



# Government of Wales Act 2006

## 2006 CHAPTER 32

### PART 6 **U.K.**

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Welsh public records*

#### 146 Status of Welsh public records **U.K.**

- (1) Welsh public records are not public records for the purposes of the Public Records Act 1958 (c. 51).
- (2) But that Act has effect in relation to Welsh public records (as if they were public records for the purpose of that Act) until an order under section 147 imposes a duty to preserve them on the Welsh Ministers (or a member of the staff of the Welsh<sup>F1</sup>... Government).
- (3) Subsection (2) applies to Welsh public records whether or not, apart from subsection (1), they would be public records for the purposes of the Public Records Act 1958.

#### Textual Amendments

**F1** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))

#### Commencement Information

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

#### 147 Transfer of responsibility **U.K.**

- (1) The [<sup>F2</sup>Secretary of State] may by order make provision—
  - (a) imposing or conferring on the Welsh Ministers (or a member of the staff of the Welsh<sup>F1</sup>... Government) functions relating to Welsh public records (including,

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- in particular, functions of preserving them and of making them available for inspection by the public), and
- (b) imposing on persons responsible for Welsh public records duties relating to the selection of such records for permanent preservation, the safe-keeping of such records and their transfer to a place specified in, or appointed under, the order.
- (2) An order under this section may (in particular) make in relation to Welsh public records provision analogous to that made by the Public Records Act 1958 (c. 51) in relation to records which are public records for the purposes of that Act.
- (3) An order 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 the [F3Secretary of State] considers appropriate in connection with the provision made by the order.
- (4) An order under this section which imposes on the Welsh Ministers (or a member of the staff of the Welsh F1... Government) a duty to preserve Welsh public records, or Welsh public records of a particular description, must include provision for the [F3Secretary of State] to make such arrangements as appear appropriate for the transfer of Welsh public records, or Welsh public records of that description, which are in—
- (a) the Public Record Office, or
- (b) a place of deposit appointed under the Public Records Act 1958, to a place specified in, or appointed under, the order.
- (5) No order is to be made under this section unless the [F3Secretary of State] has consulted the Welsh Ministers.
- (6) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** Words in Act omitted (17.2.2015) by virtue of Wales Act 2014 (c. 29), s. 4(2)(a) (with s. 4(3))
- F2** Words in s. 147(1) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), Sch. para. 4(a)
- F3** Words in s. 147(3)-(5) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), Sch. para. 4(a)

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

- C1** S. 147(1) functions transferred (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), 6(1)(d) (with art. 7)
- C2** S. 147(4)(5) functions transferred (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), 6(1)(d) (with art. 7)

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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))

### 148 Meaning of “Welsh public records” **U.K.**

- (1) The following are Welsh public records—
- (a) administrative and departmental records belonging to Her Majesty which are records of the Welsh <sup>F1</sup>... Government,
  - (b) administrative and departmental records of the Auditor General,
  - [<sup>F4</sup>(ba) administrative and departmental records belonging to Her Majesty which are records of or held by the Welsh Revenue Authority;]
  - (c) administrative and departmental records belonging to Her Majesty which are records of or held in any government department which is wholly or mainly concerned with Welsh affairs,
  - (d) administrative and departmental records belonging to Her Majesty which are records of any office, commission or other body or establishment under Her Majesty's Government which is wholly or mainly concerned with Welsh affairs in a field or fields in which the Welsh Ministers have functions, or the First Minister or the Counsel General has functions,
  - (e) administrative and departmental records of the bodies and establishments specified in subsection (2) (but not records of health service hospitals in Wales which are of the descriptions excepted from being public records for the purposes of the Public Records Act 1958 (c. 51) in the case of health service hospitals in England), and
  - (f) any other description of records (other than records of the Assembly or the Assembly Commission or records of any court or tribunal or held in any department of the Senior Courts) which is specified by order made by the [<sup>F5</sup>Secretary of State].
- (2) The bodies and establishments referred to in subsection (1)(e) are—
- (a) the Care Council for Wales,
  - <sup>F6</sup>(b) .....
  - (c) the Curriculum and Assessment Authority for Wales,
  - (d) Family Practitioner Committees for localities in Wales,
  - (e) the Further Education Funding Council for Wales,
  - (f) the General Teaching Council for Wales,
  - (g) health service hospitals, within the meaning of the [<sup>F7</sup>National Health Service (Wales) Act 2006], in Wales,
  - (h) the Higher Education Funding Council for Wales,
  - (i) the Local Government Boundary Commission for Wales,
  - (j) the National Council for Education and Training for Wales,
  - (k) National Health Service Authorities for districts or localities in Wales, or for areas in or consisting of Wales, including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales,
  - [<sup>F8</sup>(ka) the Natural Resources Body for Wales,]
  - (l) the Qualifications, Curriculum and Assessment Authority for Wales,
  - [<sup>F9</sup>(la) Qualifications Wales,]
  - (m) the Wales Centre for Health, and

