



# Government of Wales Act 2006

## 2006 CHAPTER 32

### PART 5

#### FINANCE

##### *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 Assembly (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—
  - (a) the Welsh Ministers, the First Minister and the Counsel General,
  - (b) the Assembly Commission,
  - (c) [<sup>F1</sup>the Auditor General][<sup>F1</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.
- (5) This section does not apply to sums paid out of the Welsh Consolidated Fund by virtue of section 130.
- (6) Any enactment which—

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- (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

**F1** 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)

### 125 Annual Budget motions

- (1) For each financial year there is to be moved in the Assembly 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),
  - (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.

### 126 Supplementary Budget motions

- (1) For any financial year there may be moved in the Assembly 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—

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

#### **[F<sup>2</sup>126A 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—

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- (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 National Assembly for Wales.
- (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 National Assembly for Wales.]

#### Textual Amendments

- F2** 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)**

## 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 Assembly 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%.

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### Commencement Information

- II** 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.
- (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 Assembly.
- (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 Assembly a report setting out—

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- (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.

## 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.
- (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 Assembly Commission, <sup>F3</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>F4</sup>... Government.
- (7) But the Treasury may designate another member of the staff of the Welsh <sup>F4</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>F4</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>F4</sup>... Government is vacant.
- (8) In this section “Permanent Secretary to the Welsh <sup>F4</sup>... Government” means the person appointed in accordance with section 52 to be the head of the staff of the Welsh <sup>F4</sup>... Government (whether or not that person is known by the title of Permanent Secretary to the Welsh <sup>F4</sup>... Government).

### Textual Amendments

- F3** 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\(1\)](#)
- F4** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with [s. 4\(3\)](#))

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### **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.

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#### **Commencement Information**

**I2** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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