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## SCHEDULES

### SCHEDULE 5

Section 94

#### ASSEMBLY MEASURES

#### PART 1

#### MATTERS

*Field 1: agriculture, fisheries, forestry and rural development*

*Field 2: ancient monuments and historic buildings*

*Field 3: culture*

*Field 4: economic development*

*Field 5: education and training*

*[<sup>F1</sup>Matter 5.1*

Provision about the categories of school that may be maintained by local education authorities.

*Matter 5.2*

Provision about the establishment and discontinuance of schools maintained by local education authorities, their change from one category to another and their alteration in other respects.

*Matter 5.3*

Provision about the admission of pupils to schools maintained by local education authorities.

*[<sup>F2</sup>Matter 5.4A*

The regulation of—

(a) schools that are not maintained by local education authorities;

(b) relevant independent educational institutions.]

*Matter 5.5*

Provision about school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters).

*Matter 5.6*

Provision about the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education.

*Matter 5.7*

Provision about entitlement to primary, secondary and further education and to training.

*Matter 5.8*

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Provision about the provision of services that are intended to encourage, enable or assist people—

- (a) to participate effectively in education or training,
- (b) to take advantage of opportunities for employment, or
- (c) to participate effectively in the life of their communities.

*Matter 5.9*

Provision about food and drink provided on school premises or provided for children at a place where they receive education or childcare.

*Matter 5.10*

[<sup>F3</sup>Arrangements for persons to travel to and from the places where they receive education or training.

This matter applies to—

- (a) persons receiving nursery, primary, secondary or further education or training;
- (b) persons described in matter 5.17 receiving higher education.]

<sup>F4</sup> .....

[<sup>F5</sup>*Matter 5.11*

Provision for and in connection with securing the provision of facilities for post-16 education or training.

*Matter 5.12*

Provision for and in connection with the establishment and dissolution of—

- (a) institutions concerned with the provision of further education, and
- (b) bodies that conduct such institutions,

including the circumstances in which an educational institution becomes or ceases to be an institution concerned with the provision of further education.

Provision about—

- (a) the conduct and functions of such institutions and bodies that conduct such institutions;
- (b) the property, rights and liabilities of such institutions and bodies that conduct such institutions;
- (c) property held by any person for the purposes of such an institution;
- (d) the governance and staff of such institutions.

*Matter 5.13*

Provision for and in connection with securing collaboration—

- (a) between bodies that conduct institutions concerned with the provision of further education, or
- (b) between one or more such bodies and other persons or bodies that have functions relating to education or training in Wales,

including, in particular, provision for and in connection with the establishment of bodies for the purpose of discharging functions on behalf of one or more persons or bodies that are party to arrangements for collaboration.

*Matter 5.14*

The provision of financial resources for and in connection with—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;

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- (c) the carrying out of research relating to education or training falling within paragraph (a) or (b).

*Matter 5.15*

The inspection of—

- (za) [<sup>F6</sup>schools;
- (zb) relevant independent educational institutions;]
- (a) education or training provided by institutions concerned with the provision of further education;
- (b) [<sup>F7</sup>pre-16 education or training, or post-16 education or training, provided otherwise than by institutions within paragraphs (za) to (a);]
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.

*Matter 5.16*

The provision of advice and information in connection with, and the carrying out of studies in relation to

- (a) [<sup>F8</sup>pre-16 education or training;
- (b) post-16 education or training;
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.]]

[<sup>F9</sup>*Matter 5.17*

<sup>F10</sup>..... ]

[<sup>F11</sup>*Matter 5.18*

The provision of any of the following for children or young persons—

- (a) facilities for social or physical training;
- (b) educational activities.

In this matter “children” and “young persons” have the same meaning as in field 15. ]

*Interpretation of this field*

Expressions used in this field and in the Education Act 1996 have the same meaning in this field as in that Act.]

[<sup>F12</sup>In this field—

[<sup>F13</sup>“nursery education” means education suitable for children who have not attained compulsory school age;]

“post-16 education” means—

- (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age, and
- (b) organised leisure-time occupation connected with such education;

“post-16 training” means—

- (a) training suitable to the requirements of persons who are above compulsory school age, and
- (b) organised leisure-time occupation connected with such training.