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- (n) the Welsh Board of Health.
- (3) An order under subsection (1)(f) may be made in relation to a description of records—
- (a) which (immediately before the order is made) are public records for the purposes of the Public Records Act 1958, or
  - (b) which (at that time) are not public records for those purposes.
- (4) No order under subsection (1)(f) may be made—
- (a) in relation to records within paragraph (a) of subsection (3), unless the [F10Secretary of State] has consulted the Welsh Ministers, and
  - (b) in relation to records within paragraph (b) of that subsection, without the agreement of the Welsh Ministers.
- (5) A statutory instrument containing an order under subsection (1)(f) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “records” includes—
- (a) written records, and
  - (b) records conveying information by any other means.

#### Textual Amendments

- F1** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\), s. 4\(2\)\(a\)](#) (with s. 4(3))
- F4** S. 148(1)(ba) inserted (18.10.2017) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\), ss. 34, 194\(2\)](#); S.I. 2017/954, art. 2
- F5** Words in s. 148(1)(f) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 4(b)**
- F6** S. 148(2)(b) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 437(2)** (with Sch. 7)
- F7** Words in s. 148(2)(g) substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), **Sch. 1 para. 303** (with Sch. 3 Pt. 1)
- F8** S. 148(2)(ka) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 437(3)** (with Sch. 7)
- F9** S. 148(2)(la) inserted (21.9.2015) by [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 7**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F10** Words in s. 148(4)(a) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 4(b)**

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

- C3** S. 148(1)(f) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)
- C4** S. 148(4)(a) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(d)** (with art. 7)

#### Commencement Information

- I3** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## *f<sup>HI</sup>* Consultation with Welsh Ministers

### Textual Amendments

**F11** S. 148A and cross-heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 55(1), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(1\)](#)

## **148A Renewable energy incentive schemes** **U.K.**

- (1) The Secretary of State must consult the Welsh Ministers before—
  - (a) establishing a renewable energy incentive scheme that applies in Wales, or
  - (b) amending such a scheme as it relates to Wales.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.
- (3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.
- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—
  - (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);
  - (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).]

### *Miscellaneous*

## **149 Resolution of devolution issues** **U.K.**

For provision about the resolution of devolution issues see Schedule 9.

### Commencement Information

**I4** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

## **150 Power to make consequential provision** **U.K.**

- (1) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of—
  - (a) any provision made by an Assembly Measure or Act of the Assembly,

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- (b) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly,
  - (c) any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General, or
  - (d) any provision of subordinate legislation made, or purporting to be made, by any other person (not being a Minister of the Crown) in the exercise of a function conferred or imposed by Act of Parliament where the statutory instrument (or a draft of the statutory instrument) containing the subordinate legislation is required to be laid before the Assembly.
- (2) An order 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 the Secretary of State considers appropriate.
- (3) An order under this section may not make provision with respect to matters within the legislative competence of the Scottish Parliament.
- (4) An order under this section may make provision having retrospective effect.
- (5) No order under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing an order under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In subsection (1) “made” includes confirmed or approved.

