictions imposed by—
  - (a) subsection (3), and
  - (b) the other provisions of this Part.
- (3) A devolved tax may not be imposed where to do so would be incompatible with any international obligations.
- (4) In this Act “ devolved tax ” means a tax specified in this Part as a devolved tax.

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F217** Words in s. 116A(1) inserted (with effect in accordance with s. 14(3)-(5) of the amending Act) by [Wales Act 2014 \(c. 29\), ss. 8\(2\), 14\(2\), 29\(4\)](#); [S.I. 2018/892, art. 3](#) (with [arts. 5, 6, 8](#))

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## 116B Status of officials of body that collects and manages devolved taxes

- (1) This section applies where an Act of the [F2Senedd] establishes a body that is to be responsible for the collection and management of devolved taxes (whether or not the body is also to be responsible for local government finance or any other matter).
- (2) In this section “ relevant official ” means an officer or member of staff of the body mentioned in subsection (1) who has no functions other than functions relating to—
  - (a) the collection or management of devolved taxes, or
  - (b) local government finance.
- (3) If an Act of the [F2Senedd] provides that service as a relevant official is service in the civil service of the State, that provision is [F218not to be regarded as falling outside the [F2Senedd's] legislative competence by virtue of section 108A(2)(b) or (c)].
- (4) In subsections (5) to (7), “ relevant civil servant ” means a relevant official whose service is service in the civil service of the State by virtue of provision of the kind mentioned in subsection (3).
- (5) The Welsh Ministers must pay the salaries and expenses of relevant civil servants.
- (6) 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 or section 1 of the Public Service Pensions Act 2013 to or in respect of persons who are or have been relevant civil servants, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (7) 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 relevant civil servant.

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by *Senedd and Elections (Wales) Act 2020* (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with *Sch. 1 para. 2(11)-(14)*)

**F218** Words in s. 116B(3) substituted (1.4.2018) by *Wales Act 2017* (c. 4), s. 71(4), **Sch. 6 para. 6** (with *Sch. 7 paras. 1, 6*); *S.I. 2017/1179*, reg. 3(q)

## 116C Power to add new devolved taxes

- (1) Her Majesty may by Order in Council amend this Part so as to—
  - (a) specify, as an additional devolved tax, a tax of any description, or
  - (b) make any other modifications of the provisions relating to devolved taxes which She considers appropriate.
- (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,

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as Her Majesty considers appropriate in connection with the provision made by the Order.

- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order has been laid before, and approved by a resolution of, each House of Parliament and the [F2Senedd] .
- (4) The amendment of this Part by an Order in Council under this section does not affect—
  - (a) the validity of an Act of the [F2Senedd] passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Act of the [F2Senedd] .]

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

## [F219] CHAPTER 2

### INCOME TAX

#### Textual Amendments

**F219** Pt. 4A Ch. 2 inserted (with effect in accordance with s. 14(3)-(5) of the amending Act) by [Wales Act 2014 \(c. 29\)](#), [ss. 8\(3\), 14\(2\), 29\(4\)](#); [S.I. 2018/892](#), [art. 3](#) (with [arts. 5, 6, 8](#))

### 116D Power to set Welsh rates for Welsh taxpayers

- (1) The [F2Senedd] may by resolution (a “Welsh rate resolution”) set one or more of the following—
  - (a) a Welsh rate for the purpose of calculating the Welsh basic rate;
  - (b) a Welsh rate for the purpose of calculating the Welsh higher rate;
  - (c) a Welsh rate for the purpose of calculating the Welsh additional rate.
- (2) See section 6B of the Income Tax Act 2007 for provision about the calculation of the Welsh basic, higher and additional rates and section 11B of that Act for provision about the income of Welsh taxpayers charged at those rates.
- (3) A Welsh rate resolution applies—
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) Any Welsh rate specified must be a whole number or half a whole number.
- (5) A Welsh rate resolution—
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and
  - (c) must not be made more than 12 months before the start of that year.

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- (6) If a Welsh rate resolution is cancelled before the start of the tax year for which it is to apply—
- (a) the Income Tax Acts have effect for that year as if the resolution had never been made, and
  - (b) the resolution may be replaced by another Welsh rate resolution.
- (7) The standing orders must provide that only the First Minister or a Welsh Minister appointed under section 48 may move a motion for a Welsh rate resolution.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 116E Welsh taxpayers

- (1) For any tax year, a Welsh taxpayer is an individual (T)—
- (a) who is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013), and
  - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Wales (see section 116G).
- (3) T meets condition B if—
- (a) T does not have a close connection with England, Scotland or Northern Ireland (see section 116G), and
  - (b) T spends more days of that year in Wales than in any other part of the UK (see section 116H).
- (4) T meets condition C if, for the whole or any part of the year, T is—
- (a) a member of Parliament for a constituency in Wales, [<sup>F220</sup>or]
  - <sup>F221</sup>(b) .....
  - (c) [<sup>F225</sup>a Member of the Senedd].
- (5) Subsection (1) does not apply if T is a Scottish parliamentarian for the whole or any part of the year (see section 116F).
- (6) For the purposes of subsection (5) and section 116F, T is a Scottish parliamentarian if T is a member as described in [<sup>F222</sup>paragraph (a) or (c)] of section 80D(4) of the Scotland Act 1998 (definition of a Scottish taxpayer).
- (7) In this Chapter “the UK” means the United Kingdom.

#### Textual Amendments

- F25** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(15\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F220** Word in s. 116E(4)(a) inserted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 15 of the commencing S.I.) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 41\(2\)\(a\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F221** S. 116E(4)(b) omitted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 15 of the commencing S.I.) by virtue of [European Union \(Withdrawal\) Act 2018](#)

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(c. 16), s. 25(4), **Sch. 3 para. 41(2)(b)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

**F222** Words in s. 116E(6) substituted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 15 of the commencing S.I.) by **European Union (Withdrawal) Act 2018** (c. 16), s. 25(4), **Sch. 3 para. 41(3)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

## 116F Welsh taxpayers: Scottish parliamentarians

- (1) An individual (T) who is a Scottish parliamentarian for the whole or any part of a tax year is a Welsh taxpayer for that tax year if—
  - (a) T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
  - (b) T meets condition C in section 116E for that year, and
  - (c) T meets either of the following conditions for that year.
- (2) T meets the first condition if—
  - (a) the number of days in that year on which T is a member as described in [F223 paragraph (a) or (c)] of section 116E(4), exceeds
  - (b) the number of days in that year on which T is a Scottish parliamentarian.
- (3) T meets the second condition if—
  - (a) the number of days in that year mentioned in paragraphs (a) and (b) of subsection (2) are the same, and
  - (b) T meets condition A or B in section 116E for that year.