[<sup>F14</sup>“pre-16 education or training” means education or training suitable to the requirements of persons who are of or below compulsory school age;

“relevant independent educational institution” means an institution other than a school which—

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- (a) provides part-time education for one or more persons of compulsory school age (“part-time students”) whether or not it also provides full-time education for any person, and
- (b) would be an independent school but for the fact that the education provided for the part-time student or students is part-time rather than full-time.

For the purposes of the above definition of “relevant independent educational institution”, an institution provides “part-time” education for a person if—

- (a) it provides education for the person, and
- (b) the education does not amount to full-time education.]

References in this field to an institution concerned with the provision of further education are references to an educational institution, other than a school or an institution within the higher education sector (within the meaning of the Further and Higher Education Act 1992), that is conducted (whether or not exclusively) for the purpose of providing further education.]

*Field 6: environment*

*Field 7: fire and rescue services and promotion of fire safety*

*Field 8: food*

*Field 9: health and health services*

*[<sup>F15</sup>Matter 9.1*

Provision for and in connection with the provision of redress without recourse to civil proceedings in circumstances in which, under the law of England and Wales, qualifying liability in tort arises in connection with the provision of services (in Wales or elsewhere) as part of the health service in Wales.

*Interpretation of this field*

In this field—

“the health service in Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006;

“illness” has the same meaning as in that Act;

“patient” has the same meaning as in that Act;

“personal injury” includes any disease and any impairment of a person's physical or mental health;

“qualifying liability in tort” means liability in tort owed in respect of or consequent upon personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis of illness or the care or treatment of any patient.]

*Field 10: highways and transport*

*[<sup>F16</sup>Matter 10.1*

Provision for and in connection with—

- (a) the making, operation and enforcement of schemes for imposing charges in respect of the use or keeping of motor vehicles on Welsh trunk roads;
- (b) the application of the proceeds of charges imposed under such schemes towards purposes relating to transport.

This does not include provision about traffic signs, apart from provision about the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000.

*Interpretation of this field*

In this field—

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“motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;

“road” has the same meaning as in the Road Traffic Regulation Act 1984;

“Welsh trunk road” means a road for which the Welsh Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984).]

*Field 11: housing*

*Field 12: local government*

*f<sup>F17</sup>Matter 12.1*

“Principal area” means a county borough or a county in Wales, and “principal council” means a council for a principal area.

Provision for and in connection with—

- (a) the constitution of new principal areas and the abolition or alteration of existing principal areas, and
- (b) the establishment of councils for new principal areas and the abolition of existing principal councils.

*Matter 12.2*

Provision for and in connection with—

- (a) the procedure for the making and coming into force of byelaws, and
- (b) the enforcement of byelaws.

“Byelaws” means those of a class which may be confirmed by the Welsh Ministers (but the provision which may be made includes provision to remove a requirement of confirmation).

*Matter 12.3*

Any of the following—

- (a) the principles which are to govern the conduct of members of relevant authorities,
- (b) codes of conduct for such members,
- (c) the conferral on any person of functions relating to the promotion or maintenance of high standards of conduct of such members (including the establishment of bodies to have such functions),
- (d) the making or handling of allegations that members (or former members) of relevant authorities have breached standards of conduct, including in particular—
  - (i) the investigation and adjudication of such allegations and reports on the outcome of investigations,
  - (ii) the action that may be taken where breaches are found to have occurred,
- (e) codes of conduct for employees of relevant authorities.

For the purposes of this matter—

“relevant authority” has the same meaning as in Part 3 of the Local Government Act 2000, except that other than in paragraph (d) it does not include a police authority,

“member” includes a co-opted member within the meaning of that Part.

*Matter 12.4*

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Provision for and in connection with strategies of county councils and county borough councils for promoting or improving the economic, social or environmental well-being of their areas or contributing to the achievement of sustainable development in the United Kingdom, including provision imposing requirements in connection with such strategies on other persons with functions of a public nature.

*Matter 12.5*

Provision for and in connection with—

- (a) the making of arrangements by relevant Welsh authorities to secure improvement in the way in which their functions are exercised,
- (b) the making of arrangements by relevant Welsh authorities for the involvement in the exercise of their functions of people who are likely to be affected by, or interested in, the exercise of the functions, and
- (c) the assessment and inspection of the performance of relevant Welsh authorities in exercising their functions.

The following are “relevant Welsh authorities”—

- (a) a county council, county borough council or community council in Wales,
- (b) a National Park authority for a National Park in Wales,
- (c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (d) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 in respect of which the county council or charging authority referred to in section 74(1)(b) of that Act was a council or authority for an area in Wales,
- (e) a body to which section 75 of that Act applies (special levies) and which as regards the financial year beginning in 1989 had power to levy a rate by reference to property in Wales.]