#### Commencement Information

**I5** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### [<sup>F12</sup>150A Change of name of the Assembly etc: translation of references **U.K.**

- (1) Subsection (2) applies if an Act of the Assembly, or subordinate legislation made under an Act of the Assembly, changes the name of—
- (a) the National Assembly for Wales (Cynulliad Cenedlaethol Cymru),
  - (b) the National Assembly for Wales Commission (Comisiwn Cynulliad Cenedlaethol Cymru), or
  - (c) Acts of the National Assembly for Wales (Deddfau Cynulliad Cenedlaethol Cymru).
- (See paragraph 7(2)(a)(i) and (xi) and paragraph 7(2)(c)(i) of Schedule 7B.)
- (2) Unless the context requires otherwise, a reference to the National Assembly for Wales, the National Assembly for Wales Commission or an Act of the National Assembly for Wales (as the case may be), or the Welsh equivalent shown in subsection (1), in—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or

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(b) any other instrument or document,  
is to be read as, or as including, a reference to the new name.]

**Textual Amendments**

**F12** S. 150A inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 16(1)**, 71(2)(c) (with [Sch. 7 paras. 1, 6](#))

**151 Power to remedy ultra vires acts** **U.K.**

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers appropriate in consequence of—
  - (a) an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, which is not, or may not be, within the Assembly's legislative competence, or
  - (b) any purported exercise by any person of a function conferred or imposed by or under an Assembly Measure or Act of the Assembly which is not, or may not be, an exercise or proper exercise of that function.
- (2) 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.
- (3) An Order in Council under this section may make provision having retrospective effect.
- (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I6** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

<sup>F13</sup>**152 Intervention in case of functions relating to water etc.** **U.K.**

**Textual Amendments**

**F13** S. 152 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 52(1)(b)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(k\)](#)



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### 153 Power to vary retrospective decisions **U.K.**

- (1) This section applies where any court or tribunal decides—
  - (a) that an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, is outside the Assembly's legislative competence,
  - (b) that any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly is outside the powers under which it was, or purported to be, made, or
  - (c) that any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General is outside the powers under which it was, or purported to be, made.
- (2) The court or tribunal may make an order—
  - (a) removing or limiting any retrospective effect of the decision, or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In determining whether to make an order under this section, the court or tribunal must (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected by the decision.
- (4) Where a court or tribunal is considering whether to make an order under this section, it must order notice (or intimation) of that fact to be given to the persons specified in subsection (5) (unless a party to the proceedings).
- (5) The persons mentioned in subsection (4) are—
  - (a) in relation to proceedings in England and Wales, the Attorney General and the Counsel General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.
- (6) A person to whom notice (or intimation) is given in pursuance of subsection (4) may take part as a party in the proceedings, so far as they relate to the making of the order.
- (7) In deciding any question as to costs or expenses, the court or tribunal may—
  - (a) take account of any additional expense which it considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of subsection (6), and
  - (b) award the whole or part of the additional expense as costs or expenses to the party who incurred it (whether or not it makes an order under this section and whatever the terms of any such order it does make).
- (8) Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this section including, in particular, provision for determining the manner in which and the time within which any notice (or intimation) is to be given.
- (9) In subsection (1) “made” includes confirmed or approved.



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#### Commencement Information

**I7** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 154 Interpretation of legislation **U.K.**

- (1) This section applies to—
  - (a) any provision of an Assembly Measure, or proposed Assembly Measure, which could be read in such a way as to be outside the Assembly's legislative competence,
  - (b) any provision of an Act of the Assembly, or a Bill for such an Act, which could be read in such a way as to be outside the Assembly's legislative competence, and
  - (c) any provision of subordinate legislation made, or purporting to be made, under an Assembly Measure or Act of the Assembly which could be read in such a way as to be outside the powers under which it was, or purported to be, made.
- (2) The provision is to be read as narrowly as is required for it to be within competence or within the powers, if such a reading is possible, and is to have effect accordingly.
- (3) In subsection (1)(c) "made" includes confirmed or approved.

