



Wales Act 2017

2017 CHAPTER 4

PART 1

CONSTITUTIONAL ARRANGEMENTS

Executive competence etc

19 Functions of Welsh Ministers

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

“58A Executive ministerial functions

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

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

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

Changes to legislation: Wales Act 2017, Cross Heading: Executive competence etc is up to date with all changes known to be in force on or before 30 May 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) View outstanding changes

(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 Assembly if it were included in an Act of the Assembly (see section 108A), or
- (b) to confirm or approve any subordinate legislation containing such provision.

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

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

(a) in subsection (1)—

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

(b) in subsection (2)—

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

(c) for subsection (3) substitute—

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

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

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

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

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

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Commencement Information

I1 S. 19 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(e)

F1 20 Implementation of EU law

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Textual Amendments

F1 S. 20 repealed (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), reg. 1(3), **Sch.** (with reg. 9(2))

21 Transfer of Ministerial functions

(1) In section 58 of the Government of Wales Act 2006 (transfer of Ministerial functions), in subsection (1)(b), for ““concurrently with the Minister of the Crown,”” substitute “—

- (i) concurrently or jointly with a Minister of the Crown, or
- (ii) only with the agreement of, or after consultation with, a Minister of the Crown,”.

(2) In Part 2 of Schedule 3 to that Act (exercise of transferred functions), in paragraph 6(a) and (b) omit ““in relation to a cross-border body or an English border area””.

(3) After section 59 of that Act insert—

“59A Shared powers

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

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

Commencement Information

I2 S. 21 in force at 8.1.2018 by S.I. 2017/893, reg. 2

22 Consultation about cross-border bodies

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

Commencement Information

I3 S. 22 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(e)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) transitional and savings provisions for commencing S.I. 2017/1179 by [S.I. 2018/278](#) [reg. 2](#)[Sch.](#)