### Textual Amendments

**F223** Words in s. 116F(2)(a) substituted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 15 of the commencing S.I.) by **European Union (Withdrawal) Act 2018** (c. 16), s. 25(4), **Sch. 3 para. 42** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

## 116G Close connection with Wales or another part of the UK

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
  - (a) subsection (2) (where T has only one place of residence in the UK), or
  - (b) subsection (3) (where T has 2 or more places of residence in the UK).
- (2) T has a close connection with a part of the UK if in that year—
  - (a) T has only one place of residence in the UK,
  - (b) that place of residence is in that part of the UK, and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
  - (a) T has 2 or more places of residence in the UK,
  - (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
  - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) more of the year than the times when T's main place of residence is in each other part of the UK (considered separately), and

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(d) for at least part of the year, T lives at a place of residence in that part of the UK.

(4) In this section “place” includes a place on board a vessel or other means of transport.

### **116H Days spent in Wales or another part of the UK**

(1) T spends more days of a year in Wales than in any other part of the UK if (and only if) the number of days in the year on which T is in Wales at the end of the day exceeds each of the following—

- (a) the number of days in the year on which T is in England at the end of the day;
- (b) the number of days in the year on which T is in Scotland at the end of the day;
- (c) the number of days in the year on which T is in Northern Ireland at the end of the day.

(2) T is treated as not being in the UK at the end of a day if—

- (a) on that day T arrives in the UK as a passenger,
- (b) T departs from the UK on the next day, and
- (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

### **116I Supplemental powers to modify enactments**

(1) The Treasury may by order modify section 11B of the Income Tax Act 2007 (income charged at the Welsh basic, higher and additional rates) for the purpose of altering—

- (a) the definition of the income which is charged to income tax at the rates provided for under the section, or
- (b) the application of the section in relation to a particular class of income which is so charged.

(2) The Treasury may by order modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Welsh taxpayer, by reference to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate, instead of the basic rate, the higher rate or the additional rate.

(3) If the Treasury consider it necessary or expedient to do so, they may by order provide that—

- (a) a Welsh rate set by the [F2Senedd] for a tax year for the purpose of calculating the Welsh basic rate, Welsh higher rate or Welsh additional rate, or
- (b) the fact that a Welsh rate has not been set by the [F2Senedd] for a tax year for any one or more of those purposes,

does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order.

(4) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection with an order under subsection (1), (2) or (3).

(5) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.

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- (6) No order is to be made under subsection (1), (2) or (4) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (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) The power under subsection (1) does not include power to provide that any income which is—
  - (a) savings income, or
  - (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,is income which is charged to income tax at a rate provided for under section 11B of that Act.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 116J Reimbursement of expenses

The Welsh Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Wales Act 2014 by the Minister or department.

### 116K Report by the Comptroller and Auditor General

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).
- (2) Those matters are—
  - (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Welsh rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
  - (b) whether the rules and procedures described in paragraph (a) are being complied with,
  - (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Welsh rate resolution, and
  - (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).
- (3) “The Welsh rate provisions” are—
  - (a) any provision made by or under this Chapter, and
  - (b) any provision made by or under the Income Tax Acts relating to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate.

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- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 116J (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).
- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the [F2Senedd] not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty's Revenue and Customs.]

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

## [F224] CHAPTER 3

### TAX ON TRANSACTIONS INVOLVING INTERESTS IN LAND

#### Textual Amendments

**F224** Pt. 4A Ch. 3 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 15\(1\), 29\(2\)\(b\)\(3\)](#) (with s. 15(2))

#### **116L Tax on transactions involving interests in land**

- (1) A tax which is charged on a Welsh land transaction and complies with the requirements of this section is a devolved tax.
- (2) In this Chapter a “ Welsh land transaction ” means an acquisition of—
  - (a) an estate, interest, right or power in or over land in Wales;
  - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- (3) The tax may be chargeable—
  - (a) whether or not there is any instrument effecting the transaction,
  - (b) if there is such an instrument, regardless of where it is executed, and
  - (c) regardless of where any party to the transaction is or is resident.
- (4) The tax may not be imposed on so much of a Welsh land transaction as relates to land below mean low water mark.
- (5) The following persons are not to be liable to pay the tax—  
*Government*



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A Minister of the Crown  
The Welsh Ministers, the First Minister and the Counsel General  
The Scottish Ministers  
A Northern Ireland department  
*Parliament etc*  
The Corporate Officer of the House of Lords  
The Corporate Officer of the House of Commons  
The [F<sup>2</sup>Senedd] Commission  
The Scottish Parliamentary Corporate Body  
The Northern Ireland [F<sup>2</sup>Senedd] Commission.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

### 116M Duty to disclose information on Welsh land transactions to HMRC

- (1) [F<sup>225</sup>The Welsh Revenue Authority] must provide to HMRC such of the information falling within subsection (2) as HMRC may require.
- (2) Information falls within this subsection if it—
  - (a) is relevant information in relation to a Welsh land transaction, and
  - (b) is in the possession or under the control of the person.
- (3) “ Relevant information ”, in relation to a Welsh land transaction, means information which—
  - (a) corresponds to any of the particulars which would be required under Schedule 2 to the Finance Act 1931, but for section 28(3)(c) of that Act, or
  - (b) uniquely identifies, or assists in uniquely identifying, any person who gives consideration for, or is a party to, the transaction.
- (4) Information is to be provided under subsection (1) in such form as HMRC may reasonably specify.
- (5) Information acquired by HMRC under this section is to be treated, for the purposes of the Commissioners for Revenue and Customs Act 2005, as acquired in connection with a function of theirs.
- (6) In this section, “ HMRC ” means Her Majesty's Revenue and Customs. ]

#### Textual Amendments

**F225** Words in s. 116M(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 7](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

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**[<sup>F226</sup>CHAPTER 4**

**TAX ON DISPOSALS TO LANDFILL**

**Textual Amendments**

**F226** Pt. 4A Ch. 4 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 18(1), 29(2)(b)(3)**

**116N Tax on disposals to landfill**

- (1) A tax charged on disposals to landfill made in Wales is a devolved tax.
- (2) A disposal is a disposal to landfill if—
  - (a) it is a disposal of material as waste, and
  - (b) it is made by way of landfill.]

