

*Status: Point in time view as at 06/05/2020.*

**Changes to legislation:** Government of Wales Act 2006, Paragraph 9 is up to date with all changes known to be in force on or before 27 September 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

#### PART 2

#### EXERCISE OF TRANSFERRED FUNCTIONS

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

- C1** Sch. 3 Pt. 2 applied (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 54(3)(a)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(l)
- C1** Sch. 3 Pt. 2 applied (with modifications) (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 31**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(g)

#### *Parliamentary and [F1Senedd] procedure*

##### Textual Amendments

- F1** Words in Act substituted (6.5.2020) by [Senedd and Elections \(Wales\) Act 2020 \(anaw 1\)](#), s. 42(2), **Sch. 1 para. 2(19)** (with [Sch. 1 para. 2\(11\)-\(14\)](#))

- 9 (1) This paragraph applies where a function to make subordinate legislation (including a function conferred or imposed by or by virtue of this Act or an Act passed after this Act) is transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by an Order in Council under section 58.
- (2) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of any of the descriptions specified in sub-paragraph (3) applied to its exercise by a Minister of the Crown—
- (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) applies, but
- (b) (whether or not the case is one to which that sub-paragraph applies) that provision has effect in relation to its exercise by the Welsh Ministers, the First Minister or the Counsel General as if any reference in it to Parliament or either House of Parliament were (or, if it is such a case, included) a reference to the [F1Senedd].
- (3) The descriptions of provision referred to in sub-paragraph (2) are—
- (a) provision requiring any instrument made in the exercise of the function, or a draft of any such instrument, to be laid before Parliament or either House of Parliament,

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- (b) provision for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either House of Parliament or of both Houses, and
  - (c) provision prohibiting the making of any such instrument without such approval.
- (4) If, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of either of the descriptions specified in sub-paragraph (5) applied to its exercise by a Minister of the Crown—
- (a) that provision does not apply to its exercise by the Welsh Ministers, the First Minister or the Counsel General unless the case is one to which sub-paragraph (6) or (7) applies, but
  - (b) (whether or not the case is one to which either of those sub-paragraphs applies) any instrument made in the exercise of the function by the Welsh Ministers, the First Minister or the Counsel General is (or, if it is such a case, is also) subject to the procedure in the [F1Senedd] specified by the standing orders.
- (5) The descriptions of provision referred to in sub-paragraph (4) are—
- (a) provision for any instrument made in the exercise of the function to be a provisional order (that is, an order which requires to be confirmed by Act of Parliament), and
  - (b) provision requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945 (9 & 10 Geo. 6 c. 18)) made in the exercise of the function to be subject to special parliamentary procedure.
- (6) This sub-paragraph applies in any case if the instrument made in the exercise of the function or (if provision specified in sub-paragraph (3)(a) or (b) applied to a draft of an instrument made in the exercise of the function) a draft of an instrument to be so made—
- (a) contains subordinate legislation made or to be made by a Minister of the Crown or government department (whether or not jointly with the Welsh Ministers, the First Minister or the Counsel General),
  - (b) contains (or confirms or approves) subordinate legislation relating to an English border area, or
  - (c) contains (or confirms or approves) subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (7) This sub-paragraph applies in any case if, immediately before the coming into force of the provisions of the Order in Council relating to the function, a provision of the description specified in sub-paragraph (5)(b) applied to an instrument made in exercise of the function by a Minister of the Crown and the Order in Council provided that—
- (a) any order made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of the function, or
  - (b) any order so made in circumstances including those of the case,
- is to be subject to special parliamentary procedure.
- (8) In this paragraph “make” includes confirm or approve and related expressions (except “made exercisable”) are to be construed accordingly; but an instrument (or draft) does not fall within sub-paragraph (6)(a) just because it contains subordinate

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legislation made (or to be made) by the Welsh Ministers, the First Minister or the Counsel General with the agreement of a Minister of the Crown or government department.

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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))

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