*Field 13: National Assembly for Wales*

*Matter 13.1*

Creation of, and conferral of functions on, an office or body for and in connection with investigating complaints about the conduct of Assembly members and reporting on the outcome of such investigations to the Assembly.

*Matter 13.2*

Conferral of functions on the Assembly Commission for and in connection with facilitating the exercise by the Assembly of its functions (including the provision to the Assembly of the property, staff and services required for the Assembly's purposes).

*Matter 13.3*

Provision for and in connection with the payment of salaries, allowances, pensions and gratuities to or in respect of Assembly members, the First Minister, any Welsh Minister appointed under section 48, the Counsel General and any Deputy Welsh Minister.

*Matter 13.4*

Provision for and in connection with the creation and maintenance of a register of interests of Assembly members and the Counsel General.

*Matter 13.5*

Provision about the meaning of Welsh words and phrases in—

- (a) Assembly Measures,
- (b) subordinate legislation made under Assembly Measures, and

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- (c) subordinate legislation not so made but made by the Welsh Ministers, the First Minister or the Counsel General.

*Matter 13.6*

Provision for and in connection with the procedures for dealing with proposed private Assembly Measures, including, in particular—

- (a) procedures for hearing the promoters of, and objectors, to proposed private Assembly Measures,
- (b) the persons who may represent such promoters and objectors, and the qualifications that such persons must possess,
- (c) the imposition of fees for and in connection with the promotion of proposed private Assembly Measures, and
- (d) the assessment of costs incurred in connection with proposed private Assembly Measures.

*Field 14: public administration*

*Field 15: social welfare*

<sup>F18</sup>*Matter 15.1*

Charges levied by local authorities for social care services provided or secured by them and payments in respect of individuals with needs relating to their well-being so that they, or persons looking after them, may secure social care services to meet those needs.

This matter does not include<sup>F19</sup> charges and payments for residential care.<sup>F20</sup> . . . ]

<sup>F21</sup>*Matter 15.2*

Functions of public authorities relating to—

- (a) safeguarding children from harm and neglect;
- (b) safeguarding and promoting the well-being of vulnerable children;
- (c) reducing inequalities in well-being between children or young persons.

This matter applies to the functions of public authorities whose principal functions relate to any one or more of the fields in this Part.

*Matter 15.3*

Adoption services and special guardianship support services.

*Matter 15.4*

Fostering.

*Matter 15.5*

Social care services for any of the following—

- (a) children;
- (b) persons who care for, or who are about to care for, children;
- (c) young persons;
- (d) persons formerly looked after—
- (i) who have attained the age of 25, and
- (ii) who, immediately before attaining that age, have been pursuing, or intending to pursue, education or training.

*Matter 15.6*

Co-operation and arrangements to safeguard and promote the well-being of children or young persons.

This matter applies to co-operation by, and arrangements made by, —

- (a) public authorities whose principal functions relate to any one or more of the fields in this part;

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- (b) police authorities and chief officers of police for police areas in Wales;
- (c) the British Transport Police Authority;
- (d) local probation boards for areas in Wales;
- (e) the Secretary of State, in relation to the Secretary of State's functions under sections 2 and 3 of the Offender Management Act 2007, or any provider of probation services under arrangements made under section 3(2) of that Act;
- (f) youth offending teams for areas in Wales;
- (g) the governors of prisons, young offender institutions or secure training centres in Wales (or, in the case of contracted out prisons, young offender institutions or secure training centres or contracted out parts of such institutions, their directors);
- (h) persons other than public authorities who are engaged in activities relating to the well-being of children or young persons.

*Matter 15.7*

Planning by local authorities for the discharge of their functions relating to the well-being of children or young persons.

*Matter 15.8*

Continuing, dissolving or creating an office or body concerned with safeguarding and promoting the well-being of children or young persons; the functions of such an office or body, including in particular—

- (a) reviewing the effect on children or young persons of the exercise by any person of functions related to their well-being;
- (b) reviewing and monitoring—
  - (i) advocacy services;
  - (ii) arrangements for dealing with complaints and representations made by, or on behalf of, children or young persons in respect of persons with functions related to their well-being or persons providing them with social care services;
- (c) examining cases of particular children or young persons;
- (d) considering, and making representations about, any matter affecting the well-being of children or young persons.