#### Commencement Information

**I8** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 155 Functions exercisable in relation to Wales **U.K.**

- (1) Her Majesty may by Order in Council specify functions which are to be treated for such purposes of this Act as may be specified in the Order in Council—
  - (a) as being, or as not being, functions which are exercisable by the Welsh Ministers, the First Minister or the Counsel General, or
  - (b) as being, or as not being, functions which are exercisable in relation to Wales [<sup>F14</sup>or the Welsh zone].
- (2) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F14** Words in s. 155(1)(b) inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, [Sch. 4 Pt. 2 para. 6\(7\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 7](#)

#### Commencement Information

**I9** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 156 English and Welsh texts of legislation **U.K.**

- (1) The English and Welsh texts of—

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- (a) any Assembly Measure or Act of the Assembly which is in both English and Welsh when it is enacted, or
- (b) any subordinate legislation which is in both English and Welsh when it is made,

are to be treated for all purposes as being of equal standing.

[<sup>F15</sup>(1A) Subsection (1) does not apply to any legislation to which Part 2 of the Legislation (Wales) Act 2019 applies (but section 5 of that Act makes corresponding provision in relation to legislation to which that Part applies).]

<sup>F16</sup>(2) .....

<sup>F16</sup>(3) .....

<sup>F16</sup>(4) .....

<sup>F16</sup>(5) .....

#### Textual Amendments

**F15** S. 156(1A) inserted (11.9.2019) by Legislation (Wales) Act 2019 (anaw 4), s. 44(1)(e), **Sch. 2 para. 2(2)(a)**

**F16** S. 156(2)-(5) omitted (11.9.2019) by virtue of Legislation (Wales) Act 2019 (anaw 4), s. 44(1)(e), **Sch. 2 para. 2(2)(b)**

#### Commencement Information

**I10** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Supplementary

#### 157 Orders [<sup>F17</sup>, regulations] and directions **U.K.**

- (1) Any power of a Minister of the Crown or the Welsh Ministers under this Act to make an order [<sup>F18</sup>or regulations] is exercisable by statutory instrument.
- (2) Any such power and any power under this Act to make an Order in Council—
  - (a) may be exercised so as to make different provision for different cases or classes of case or different purposes,
  - (b) may be exercised so as to make provision which applies generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case, and
  - (c) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.
- (3) Any power conferred by this Act to give a direction includes power to vary or revoke the direction.

#### Textual Amendments

**F17** Word in s. 157 heading inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 8(2)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(q)

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**F18** Words in s. 157(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 8\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(q\)](#)

[<sup>F19</sup>**157Z** **Explanatory statements in relation to certain regulations** **U.K.**

- (1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
  - (a) must make a statement explaining the effect of the instrument, and
  - (b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—
    - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
    - (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the Assembly has not made that decision.
- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification.]

**Textual Amendments**

**F19** [S. 157ZA](#) inserted (26.6.2018 for specified purposes) by [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 25\(3\)\(g\), Sch. 3 para. 43](#) (with [s. 19, Sch. 8 para. 37](#))

[<sup>F20</sup>**157A** **“Devolved Welsh authority”** **U.K.**

- (1) In this Act “devolved Welsh authority” means—
  - (a) a public authority that meets the conditions in subsection (2),
  - (b) a public authority that is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions), or
  - (c) the governing body of an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992) whose activities are carried on, or principally carried on, in Wales.
- (2) A public authority meets the conditions in this section if its functions—
  - (a) are exercisable only in relation to Wales, and
  - (b) are wholly or mainly functions that do not relate to reserved matters.
- (3) In determining for the purposes of this section whether functions of a public authority are exercisable only in relation to Wales, no account is taken of any function that—
  - (a) is exercisable otherwise than in relation to Wales, and

*Status: Point in time view as at 18/12/2019.*

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- (b) could (apart from this paragraph) be conferred or imposed by provision falling within the Assembly's legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in subsection (2) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly's legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.
- (5) Her Majesty may by Order in Council amend Schedule 9A—
  - (a) so as to remove or revise an entry, or
  - (b) so as to add or substitute a public authority whose functions—
    - (i) are exercisable wholly or mainly in relation to Wales, and
    - (ii) are wholly or mainly functions that do not relate to reserved matters.
- (6) 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 has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.
- (7) Subsection (6) does not apply to a statutory instrument containing an Order in Council that only makes provision for—
  - (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions.