**PART 5**

**FINANCE**

*Welsh Consolidated Fund*

**117 Welsh Consolidated Fund**

- (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**

- (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.

**<sup>F227</sup>119 Statement of estimated payments**

.....

**Textual Amendments**

**F227** S. 119 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 13(1), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(d)

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## 120 Destination of receipts

- (1) Any sum received by or on behalf of—
  - (a) the Welsh Ministers, the First Minister or the Counsel General,
  - (b) the [<sup>F2</sup>Senedd] Commission,
  - (c) [<sup>F228</sup>the Wales Audit Office], 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 [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd]” means a resolution on an annual Budget motion (see section 125) or a supplementary Budget motion (see section 126).

### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F228** Words in s. 120(1)(c) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 72](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

### Modifications etc. (not altering text)

**C19** 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](#))

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### Commencement Information

**I100** 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)

## Borrowing

### 121 Borrowing by Welsh Ministers

- [<sup>F229</sup>(1) The Welsh Ministers may borrow from the Secretary of State—
- (a) any amounts it appears to them are required by them for the purpose of meeting a temporary excess of sums paid out of the Welsh Consolidated Fund over sums paid into that Fund,
  - (b) any amounts it appears to them are required by them for the purpose of providing a working balance in the Welsh Consolidated Fund, and
  - (c) any amounts which in accordance with rules determined by the Treasury are required by the Welsh Ministers to meet current expenditure because of a shortfall in receipts from devolved taxes, or from income tax charged by virtue of a Welsh rate resolution, against forecast receipts.
- (1A) The Welsh Ministers may, with the approval of the Treasury, borrow by way of loan [<sup>F230</sup>or by the issue of bonds (but not bonds transferable by delivery)] any amounts it appears to them are required by them for the purpose of meeting capital expenditure.
- (1B) An amount is required for the purpose of meeting capital expenditure if the expenditure would be capital expenditure for the purposes of accounts under section 131.]
- (2) Amounts borrowed under this section [<sup>F231</sup>from the Secretary of State] 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.
- [<sup>F232</sup>(4) The Secretary of State may by order made with the consent of the Treasury amend subsection (1A) so as to vary the means by which the Welsh Ministers may borrow money.
- (5) No order is to be made under subsection (4) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.]

### Textual Amendments

- F229** S. 121(1)-(1B) substituted for s. 121(1) (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(3)**, 29(5)(a); S.I. 2016/1264, art. 2
- F230** Words in s. 121(1A) inserted (1.12.2018) by [The Government of Wales Act 2006 \(Variation of Borrowing Power\) Order 2018 \(S.I. 2018/1266\)](#), arts. 1, 2
- F231** Words in s. 121(2) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(4)**, 29(5)(a); S.I. 2016/1264, art. 2
- F232** S. 121(4)(5) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(5)**, 29(5)(a); S.I. 2016/1264, art. 2

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## 122 Lending by Secretary of State

- (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 <sup>F233</sup>section 121(1)] 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 <sup>F234</sup>... amount as is specified in the order.
- <sup>F235</sup>(3A) An amount substituted under subsection (3) may be more or less than the amount for which it is substituted but may not be less than £500 million.]
- (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.

### Textual Amendments

**F233** Words in s. 122(2) substituted (1.1.2017) by [Wales Act 2014 \(c. 29\), ss. 20\(7\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

**F234** Word in s. 122(3) omitted (1.1.2017) by virtue of [Wales Act 2014 \(c. 29\), ss. 20\(8\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

**F235** S. 122(3A) inserted (1.1.2017) by [Wales Act 2014 \(c. 29\), ss. 20\(9\), 29\(5\)\(a\)](#); S.I. 2016/1264, art. 2

## <sup>F236</sup>122A Lending for capital expenditure

- (1) The aggregate at any time outstanding in respect of the principal of amounts borrowed under section 121(1A) shall not exceed <sup>F237</sup>£1,000 million] .
- (2) 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 (1) such amount as may be specified in the order.
- (3) An amount substituted under subsection (2) may be more or less than the amount for which it is substituted but may not be less than <sup>F238</sup>£1,000 million] .
- (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 House of Commons.
- (5) A person lending money to a member of the Welsh Government—
  - (a) is not bound to enquire whether the member of the Welsh Government has power to borrow the money, and
  - (b) is not to be prejudiced by the absence of any such power.
- (6) The Welsh Ministers may not mortgage or charge any of their property as security for money which they have borrowed under section 121(1A).

This is subject to section 121(3) (charging of sums on the Welsh Consolidated Fund).

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(7) Security given in breach of subsection (6) is unenforceable.]

#### Textual Amendments

- F236** S. 122A inserted (1.1.2017) by [Wales Act 2014 \(c. 29\)](#), **ss. 20(10)**, 29(5)(a); S.I. 2016/1264, art. 2
- F237** Words in s. 122A(1) substituted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 18**, 71(2)(d) (with [Sch. 7 paras. 1, 6](#))
- F238** Words in s. 122A(3) substituted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 18**, 71(2)(d) (with [Sch. 7 paras. 1, 6](#))

### 123 Accounts relating to loans

- (1) The Secretary of State must for each financial year prepare accounts in such form and manner as the Treasury may direct—
- (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.