*Interpretation of this field*

In this field—

“children” means persons who have not attained the age of 18;

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health;

“local authorities” means the councils of counties or county boroughs in Wales;

“persons formerly looked after” means persons who, at any time before attaining the age of 18—

- (a) have been in the care of a public authority, or
- (b) have been provided with accommodation by a public authority in order to secure their well-being;

“public authorities” means each public authority within the meaning of section 6 of the Human Rights Act 1998, apart from courts or tribunals;

“social care services” means any of the following provided in connection with the well-being of any person: residential or non-residential care services; advice, counselling or advocacy services; financial or any other assistance;



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“vulnerable children” means children—

- (a) who are unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of social care services,
- (b) whose health or development is likely to be significantly impaired, or further impaired, without the provision for them of social care services,
- (c) who have a physical or mental impairment,
- (d) who are in the care of a public authority, or
- (e) who are provided with accommodation by a public authority in order to secure their well-being;

“well-being”, in relation to individuals, means well-being so far as relating to any of the following—

- (a) health and emotional well-being;
- (b) protection from harm and neglect;
- (c) education, training and recreation;
- (d) the contribution made by them to society;
- (e) social and economic well-being;
- (f) securing their rights;

“young persons” means persons who have attained the age of 18 but not the age of 25.]

*Field 16: sport and recreation*

*[<sup>F22</sup>Matter 16.1*

The provision of recreational facilities and activities for children or young persons.

In this matter “children” and “young persons” have the same meaning as in field 15.]

*Field 17: tourism*

*Field 18: town and country planning*

*[<sup>F23</sup>Matter 18.1*

Provision for and in connection with—

- (a) plans of the Welsh Ministers in relation to the development and use of land in Wales, and
- (b) removing requirements for any such plans.

This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008.

*Matter 18.2*

Provision for and in connection with the review by local planning authorities of matters which may be expected to affect—

- (a) the development of the authorities' areas, or
- (b) the planning of the development of the authorities' areas.

*Matter 18.3*

Provision for and in connection with—

- (a) plans of local planning authorities in relation to the development and use of land in their areas, and
- (b) removing requirements for any such plans.

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This does not include provision about the status to be given to any such plans in connection with the decision on an application for an order granting development consent under the Planning Act 2008.

*Interpretation of this field*

In this field—

“local planning authority” in relation to an area means—

- (a) a National Park authority, in relation to a National Park in Wales;
- (b) a county council in Wales or a county borough council, in any other case;

“Wales” has the meaning given by Schedule 1 to the Interpretation Act 1978.]

*Field 19: water and flood defence*

*Field 20: Welsh language*

## [<sup>F24</sup>EXCEPTIONS TO MATTERS

The exceptions specified in the first column of each table below are not included within the matters specified in the corresponding entry in the second column.

*TABLE – HIGHWAYS AND TRANSPORT*

Column 1 Exceptions	Column 2 Matters to which the exceptions relate
1. Regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used.	Matters 5.10, 5.17, 5.18
2. Road traffic offences.	Matters 5.10, 5.17, 5.18
3. Driver licensing.	Matters 5.10, 5.17, 5.18
4. Driving instruction.	Matters 5.10, 5.17, 5.18
5. Insurance of motor vehicles.	Matters 5.10, 5.17, 5.18
6. Drivers' hours.	Matters 5.10, 5.17, 5.18
7. Traffic regulation on special roads, pedestrian crossings, traffic signs and speed limits.	Matters 5.10, 5.17, 5.18
8. Public service vehicle operator licensing.	Matters 5.10, 5.17, 5.18
9. Provision and regulation of railway services, apart from financial assistance which— (a) does not relate to the carriage of goods, (b) is not made in connection with a railway administration order, and (c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport.	Matters 5.10, 5.17, 5.18
10. Transport security.	Matters 5.10, 5.17, 5.18

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- 11.** Shipping, apart from financial Matters 5.10, 5.17, 5.18  
 assistance for shipping services to, from or  
 within Wales.
- 12.** Navigational rights and freedoms, apart Matters 5.10, 5.17, 5.18  
 from regulation of works which may  
 obstruct or endanger navigation.
- 13.** Technical and safety standards of Matters 5.10, 5.17, 5.18  
 vessels.
- 14.** Harbours, docks, piers and boatslips Matters 5.10, 5.17, 5.18  
 apart from those used or required wholly or  
 mainly for communication between places  
 in Wales.
- 15.** Registration of local bus services, and Matters 5.10, 5.17, 5.18  
 the application and enforcement of traffic  
 regulation conditions in relation to those  
 services.

