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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

The Natural Resources Body for Wales  
(Consequential Provision) Order 2013

PART 3

Environment Agency: constitutional and funding arrangements and general provisions

**Appointment of members: removal of functions of Welsh Ministers**

5. Functions under section 1 of, and Schedule 1 to, the 1995 Act, so far as exercisable by the Welsh Ministers(1), are transferred to the Secretary of State.

**General and financial provisions: removal of functions of Welsh Ministers**

6. Functions under sections 37(2) and (4), 38 and 44 of the 1995 Act(2), so far as exercisable by the Welsh Ministers, cease to be exercisable by the Welsh Ministers.

7. The function under section 45(2) of the 1995 Act(3), so far as exercisable by the Welsh Ministers, is transferred to the Secretary of State.

8. Functions under sections 47 to 52 of the 1995 Act(4), so far as exercisable by the Welsh Ministers, cease to be exercisable by the Welsh Ministers.

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- (1) The function under section 1(2)(b) is exercisable by the Welsh Ministers to the extent that they may make such appointments as will ensure that there is at all times one member of the Environment Agency appointed by them. Functions of the “appropriate Minister” under Schedule 1 are exercisable by the Welsh Ministers to the extent that they relate to any member appointed by them. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order, and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. In relation to any other member of the Environment Agency, functions of “the Minister” and “the appropriate Minister” under section 1 and Schedule 1 are exercisable by the Secretary of State: *see* articles 1 and 2 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) (“the 2002 Order”). The effect of the 2002 Order and article 5 of this Order is that functions in relation to all members of the Agency become exercisable only by the Secretary of State.
- (2) The functions under sections 37(2) and (4), 38 and 44 are exercisable by the Welsh Ministers, in relation to Wales, concurrently with any Minister of the Crown by whom they are exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. The effect of article 6 is that these functions become exercisable only by the relevant Minister of the Crown.
- (3) The relevant function of “the appropriate Ministers” under section 45(2) was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. That function was transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 7 of this Order is that the function becomes exercisable only by the Secretary of State.
- (4) The functions of “the appropriate Minister” and “the appropriate Ministers” under these sections are exercisable by the Welsh Ministers, in relation to Wales, concurrently with any Minister of the Crown by whom they are exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order (which makes specific provision about the exercise of these functions and about the continuing effect of Treasury approval requirements), and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the functions are exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 8 of this Order is that these functions become exercisable in relation to the Environment Agency only by the Secretary of State.

**9.**—(1) The function under section 53(1)(b) of the 1995 Act<sup>(5)</sup>, so far as exercisable by the Welsh Ministers, ceases to be exercisable by the Welsh Ministers.

(2) Functions under the other provisions of section 53(1)(a) and (2) of the 1995 Act<sup>(6)</sup>, so far as exercisable by the Welsh Ministers, are transferred to the Secretary of State.

#### **Audit: removal of functions of Auditor General for Wales**

**10.** Functions under sections 46(4) and 49(3) and (4) of the 1995 Act<sup>(7)</sup>, so far as exercisable by the Auditor General for Wales, cease to be exercisable by the Auditor General for Wales.

#### **Repeal of provisions of 1998 Act relating to Welsh functions of the Environment Agency**

**11.**—(1) The 1998 Act is amended as follows.

(2) Omit section 147<sup>(8)</sup>.

(3) In section 154, in subsections (3)(b) and (6)(a) omit “, 147(1)”.

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- (5) The function of “the appropriate Minister” under section 53(1)(b) is exercisable by the Welsh Ministers, in relation to Wales, concurrently with any other Minister of the Crown by whom it is exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order, and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 9(1) of this Order is that the function becomes exercisable in relation to the Environment Agency only by the Secretary of State.
- (6) The functions were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 9(2) of this Order is that these functions become exercisable in relation to the Environment Agency only by the Secretary of State.
- (7) The functions of the Comptroller and Auditor General under sections 46(4) and 49(3) and (4) are exercisable concurrently with the Auditor General for Wales so far as they relate to any of the Welsh functions of the Environment Agency or to any funding provided to the Agency by the Welsh Ministers: *see* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order. The effect of article 10 is that these functions become exercisable only by the Comptroller and Auditor General: but *see* the transitional provision in article 26 of this Order.
- (8) There are amendments to section 147 that are not relevant to this Order.