#### Commencement Information

- I101** 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

- (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 [<sup>F2</sup>Senedd] (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—

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- (a) the Welsh Ministers, the First Minister and the Counsel General,
  - (b) the [<sup>F2</sup>Senedd] Commission,
  - (c) [<sup>F239</sup>the Wales Audit Office], 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.
- [<sup>F240</sup>(4A) A sum paid out of the Welsh Consolidated Fund may not be applied for any purpose other than that for which it was charged or (as the case may be) paid out.]
- (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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F239** Words in s. 124(3)(c) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 73](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F240** S. 124(4A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 13\(2\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(d)

## 125 Annual Budget motions

- (1) For each financial year there is to be moved in the [<sup>F2</sup>Senedd] 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
  - (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),

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- (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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

## 126 Supplementary Budget motions

- (1) For any financial year there may be moved in the [<sup>F2</sup>Senedd] 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—
- (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.



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- (5) A supplementary Budget motion may only be moved by the First Minister or a Welsh Minister appointed under section 48.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by **Senedd and Elections (Wales) Act 2020 (anaw 1)**, s. 42(2), **Sch. 1 para. 2(19)** (with **Sch. 1 para. 2(11)-(14)**)

#### [<sup>F241</sup>126] **Inclusion in Budget motions of resources used by designated bodies**

- (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 [<sup>F242</sup>Senedd].
- (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 [<sup>F243</sup>Senedd].]

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#### Textual Amendments

- F241** 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\(c\)](#)
- F242** Word in s. 126A(9) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(6\)\(a\)](#)
- F243** Word in s. 126A(10) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(6\)\(b\)](#)

## 127 Appropriation without Budget resolution

- (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 [<sup>F2</sup>Senedd] 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%.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

- I102** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 128 Contingencies

- (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.

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- (3) The Welsh Ministers may authorise the use of resources, or the payment of amounts, only if they consider that—
- (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 [F2Senedd] .
- (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 [F2Senedd] 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

## 129 Approvals to draw

- (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.

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- (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 [<sup>F2</sup>Senedd] Commission, [<sup>F244</sup>the Wales Audit Office] 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 <sup>F101</sup>... Government.
- (7) But the Treasury may designate another member of the staff of the Welsh <sup>F101</sup>... Government to be the principal accounting officer for the Welsh Ministers if and for so long as—
  - (a) the Permanent Secretary to the Welsh <sup>F101</sup>... 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 <sup>F101</sup>... Government is vacant.
- (8) In this section “Permanent Secretary to the Welsh <sup>F101</sup>... Government” means the person appointed in accordance with section 52 to be the head of the staff of the Welsh <sup>F101</sup>... Government (whether or not that person is known by the title of Permanent Secretary to the Welsh <sup>F101</sup>... Government).

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))
- F244** Words in s. 129(4) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 74](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

### 130 Payments in by mistake

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

- I103** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## <sup>F245</sup>130A Financial control, accounts and audit

- (1) Welsh legislation must provide—
  - (a) for proper accounts to be prepared by the First Minister, the Welsh Ministers, the Counsel General, the <sup>F2</sup>Senedd Commission and by other persons to whom sums are paid out of the Welsh Consolidated Fund, of their expenditure and receipts,
  - (b) for the Welsh Ministers to prepare an account of payments into and out of the Fund,
  - (c) for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2),
  - (d) for access by persons exercising those functions to such documents as they may reasonably require,
  - (e) for members of the staff of the Welsh Government and <sup>F2</sup>Senedd Commission designated for the purpose to be answerable to the <sup>F2</sup>Senedd in respect of the expenditure and receipts of each part of the Welsh Government or <sup>F2</sup>Senedd Commission, and
  - (f) for the publication of <sup>F2</sup>Senedd accounts and of reports on such accounts and for the laying of such accounts and reports before the <sup>F2</sup>Senedd .
- (2) The functions referred to in subsection (1)(c) are—
  - (a) issuing credits for the payment of sums out of the Fund;
  - (b) examining <sup>F2</sup>Senedd accounts (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 124), and certifying and reporting on them;
  - (c) carrying out examinations into the economy, efficiency and effectiveness with which the First Minister, the Welsh Ministers, the Counsel General, the <sup>F2</sup>Senedd Commission and other persons to whom sums are paid out of the Welsh Consolidated Fund have used their resources in discharging their functions.
- (3) Standing orders must provide for the consideration by the <sup>F2</sup>Senedd of accounts and reports laid before it in pursuance of subsection (1)(f).
- (4) Welsh legislation may make further provision for the purpose of ensuring that devolved Welsh authorities that receive sums derived from the Fund are accountable.

That provision may, in particular, include provision for a devolved Welsh authority to which subsection (1)(a) does not apply to be accountable for its expenditure and receipts in respect of functions for which it receives sums derived from the Fund.
- (5) Persons (other than the Auditor General for Wales) charged with the exercise of any function mentioned in subsection (2) or other like function conferred by Welsh legislation are not subject, in the exercise of that or any ancillary function, to the direction or control of any member of the Welsh Government or of the <sup>F2</sup>Senedd ] .
- (6) Subsection (2)(b) does not apply to accounts prepared by the Auditor General for Wales.
- (7) This section does not require Welsh legislation to impose any requirement that is imposed by any other legislation.
- (8) In this section—

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““<sup>[F2]</sup>Senedd ] accounts”” means any accounts prepared in pursuance of subsection (1)(a) or (b);

““Welsh legislation”” means provision made by or under an Act of the <sup>[F2]</sup>Senedd] , and ““other legislation”” means provision made by any other enactment.]

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\), s. 42\(2\), Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F245** S. 130A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 13\(3\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(d\)](#)

### *Financial accountability of Welsh Ministers*

#### **131 Welsh Ministers' accounts**

- (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—
  - (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 <sup>[F2]</sup>Senedd] 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.

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(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.

**Textual Amendments**

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**Commencement Information**

**I104** 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**

- (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.
- (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 [F2Senedd] 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.

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#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

**I105** 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

- (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 <sup>F101</sup>... 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.

