

*Status: Point in time view as at 01/04/2004.*

**Changes to legislation:** Government of Wales Act 1998, Part 1 is up to date with all changes known to be in force on or before 08 August 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)

## SCHEDULES

### SCHEDULE 3

#### TRANSFER ETC. OF FUNCTIONS: FURTHER PROVISIONS

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

- C1** Sch. 3 modified (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [ss. 8\(4\)\(5\)](#), [53\(1\)](#); [S.I. 2005/1126](#), [art. 2\(2\)\(e\)](#)

##### **Commencement Information**

- II** Sch. 3 in force at 1.12.1998 by [S.I. 1998/2789](#), [art. 2](#)

### PART I

#### FUNCTIONS TRANSFERABLE ETC

##### *Existing and future functions*

- 1 (1) Subject to sub-paragraph (2), an Order in Council under section 22 may make provision about any function of a Minister of the Crown (including a function conferred or imposed after the passing of this Act).
- (2) Such an Order in Council may not make provision about any function conferred or imposed by any provision of this Act except—
- section 3(4),
  - section 36(5),
  - paragraph 17(9) of Schedule 9,
  - sections 126 to 143, and
  - Part VII so far as relating to the provisions specified in paragraphs (a) to (d).

##### *Functions relating to culture*

- 2 If and to the extent that any function is exercisable by a Minister of the Crown in relation to the Welsh language or any other aspect of Welsh culture it shall be regarded for the purposes of section 22 as exercisable by the Minister in relation to Wales.

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### *Cross-border functions*

- 3 (1) The power conferred by section 22 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to Wales includes (as well as power to make provision about a function so far as exercisable by a Minister of the Crown in relation to the whole or any part of Wales) power to make provision about a function so far as exercisable by a Minister of the Crown in relation to—
- (a) a cross-border body, or
  - (b) subject to sub-paragraph (3), an English border area.
- (2) In this Act—
- “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, and
- “English border area” means a part of England adjoining Wales (but not the whole of England).
- (3) An Order in Council under section 22 may only include provision about a function so far as exercisable by a Minister of the Crown in relation to an English border area if—
- (a) the function relates to water resources management, water supply, rivers or other watercourses, control of pollution of water resources, sewerage or land drainage, and
  - (b) the Order in Council makes (or another such Order in Council has made) corresponding provision about the function so far as so exercisable in relation to a part of Wales adjoining England or the whole of Wales.

### *Functions exercisable beyond the territorial sea*

- 4 (1) The power conferred by section 22(1)(c) includes power to direct that any function under—
- (a) Part II of the <sup>M1</sup>Food and Environment Protection Act 1985 (deposits in the sea), or
  - (b) Part IV of the <sup>M2</sup>Petroleum Act 1998 (abandonment of offshore installations),
- so far as exercisable by a Minister of the Crown in relation to Welsh controlled waters shall be exercisable by the Minister only after consultation with the Assembly.
- (2) In this paragraph “Welsh controlled waters” means so much of the sea beyond the seaward boundary of the territorial sea as is adjacent to Wales.
- (3) The power conferred by section 22(3) includes (in particular) power to determine, or make provision for determining, for the purposes of the definition of “Welsh controlled waters” any boundary between—
- (a) the parts of the sea which are to be treated as adjacent to Wales, and
  - (b) those which are not,
- including power to make different determinations or provision for different purposes; and an order under section 155(2) may include any provision that by virtue of this sub-paragraph may be included in an Order in Council under section 22.

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**Marginal Citations**

**M1** 1985 c. 48.

**M2** 1998 c. 17.

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