Such an Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) In this section ““public authority”” means a body, office or holder of an office that has functions of a public nature.]

#### Textual Amendments

**F20** S. 157A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 4(1), 71(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(a\)](#)

## 158 Interpretation **U.K.**

- (1) In this Act (except where the context otherwise requires)—
  - “<sup>F21</sup>EU law” means—
    - (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the <sup>F21</sup>EU Treaties, and
    - (b) all the remedies and procedures from time to time provided for by or under the <sup>F21</sup>EU Treaties,
  - “the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42),
  - “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,
  - “enactment” includes an Assembly Measure, an Act of the Assembly and subordinate legislation (but see also subsection (2)),

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“English border area” means a part of England adjoining Wales (but not the whole of England),

“financial year” means the twelve months ending with 31st March,

“function” means power or duty,

“government department” means any department of the Government of the United Kingdom,

“international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement [<sup>F21</sup>EU] law or the Convention rights,

“Minister of the Crown” includes the Treasury,

“modifications” includes amendments, repeals and revocations,

[<sup>F22</sup>“property” includes rights and interests of any description,]

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (including an instrument made under an Assembly Measure or Act of the Assembly),

“tribunal” means any tribunal in which legal proceedings may be brought,

<sup>F23</sup>  
...

“Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.<sup>[F24]</sup>, and

“Welsh zone” means the sea adjacent to Wales which is—

- (a) within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976), and
- (b) specified in an Order in Council under section 58 or an order under subsection (3).]

(2) In sections 95(3), 109(2)<sup>[F25]</sup>, 116C(2)<sup>[F26]</sup>, 150A(2)] and 151(2) “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.

[<sup>F27</sup>(3) The Secretary of State may by order determine, or make provision for determining, for the purposes of the definitions of “Wales” and the “Welsh zone”, any boundary between waters which are to be treated as parts of the sea adjacent to Wales, or sea within British fishery limits adjacent to Wales, and those which are not.]

(4) An Order in Council under section 58 may include any provision that may be included in an order under subsection (3).

(5) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

(6) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as for those of that Act.

#### Textual Amendments

**F21** 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

**F22** Words in s. 158(1) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 9** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

**F23** Word in s. 158(1) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, **Sch. 22 Pt. 1**; [S.I. 2009/3345](#), art. 2, Sch. para. 27

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- F24** S. 158(1): definition of "Welsh Zone" and preceding word inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 43(2)**, 324; S.I. 2009/3345, **art. 2**, Sch. para. 7
- F25** Word in s. 158(2) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 6(5)**, 29(2)(b)(3)
- F26** Word in s. 158(2) inserted (31.3.2017) by [Wales Act 2017 \(c. 4\)](#), **ss. 16(2)**, 71(2)(c) (with Sch. 7 paras. 1, 6)
- F27** S. 158(3) substituted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 43(3)**, 324; S.I. 2009/3345, **art. 2**, Sch. para. 7

## 159 Index of defined expressions **U.K.**

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

the 2007 election	section 161(1)
Acts of the Assembly	section 107(1)
[ <sup>F28</sup> ancillary (in relation to a provision)]	section 108A(7)]
annual Budget motion	section 125(1)
the Assembly	section 1(1)
<sup>F29</sup>	<sup>F29</sup>
. . .	. . .
the Assembly Commission	section 27(1)
Assembly constituency	section 2(1)
Assembly constituency member	section 1(2)(a)
Assembly electoral region	section 2(2) and (3) <sup>F30</sup>
	...
Assembly Measures	section 93(1)
Assembly member	section 1(3)
Assembly proceedings	section 1(5)
Assembly regional member	section 1(2)(b)
Assembly's legislative competence (in relation to Acts of the Assembly)	[ <sup>F31</sup> section 108A ]
Assembly's legislative competence (in relation to Assembly Measures)	section 94
the Audit Committee	section 30(1)
the Auditor General	section 145(1)
Budget resolution of the Assembly	section 120(8)
the Clerk	section 26(1)
the Committee of Public Accounts	section 158(6)
[ <sup>F21</sup> EU] law	section 158(1)