#### Textual Amendments

**F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

#### Commencement Information

**I106** 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

- (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 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.



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- (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 [<sup>F246</sup>section 1161(1) of the Companies Act 2006], and

“parent undertaking” is to be construed in accordance with [<sup>F247</sup>section 1162] of that Act.

#### Textual Amendments

**F246** 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)

**F247** 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

**I107** 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

- (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.
- (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 [<sup>F2</sup>Senedd] a report of the results of any examination carried out under this section.

*Status: Point in time view as at 17/03/2021.*

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#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

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

### <sup>F248</sup>136 Examinations by Comptroller and Auditor General

#### Textual Amendments

**F248** S. 136 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 13\(4\)](#), [71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(d\)](#)

### *Financial accountability of [<sup>F2</sup>Senedd] Commission*

#### 137 [<sup>F2</sup>Senedd] Commission's accounts

- (1) The [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] Commission is directed under this section to prepare for any financial year must be submitted by the [<sup>F2</sup>Senedd] 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 [<sup>F2</sup>Senedd] 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—

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- (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 [F2Senedd] Commission for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.

#### **Commencement Information**

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

### **138 Accounting officers for [F2Senedd] Commission**

- (1) For the purposes of this Act the principal accounting officer for the [F2Senedd] Commission is the Clerk.
- (2) But the Treasury may designate another member of the staff of the [F2Senedd] to be the principal accounting officer for the [F2Senedd] Commission if and for so long as—
  - (a) the Clerk is incapable of discharging the responsibilities of the principal accounting officer for the [F2Senedd] Commission, or
  - (b) the office of Clerk is vacant.
- (3) The principal accounting officer for the [F2Senedd] Commission has—
  - (a) in relation to the [F2Senedd] 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 [F2Senedd] Commission may designate other members of the staff of the [F2Senedd] as additional accounting officers.
- (5) An additional accounting officer has, in relation to such of the [F2Senedd] Commission's accounts and finances as may be specified by the principal accounting officer for the [F2Senedd] Commission, the responsibilities which are from time to time specified by the principal accounting officer for the [F2Senedd] Commission.

#### **Commencement Information**

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

### **139 Accounts of subsidiaries of [F2Senedd] Commission**

- (1) For the purposes of the examination by the Auditor General of any accounts of the [F2Senedd] 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 [F2Senedd] Commission (whether or not the accounts of the [F2Senedd] 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

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- (c) may require any subsidiary of the [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] Commission” means—
- (a) any body corporate or other undertaking in relation to which the [F<sup>2</sup>Senedd] Commission is a parent undertaking,
  - (b) any trust of which the [F<sup>2</sup>Senedd] Commission is settlor, or
  - (c) any charitable institution of which the [F<sup>2</sup>Senedd] Commission is founder but which is neither a body corporate nor a trust.
- (5) For the purposes of subsection (4)(a)—
- “undertaking” has the meaning given by [F<sup>249</sup>section 1161(1) of the Companies Act 2006], and
- “parent undertaking” is to be construed in accordance with [F<sup>250</sup>section 1162] of that Act.

#### Textual Amendments

**F249** 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)

**F250** 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

**I111** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## 140 Examinations into [F<sup>2</sup>Senedd] Commission's use of resources

- (1) The Auditor General may carry out examinations into the economy, efficiency and effectiveness with which the [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] 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 [F<sup>2</sup>Senedd] a report of the results of any examination carried out under this section.

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#### **Commencement Information**

**II12** 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**

- (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
  - (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 [F251section 464 of the Companies Act 2006](accounting standards) or to international accounting standards (as defined in [F252section 474 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.

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- (10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the [F2Senedd].

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F251** 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)
- F252** Words in s. 141(6)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 256](#) (with art. 10)

#### Commencement Information

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

## 142 Functions of Auditor General

- (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 [F2Senedd] a copy of them as certified by the Auditor General together with the Auditor General's report on them.
- (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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

- I114** 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

- (1) The Audit Committee may consider, and lay before the [F2Senedd] a report on, any accounts, statement of accounts or report laid before the [F2Senedd] by—
- (a) the Auditor General, or
  - <sup>F253</sup>(b) .....

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- (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 [F2Senedd] Commission, and
  - (c) additional accounting officers designated under section 133 or 138.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F253** S. 143(1)(b) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 75](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

- I115** 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.

- (1) The [F2Senedd] must publish a document to which this subsection applies as soon after the document is laid before the [F2Senedd] as is reasonably practicable.
- (2) The documents to which subsection (1) applies are—
- (a) any accounts, statement of accounts or report laid before the [F2Senedd] by the Auditor General,
  - (b) any accounts or report laid before the [F2Senedd] by the auditor appointed under [F254] paragraph 34 of Schedule 1 to the Public Audit (Wales) Act 2013], and
  - (c) any report <sup>F255</sup>... laid before the [F2Senedd] by the Audit Committee under section 143(1) <sup>F255</sup>....
  - [F256](d) any estimate of income and expenses of the Wales Audit Office laid before the [F2Senedd] under section 20(1) of the Public Audit (Wales) Act 2013 (including any modifications made to that estimate under section 20(4) of that Act),
  - (e) any scheme for charging fees laid before the [F2Senedd] by the Wales Audit Office under section 24(4)(c) of the Public Audit (Wales) Act 2013,
  - (f) any annual plan laid before the [F2Senedd] by the Auditor General and the chair of the Wales Audit Office under section 26 of the Public Audit (Wales) Act 2013,
  - (g) any report laid before the [F2Senedd] under paragraph 3(6) of Schedule 2 to the Public Audit (Wales) Act 2013 (reports on the exercise of the functions of the Auditor General and the Wales Audit Office).]

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#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F254** Words in s. 144(2)(b) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(2\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F255** Words in s. 144(2)(c) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(3\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F256** S. 144(2)(d)-(g) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 76\(4\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

- I116** 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

<sup>F257</sup>(1) . . . . .

- (2) For provision about [<sup>F258</sup>the Auditor General for Wales or Archwilydd Cyffredinol Cymru (referred to in this Act as “the Auditor General”) see Schedule 8 and the Public Audit (Wales) Act 2013].
- (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).

