



# Government of Wales Act 2006

## 2006 CHAPTER 32

### [<sup>F1</sup>PART 3

#### ASSEMBLY MEASURES

##### Textual Amendments

- F1** 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 Assembly may make laws, to be known as Measures of the National Assembly for Wales or Mesurau Cynulliad Cenedlaethol Cymru (referred to in this Act as “Assembly Measures”).
- (2) A proposed Assembly Measure is enacted by being passed by the Assembly and approved by Her Majesty in Council.
- (3) The validity of an Assembly Measure is not affected by any invalidity in the Assembly proceedings leading to its enactment.
- (4) Every Assembly Measure is to be judicially noticed.
- (5) This Part does not affect the power of the Parliament of the United Kingdom to make laws for Wales.

##### Commencement Information

- II** 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*Status: Point in time view as at 31/03/2017.*

*Changes to legislation: Government of Wales Act 2006, Part 3 is up to date with all changes known to be in force on or before 15 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)*

## 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 Assembly's legislative competence.
- (3) A provision of an Assembly Measure is within the Assembly's legislative competence only if it falls within subsection (4) or (5).
- (4) A provision of an Assembly Measure falls within this subsection if—
  - (a) it relates to one or more of the matters specified in Part 1 of Schedule 5 [<sup>F2</sup>and does not fall within any of the exceptions specified in paragraph A1 of Part 2 of 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 Assembly's legislative competence if—
  - (a) it breaches any of the restrictions in [<sup>F3</sup> 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 [<sup>F4</sup>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 [<sup>F5</sup>(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 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\(2\)](#)
- F3** 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\(3\)](#)
- F4** 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](#)
- F5** 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)

- C1** 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\(2\)](#)

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#### **Commencement Information**

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

### **95 Legislative competence: supplementary**

- (1) Her Majesty may by Order in Council—
  - (a) amend Part 1 of Schedule 5 to add a matter which relates to one or more of the fields listed in that Part, or to vary or remove any matter,
  - (b) amend that Part to add a new field or to vary or remove any field, or
  - (c) amend Part 2 or 3 of that Schedule.
- (2) An Order in Council under this section does not have effect to amend Part 1 of Schedule 5 by adding a field if, at the time when the amendment comes into force, no functions in the field are exercisable by the Welsh Ministers, the First Minister or the Counsel General.
- (3) An Order in Council under this section may make such modifications of—
  - (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (4) An Order in Council under this section may make provision having retrospective effect.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—
  - (a) has been laid before, and approved by a resolution of, the Assembly, and
  - (b) having been so approved, has been laid before, and approved by a resolution of, each House of Parliament.
- (6) As soon as is reasonably practicable after the draft of an Order in Council under this section has been approved by a resolution of the Assembly, the First Minister must ensure that—
  - (a) notice in writing of the resolution, and
  - (b) a copy of the draft,is sent to the Secretary of State.
- (7) The Secretary of State must, before the end of the period of 60 days beginning immediately after the day on which notice of the Assembly's resolution is received, either—
  - (a) lay the draft before each House of Parliament, or
  - (b) give notice in writing to the First Minister of the Secretary of State's refusal to do so and the reasons for that refusal.
- (8) As soon as is reasonably practicable after the First Minister receives notice of the Secretary of State's refusal to lay the draft before each House of Parliament and the reasons for that refusal—
  - (a) the First Minister must lay a copy of the notice before the Assembly, and

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- (b) the Assembly must ensure that it is published.
- (9) In reckoning the period of 60 days mentioned in subsection (7) no account is to be taken of any period during which Parliament is dissolved or prorogued or both Houses are adjourned for more than four days.
- (10) The amendment of Schedule 5 by an Order in Council under this section does not affect—
  - (a) the validity of an Assembly Measure passed before the amendment comes into force, or
  - (b) the previous or continuing operation of such an Assembly Measure.

## 96 Scrutiny of proposed Orders in Council

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

### **Commencement Information**

**I3** 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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## **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 Assembly members to vote on its general principles,
  - (b) for the consideration of, and an opportunity for Assembly members to vote on, the details of a proposed Assembly Measure, and
  - (c) for a final stage at which a proposed Assembly Measure can be passed or rejected.
- (2) Subsection (1) does not prevent the standing orders making provision to enable the Assembly to expedite proceedings in relation to a particular proposed Assembly Measure.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to proposed Assembly Measures of any of the following kinds—
  - (a) proposed Assembly Measures which restate the law,
  - (b) proposed Assembly Measures which repeal or revoke spent enactments, and
  - (c) private proposed Assembly Measures.
- (4) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in accordance with the standing orders.
- (5) The standing orders must include provision for securing that the Assembly may only pass a proposed Assembly Measure if the text of the proposed Assembly Measure is in both English and Welsh, unless the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.
- (6) The standing orders must provide for an opportunity for the reconsideration of a proposed Assembly Measure after its passing if (and only if)—
  - (a) the Supreme Court decides on a reference made in relation to the proposed Assembly Measure under section 99 that the proposed Assembly Measure or any provision of it would not be within the Assembly's legislative competence,
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 is withdrawn following a request for withdrawal of the reference under section 100(2)(b), or
  - (c) an order is made in relation to the proposed Assembly Measure under section 101.
- (7) The standing orders must, in particular, ensure that any proposed Assembly Measure amended on reconsideration is subject to a final stage at which it can be approved or rejected.
- (8) References in subsections (4), (5) and (6) of this section and sections 93(2) and 95(10) to the passing of a proposed Assembly Measure are, in the case of a proposed Assembly Measure which has been amended on reconsideration, to be read as references to its approval.

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#### 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))

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

#### Commencement Information

**I5** 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) a reference has been made in relation to a proposed Assembly Measure under section 99,
  - (b) a reference for a preliminary European Court ruling has been made by the Supreme Court in connection with that reference, and
  - (c) neither of those references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the proposed Assembly Measure—
  - (a) the Clerk must notify the Counsel General and the Attorney General of that fact, and
  - (b) the person who made the reference in relation to the proposed Assembly Measure under section 99 must request the withdrawal of the reference.
- (3) In this section “ a reference for a preliminary European Court ruling ” means a reference of a question to the European Court under Article 234 of the Treaty establishing the European Community, Article 41 of the Treaty establishing the

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European Coal and Steel Community or Article 150 of the Treaty establishing the European Atomic Energy Community.

#### **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))

### **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 [<sup>F6</sup>(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
  - (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.

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#### Textual Amendments

- F6** 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

- I7** 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 Assembly's legislative competence, or
  - (b) a reference made in relation to the proposed Assembly Measure under section 99 has been withdrawn following a request for withdrawal of the reference under section 100(2)(b).
- (4) Once an Assembly Measure has been approved by Her Majesty in Council, the Clerk of the Privy Council must send the Order in Council approving the Assembly Measure to the Clerk.
- (5) The date of the approval by Her Majesty in Council of an Assembly Measure is to be written on the Assembly Measure by the Clerk, and forms part of the Assembly Measure.
- (6) The Clerk must publish the Order in Council by which an Assembly Measure is approved.
- (7) The standing orders must include provision for the notification by the Clerk to the Assembly of the date of the approval of an Assembly Measure by Her Majesty in Council.
- (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).]



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**Commencement Information**

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

**Status:**

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