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constituency vote	section 6(2)
the Convention rights	section 158(1)
the Counsel General	section 45(1)(c)
cross-border body	section 158(1)
the Deputy Presiding Officer	section 25(1)(b)
Deputy Welsh Minister	section 50
[ <sup>F32</sup> devolved tax	section 116A(4)]
[ <sup>F28</sup> devolved Welsh authority	section 157A]
electoral region figure	section 8(5)
electoral region vote	section 6(3)
enactment	section 158(1) and (2)
English border area	section 158(1)
financial year	section 158(1)
the First Minister	sections 46 and 47
function	section 158(1)
government department	section 158(1)
the initial period	section 161(5)
international obligations	section 158(1)
member of the staff of the Assembly	paragraph 3(2) of Schedule 2
member of the staff of the Welsh FI	section 52
... Government	
Minister of the Crown	section 158(1)
modifications	section 158(1)
political group	section 24(5)
political group with an executive role	section 25(8)
the Presiding Officer	section 25(1)(a)
the principal accounting officer for the Assembly Commission	section 138(1) and (2)
the principal accounting officer for the Welsh Ministers	section 129(6) and (7)
[ <sup>F28</sup> property	section 158(1)]
regional returning officer	section 7(7)
registered political party	section 6(6)
relevant enactment (in sections 124 to 128)	section 124(4)

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the relevant persons (in sections 124 to 128)	section 124(3)
[ <sup>F28</sup> reserved matters	Schedule 7A]
the standing orders	section 31(1)
subordinate legislation	section 158(1)
supplementary Budget motion	section 126(1)
tribunal	section 158(1)
use of resources	section 125(4)
Wales	section 158(1), (3) and (4)
Welsh <sup>F1</sup>	section 45(1)
... Government	
Welsh Consolidated Fund	section 117
the Welsh Ministers	section 45(2)
[ <sup>F33</sup> “Welsh zone”	section 158(1), (3) and (4)]

#### Textual Amendments

- F1** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 4(2)(a) (with s. 4(3))
- F21** 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
- F28** Words in s. 159 inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 10(4)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F29** Words in s. 159 omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 10(2)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F30** Words in s. 159 omitted (16.2.2011) by virtue of [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), s. 19(1), **Sch. 12 Pt. 2**
- F31** Words in s. 159 substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 10(3)** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)
- F32** Words in s. 159 inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 6(6), 29(2)(b)(3)**
- F33** S. 159: entry in index inserted (12.11.2009 for certain purposes and 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 43, 324, **Sch. 4 Pt. 2 para. 6(8)**; [S.I. 2009/3345](#), **art. 2**, [Sch. para. 7](#)

#### 160 Minor and consequential amendments **U.K.**

- (1) For minor and consequential amendments see Schedule 10.
- (2) The Secretary of State may by order make such modifications of—
- any enactment contained in an Act passed before or in the same session as this Act, or
  - any enactment contained in an instrument made before the passing of this Act or in the session in which this Act is passed,
- as the Secretary of State considers appropriate in consequence of this Act.

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- (3) No order containing provision under subsection (2)(a) is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

- III** S. 160(1) in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5)); s. 160(2)-(4) in force at Royal Assent, see s. 161(2)