#### Textual Amendments

- F257** S. 145(1) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 77\(2\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F258** Words in s. 145(2) substituted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 77\(3\)](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

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



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## PART 6

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Welsh public records*

#### 146 Status of Welsh public records

- (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<sup>F101</sup>... 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.

#### Textual Amendments

**F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))

#### Commencement Information

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

#### 147 Transfer of responsibility

- (1) The [<sup>F259</sup>Secretary of State] may by order make provision—
  - (a) imposing or conferring on the Welsh Ministers (or a member of the staff of the Welsh<sup>F101</sup>... 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 [<sup>F260</sup>Secretary of State] 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<sup>F101</sup>... Government) a duty to preserve Welsh public records, or Welsh

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public records of a particular description, must include provision for the [<sup>F260</sup>Secretary of State] 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 [<sup>F260</sup>Secretary of State] 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.

#### Textual Amendments

- F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))
- F259** Words in s. 147(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), [Sch. para. 4\(a\)](#)
- F260** Words in s. 147(3)-(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), [Sch. para. 4\(a\)](#)

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

- C20** S. 147(1) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), [6\(1\)\(d\)](#) (with art. 7)
- C21** S. 147(4)(5) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), [6\(1\)\(d\)](#) (with art. 7)

#### Commencement Information

- I119** 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”

- (1) The following are Welsh public records—
  - (a) administrative and departmental records belonging to Her Majesty which are records of the Welsh <sup>F101</sup>... Government,
  - (b) administrative and departmental records of the Auditor General,
  - [<sup>F261</sup>(ba) administrative and departmental records belonging to Her Majesty which are records of or held by the Welsh Revenue Authority;]
  - (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

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- 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 [F2Senedd] or the [F2Senedd] 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 [F262Secretary of State].
- (2) The bodies and establishments referred to in subsection (1)(e) are—
- (a) the Care Council for Wales,
  - <sup>F263</sup>(b) .....
  - (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 [F264National 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,
  - [F265(ka) the Natural Resources Body for Wales,]
  - (l) the Qualifications, Curriculum and Assessment Authority for Wales,
  - [F266(la) Qualifications 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 [F267Secretary of State] has consulted the Welsh Ministers, and
  - (b) in relation to records within paragraph (b) of that subsection, without the agreement of the Welsh Ministers.
- (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.

*Status: Point in time view as at 17/03/2021.*

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### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(19)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))
- F261** S. 148(1)(ba) inserted (18.10.2017) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\)](#), ss. 34, 194(2); S.I. 2017/954, art. 2
- F262** Words in s. 148(1)(f) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 4(b)**
- F263** S. 148(2)(b) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 437(2)** (with [Sch. 7](#))
- F264** 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](#))
- F265** S. 148(2)(ka) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 437(3)** (with [Sch. 7](#))
- F266** S. 148(2)(la) inserted (21.9.2015) by [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 7**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F267** Words in s. 148(4)(a) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 4(b)**

### Modifications etc. (not altering text)

- C22** S. 148(1)(f) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)
- C23** S. 148(4)(a) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)

### Commencement Information

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

## *<sup>F268</sup> Consultation with Welsh Ministers*

### Textual Amendments

- F268** S. 148A and cross-heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), ss. 55(1), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(l)

## 148A Renewable energy incentive schemes

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

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- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—
- (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);
  - (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).]

### *Miscellaneous*

## **149 Resolution of devolution issues**

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

### **Commencement Information**

**1121** 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**

- (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 [F2Senedd],
  - (b) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the [F2Senedd],
  - (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 [F2Senedd].
- (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.
- (4) An order under this section may make provision having retrospective effect.

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- (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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

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

### [<sup>F269</sup>150A<sup>F270</sup> Translation of references to Senedd Cymru etc.]

<sup>F271</sup>(1) .....

(2) Unless the context requires otherwise, a reference to the National Assembly for Wales [<sup>F272</sup>(or Cynulliad Cenedlaethol Cymru), the National Assembly for Wales Commission (or Comisiwn Cynulliad Cenedlaethol Cymru) or Acts of the National Assembly for Wales (or Deddfau Cynulliad Cenedlaethol Cymru) (as the case may be)], in—

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

is to be read as, or as including, a reference to the [<sup>F273</sup>name given by Part 2 of the [Senedd and Elections \(Wales\) Act 2020](#)].]

[<sup>F274</sup>(3) Unless the context requires otherwise, a reference to Senedd Cymru or the Welsh Parliament, the Senedd Commission (or Comisiwn y Senedd) or Acts of Senedd Cymru (or Deddfau Senedd Cymru) (as the case may be), in—

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

is to be read as including a reference to the previous name.]

#### Textual Amendments

**F269** S. 150A inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), [ss. 16\(1\)](#), [71\(2\)\(c\)](#) (with [Sch. 7 paras. 1, 6](#))

**F270** Words in s. 150A heading substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(7\)\(a\)](#)

**F271** S. 150A(1) omitted (6.5.2020) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(7\)\(b\)](#)

**F272** Words in s. 150A(2) substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(7\)\(c\)\(i\)](#)

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- F273** Words in s. 150A(2) substituted (6.5.2020) by **Senedd and Elections (Wales) Act 2020** (anaw 1), s. 42(2), **Sch. 1 para. 2(7)(c)(ii)**
- F274** S. 150A(3) inserted (6.5.2020) by **Senedd and Elections (Wales) Act 2020** (anaw 1), s. 42(2), **Sch. 1 para. 2(7)(d)**

## 151 Power to remedy ultra vires acts

- (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 [<sup>F2</sup>Senedd ], or any provision of an Assembly Measure or Act of the [<sup>F2</sup>Senedd], which is not, or may not be, within the [<sup>F2</sup>Senedd'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 [<sup>F2</sup>Senedd] 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.

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by **Senedd and Elections (Wales) Act 2020** (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with Sch. 1 para. 2(11)-(14))

### Commencement Information

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

## <sup>F275</sup>152 Intervention in case of functions relating to water etc.

.....

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### Textual Amendments

**F275** S. 152 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 52(1)(b), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(k\)](#)

## 153 Power to vary retrospective decisions

- (1) This section applies where any court or tribunal decides—
  - (a) that an Assembly Measure or Act of the [<sup>F2</sup>Senedd], or any provision of an Assembly Measure or Act of the [<sup>F2</sup>Senedd], is outside the [<sup>F2</sup>Senedd's] legislative competence,
  - (b) that any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the [<sup>F2</sup>Senedd] 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



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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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

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

## 154 Interpretation of legislation

(1) This section applies to—

- (a) any provision of an Assembly Measure, or proposed Assembly Measure, which could be read in such a way as to be outside the [<sup>F2</sup>Senedd's] legislative competence,
- (b) any provision of an Act of the [<sup>F2</sup>Senedd], or a Bill for such an Act, which could be read in such a way as to be outside the [<sup>F2</sup>Senedd's] legislative competence, and
- (c) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the [<sup>F2</sup>Senedd] 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.

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

#### Commencement Information

**I125** 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

(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 [<sup>F276</sup>or the Welsh zone].

(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.

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#### Textual Amendments

**F276** Words in s. 155(1)(b) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(7\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

#### Commencement Information

**I126** 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

(1) The English and Welsh texts of—

- (a) any Assembly Measure or Act of the [<sup>F2</sup>Senedd] 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.

[<sup>F277</sup>(1A) Subsection (1) does not apply to any legislation to which Part 2 of the Legislation (Wales) Act 2019 applies (but section 5 of that Act makes corresponding provision in relation to legislation to which that Part applies).]

<sup>F278</sup>(2) .....

<sup>F278</sup>(3) .....

<sup>F278</sup>(4) .....

<sup>F278</sup>(5) .....

#### Textual Amendments

**F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))

**F277** S. 156(1A) inserted (11.9.2019) by [Legislation \(Wales\) Act 2019 \(anaw 4\)](#), s. 44(1)(e), [Sch. 2 para. 2\(2\)\(a\)](#)

**F278** S. 156(2)-(5) omitted (11.9.2019) by virtue of [Legislation \(Wales\) Act 2019 \(anaw 4\)](#), s. 44(1)(e), [Sch. 2 para. 2\(2\)\(b\)](#)

#### Commencement Information

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

### *Supplementary*

### 157 Orders [<sup>F279</sup>, regulations] and directions

(1) Any power of a Minister of the Crown or the Welsh Ministers under this Act to make an order [<sup>F280</sup>or regulations] is exercisable by statutory instrument.

(2) Any such power and any power under this Act to make an Order in Council—

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- (a) may be exercised so as to make different provision for different cases or classes of case or different purposes,
  - (b) 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
  - (c) 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.

#### Textual Amendments

- F279** Word in s. 157 heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 8\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F280** Words in s. 157(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 8\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

#### [<sup>F281</sup>157ZA] **Explanatory statements in relation to certain regulations**

- (1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
  - (a) must make a statement explaining the effect of the instrument, and
  - (b) in any case where the [<sup>F2</sup>Senedd] has not made a decision to agree a motion consenting to the laying of the draft—
    - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
    - (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the [<sup>F2</sup>Senedd] has not made that decision.
- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification.]

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F281** S. 157ZA inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(3)(g), [Sch. 3 para. 43](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), reg. 3(l) (with reg. 10)

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**[<sup>F282</sup>157A “Devolved Welsh authority”**

- (1) In this Act “devolved Welsh authority” means—
  - (a) a public authority that meets the conditions in subsection (2),
  - (b) a public authority that is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions), or
  - (c) the governing body of an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992) whose activities are carried on, or principally carried on, in Wales.
- (2) A public authority meets the conditions in this section if its functions—
  - (a) are exercisable only in relation to Wales, and
  - (b) are wholly or mainly functions that do not relate to reserved matters.
- (3) In determining for the purposes of this section whether functions of a public authority are exercisable only in relation to Wales, no account is taken of any function that—
  - (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from this paragraph) be conferred or imposed by provision falling within the [<sup>F2</sup>Senedd's] legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in subsection (2) are relevant to determining whether a provision of an Act of the [<sup>F2</sup>Senedd] is within the [<sup>F2</sup>Senedd's] legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- (5) Her Majesty may by Order in Council amend Schedule 9A—
  - (a) so as to remove or revise an entry, or
  - (b) so as to add or substitute a public authority whose functions—
    - (i) are exercisable wholly or mainly in relation to Wales, and
    - (ii) are wholly or mainly functions that do not relate to reserved matters.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament and the [<sup>F2</sup>Senedd] .
- (7) Subsection (6) does not apply to a statutory instrument containing an Order in Council that only makes provision for—
  - (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.

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

- (8) In this section ““public authority”” means a body, office or holder of an office that has functions of a public nature.

[ References in this section to Wales include, in relation to a relevant function of a public <sup>F283</sup>(9) authority, the area of the Welsh zone beyond the seaward limit of the territorial sea.

A function of a public authority is “relevant” if it relates to fishing, fisheries or fish health.]]

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### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by **Senedd and Elections (Wales) Act 2020** (anaw 1), s. 42(2), **Sch. 1 para. 2(19)** (with **Sch. 1 para. 2(11)-(14)**)
- F282** S. 157A inserted (1.4.2018) by **Wales Act 2017** (c. 4), **ss. 4(1)**, 71(4) (with **Sch. 7 paras. 1, 6**); **S.I. 2017/1179**, reg. 3(a)
- F283** S. 157A(9) inserted (23.1.2021) by **Fisheries Act 2020** (c. 22), **ss. 45(3)**, 54(2) (with **Sch. 4 para. 31**)

## 158 Interpretation

(1) In this Act (except where the context otherwise requires)—

<sup>F284</sup>  
...

“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 [<sup>F2</sup>Senedd] and subordinate legislation (but see also subsection (2)),

“English border area” means a part of England adjoining Wales (but not the whole of England),

“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 <sup>F285</sup>... the Convention rights,

“Minister of the Crown” includes the Treasury,

“modifications” includes amendments, repeals and revocations,

[<sup>F286</sup>“property” includes rights and interests of any description.]