## 161 Commencement **U.K.**

- (1) Subject as follows, this Act comes into force immediately after the ordinary election under section 3 of the Government of Wales Act 1998 (c. 38) held in 2007 (referred to in this Act as "the 2007 election").
- (2) The following provisions come into force on the day on which this Act is passed—
  - paragraphs 5, 6 and 12 of Schedule 2,
  - sections 95 and 96 and Schedule 5,
  - section 109 and Schedule 7,
  - section 119 and the repeal by Schedule 12 of section 81 of the Government of Wales Act 1998,
  - section 120(3) and (7),
  - section 125 and the repeal by Schedule 12 of section 86 of the Government of Wales Act 1998,
  - sections 157 to 159,
  - section 160(2) to (4),
  - the amendment made by paragraph 61 of Schedule 10 in section 13 of the Political Parties, Elections and Referendums Act 2000 (c. 41),
  - this section,
  - section 162 and Schedule 11,
  - the repeal by Schedule 12 of section 12(1)(d) of the Government of Wales Act 1998, and
  - sections 164 to 166.
- (3) The following provisions come into force on 1st April 2007—
  - sections 117 and 118 and the repeal by Schedule 12 of section 80 of the Government of Wales Act 1998,
  - section 120(1) and (2), (4) to (6) and (8) and the repeal by Schedule 12 of section 84 of that Act,
  - sections 121 and 122 and the repeal by Schedule 12 of section 82 of that Act,
  - section 124 and the repeal by Schedule 12 of sections 85(1) and 89 of that Act,
  - section 126,
  - sections 128 and 129, and

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the amendments in the Local Government, Planning and Land Act 1980 (c. 65), the Local Government Finance Act 1988 (c. 41) and the Housing Act 1988 (c. 50) made by Schedule 10.

- (4) Subject to subsections (2), (3) and (6), the following provisions come into force immediately after the end of the initial period—
- (a) any provision of this Act so far as relating to functions of the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission,
  - (b) any provision of this Act so far as relating to the Auditor General or the Comptroller and Auditor General,
  - (c) any other provision consisting of an amendment made in the Government of Wales Act 1998 (c. 38) by Schedule 10, and
  - (d) the repeal by Schedule 12 of provisions falling to be repealed in consequence of any provision within paragraph (a), (b) or (c).
- (5) In this Act “the initial period” means the period—
- (a) beginning with the day of the poll at the 2007 election, and
  - (b) ending with the day on which the first appointment is made under section 46.
- (6) The repeals by Schedule 12 of each of sections 83, 88, 93(8), 97 and 101A of the Government of Wales Act 1998 (and of the other provisions of that Act so far as relating to them) come into force when the section has been complied with for the financial year ending with 31st March 2007 (and earlier financial years); and sections 123, 131, 132 and 141 do not apply for that financial year.

<sup>F34</sup>(7) .....

#### Textual Amendments

**F34** S. 161(7) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 11](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(q)

## 162 Transitional etc. provision **U.K.**

- (1) For transitional and transitory provisions and savings see Schedule 11.
- (2) The Secretary of State may by order make any other transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) An order under subsection (2) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act.
- (4) Nothing in Schedule 11 limits the power conferred by subsection (2); and such an order may, in particular, make modifications of that Schedule.
- (5) Nothing in that Schedule, or in any provision made by virtue of subsection (2), prejudices the operation of sections 16 and 17 of the Interpretation Act 1978 (c. 30).
- (6) No order under subsection (2) which contains provisions in the form of amendments or repeals of any provision contained in any of paragraphs 30 to 35, 50 and 51 of Schedule 11 is to be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

*Status: Point in time view as at 18/12/2019.*

*Changes to legislation: Government of Wales Act 2006, Part 6 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)*

- (7) A statutory instrument containing an order under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

### 163 Repeals and revocations **U.K.**

For repeals and revocations of enactments (including some spent enactments) see Schedule 12.

#### Commencement Information

**I12** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### 164 Financial provision **U.K.**

- (1) There is to be paid out of money provided by Parliament—
- (a) any expenditure incurred by a Minister of the Crown or government department by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable under any other Act out of money provided by Parliament.
- (2) There are to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act (other than any required to be paid into the National Loans Fund).

### 165 Extent **U.K.**

- (1) The following provisions—  
section 36(7) to (9),  
section 39, and  
section 40(2) and (3),  
extend only to England and Wales.
- (2) The amendments, and repeals and revocations, made by this Act have the same extent as the enactments amended or repealed or revoked.

### 166 Short title **U.K.**

This Act may be cited as the Government of Wales Act 2006.

**Status:**

Point in time view as at 18/12/2019.

**Changes to legislation:**

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