“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 [<sup>F2</sup>Senedd]),

“tribunal” means any tribunal in which legal proceedings may be brought, <sup>F287</sup>  
...

“Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea. [<sup>F288</sup>, and

Welsh zone” means the sea adjacent to Wales which is—

- (a) within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976), and
- (b) specified in an Order in Council under section 58 or an order under subsection (3).]

(2) In sections 95(3), 109(2)[<sup>F289</sup>, 116C(2)][<sup>F290</sup>, 150A(2)] and 151(2) “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.

[<sup>F291</sup>(3) The Secretary of State may by order determine, or make provision for determining, for the purposes of the definitions of “Wales” and the “Welsh zone”, any boundary

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between waters which are to be treated as parts of the sea adjacent to Wales, or sea within British fishery limits adjacent to Wales, and 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.

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F284** Words in s. 158(1) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 44\(a\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F285** Word in s. 158(1) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 44\(b\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F286** Words in s. 158(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 9](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(q)
- F287** Word in s. 158(1) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, [Sch. 22 Pt. 1](#); S.I. 2009/3345, [art. 2](#), [Sch. para. 27](#)
- F288** S. 158(1): definition of "Welsh Zone" and preceding word inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 43\(2\)](#), 324; S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)
- F289** Word in s. 158(2) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 6\(5\)](#), 29(2)(b)(3)
- F290** Word in s. 158(2) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), [ss. 16\(2\)](#), 71(2)(c) (with [Sch. 7 paras. 1, 6](#))
- F291** S. 158(3) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 43\(3\)](#), 324; S.I. 2009/3345, [art. 2](#), [Sch. para. 7](#)

## 159 Index of defined expressions

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

the 2007 election	section 161(1)
Acts of the <sup>[F2]</sup> Senedd]	section 107(1)
<sup>[F292]</sup> ancillary (in relation to a provision)	section 108A(7)]
annual Budget motion	section 125(1)
the <sup>[F2]</sup> Senedd]	section 1(1)
<sup>F293</sup>	<sup>F293</sup>
...	...
the <sup>[F2]</sup> Senedd] Commission	section 27(1)
<sup>[F2]</sup> Senedd] constituency	section 2(1)

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[ <sup>F2</sup> Senedd] constituency member F294	section 1(2)(a) F294
. . .	. . .
Assembly Measures	section 93(1)
[ <sup>F45</sup> Member of the Senedd]	section 1(3)
[ <sup>F2</sup> Senedd] proceedings	section 1(5)
[ <sup>F2</sup> Senedd] regional member F295	section 1(2)(b) F295
. . .	. . .
[ <sup>F2</sup> Senedd'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 [ <sup>F2</sup> Senedd]	section 120(8)
the Clerk	section 26(1)
the Committee of Public Accounts F296	section 158(6) F296
. . .	. . .
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
[ <sup>F297</sup> devolved tax	section 116A(4)]
[ <sup>F292</sup> devolved Welsh authority	section 157A]
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)

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[ <sup>F298</sup> Member of the Senedd	section 1(2A)]
member of the staff of the [ <sup>F2</sup> Senedd]	paragraph 3(2) of Schedule 2
member of the staff of the Welsh F101	section 52
... Government	
Minister of the Crown	section 158(1)
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 [ <sup>F2</sup> Senedd] Commission	section 138(1) and (2)
the principal accounting officer for the Welsh Ministers	section 129(6) and (7)
[ <sup>F292</sup> property	section 158(1)]
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)
[ <sup>F292</sup> reserved matters	Schedule 7A]
[ <sup>F298</sup> the Senedd	section 1(1)]
[ <sup>F298</sup> the Senedd Commission	section 27(1)]
the standing orders	section 31(1)
[ <sup>F298</sup> Senedd constituency	section 2(1)]
[ <sup>F298</sup> Senedd constituency member	section 1(2)(a)]
[ <sup>F298</sup> Senedd electoral region	section 2(2) and (3)]
[ <sup>F298</sup> Senedd proceedings	section 1(5)]
[ <sup>F298</sup> Senedd regional member	section 1(2)(b)]
[ <sup>F298</sup> Senedd's legislative competence (in relation to Acts of the Senedd)	section 108A]
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	section 45(1)



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F101

... Government

Welsh Consolidated Fund	section 117
the Welsh Ministers	section 45(2)
[ <sup>F299</sup> “Welsh zone”]	section 158(1), (3) and (4)]

### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F45** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(16\)](#) (with [Sch. 1 para. 2\(11\)\(12\)\(14\)](#))
- F101** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), [s. 4\(2\)\(a\)](#) (with s. 4(3))
- F292** Words in s. 159 inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 10\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F293** Words in s. 159 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 10\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F294** Words in s. 159 omitted (6.5.2020) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(8\)\(a\)](#)
- F295** Words in s. 159 omitted (6.5.2020) by virtue of [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(8\)\(b\)](#)
- F296** Words in s. 159 omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 45](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2020/1622](#), reg. 3(l) (with regs. 10, 22)
- F297** Words in s. 159 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 6\(6\), 29\(2\)\(b\)\(3\)](#)
- F298** Words in s. 159 inserted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(8\)\(c\)](#)
- F299** S. 159: entry in index inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(8\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

## 160 Minor and consequential amendments

- (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

**I128** 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

- (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 [F<sup>2</sup>Senedd] 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.

F300(7) .....

#### Textual Amendments

- F2** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), [Sch. 1 para. 2\(19\)](#) (with [Sch. 1 para. 2\(11\)-\(14\)](#))
- F300** S. 161(7) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 11](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

## 162 Transitional etc. provision

- (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

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

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#### **Commencement Information**

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

#### **164 Financial provision**

- (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**

- (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**

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

**Status:**

Point in time view as at 17/03/2021.

**Changes to legislation:**

Government of Wales Act 2006 is up to date with all changes known to be in force on or before 08 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.