*TABLE – SOCIAL WELFARE*

Column 1 Exceptions	Column 2 Matters to which the exceptions relate
<b>1.</b> Child support.	Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.8
<b>2.</b> Child trust funds, apart from subscriptions to such funds by— (a) the council of a county or county borough council in Wales, or (b) the Welsh Ministers.	Matters 15.2, 15.4, 15.5
<b>3.</b> Tax credits.	Matters 15.1, 15.2, 15.4, 15.5
<b>4.</b> Child benefit and guardian's allowance.	Matter 15.1, 15.2, 15.4, 15.5
<b>5.</b> Social security.	Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8
<b>6.</b> Independent living funds.	Matters 15.1, 15.2, 15.5, 15.6, 15.7, 15.8
<b>7.</b> Motability.	Matters 15.1, 15.2, 15.5, 15.6, 15.7, 15.8
<b>8.</b> Vaccine Damage Payments	Matters 15.2, 15.5, 15.6, 15.7, 15.8
<b>9.</b> Intercountry adoption, apart from adoption agencies and their functions, and functions of the “Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.	Matters 15.2, 15.3
<b>10.</b> The Children's Commissioner established under the Children Act 2004.	Matters 15.2, 15.3, 15.4, 15.5, 15.8
<b>11.</b> Family law and proceedings apart from—	Matters 15.2, 15.3, 15.4, 15.5

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- (a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and  
(b) Welsh family proceedings officers.

**12. Welfare foods**

Matters 15.2, 15.5, 15.6, 15.8]

**Textual Amendments**

- F1** Sch. 5 Pt. 1 Field 5: Matters 5.1-5.10 and "Interpretation of this field" words inserted by [The National Assembly for Wales \(Legislative Competence\) \(Conversion of Framework Powers\) Order 2007 \(S.I. 2007/910\)](#), [art. 3](#) (with [art. 2](#)), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [art. 1\(2\)](#) of the amending Order and [s. 161\(5\)](#) of this Act.
- F2** Sch. 5 Pt. 1: Matter 5.4A inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 149](#), 173(2)(a)
- F3** Sch. 5 Pt. 1 Field 5 Matter 5.10: words substituted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), [art. 2\(2\)](#)
- F4** Sch. 5 Pt. 1 Field 5: words in Matter 5.10 omitted (11.12.2008) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), [art. 6\(a\)](#)
- F5** Sch. 5 Pt. 1 Field 5: Matters 5.11-5.16 inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 27](#), 32(2)
- F6** Words in Sch. 5 Pt. 1 inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 149](#), 173
- F7** Sch. 5 Pt. 1 Field 5: words in Matter 5.16 substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 149](#), 173
- F8** Words in Sch. 5 Pt. 1 substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 149](#), 173
- F9** Sch. 5 Pt. 1 Field 5: Matter 5.17 inserted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), [art. 2\(3\)](#)
- F10** Sch. 5 Pt. 1 Field 5: words in Matter 5.17 omitted (11.12.2008) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), [art. 6\(b\)](#)
- F11** Sch. 5 Pt. 1 Field 5: Matter 5.18 inserted (11.12.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), [art. 2](#)
- F12** Sch. 5 Pt. 1 Field 5: words inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 27](#), 32(2)
- F13** Sch. 5 Pt. 1 Field 5: definition inserted (10.4.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Education and Training\) Order 2008 \(S.I. 2008/1036\)](#), [art. 2\(4\)](#)
- F14** Sch. 5 Pt. 1: definition inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 149](#), 173
- F15** Sch. 5 Pt. 1 Field 9: Matter 9.1 inserted by [The National Assembly for Wales \(Legislative Competence\) \(Conversion of Framework Powers\) Order 2007 \(S.I. 2007/910\)](#), [art. 3](#) (with [art. 2](#)), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [Government of Wales Act 2006](#), [s. 161\(5\)](#)
- F16** Sch. 5 Pt. 1 Field 10: Matter 10.1 inserted (26.1.2009) by [Local Transport Act 2008 \(c. 26\)](#), [ss. 122](#), 134(2)
- F17** Sch. 5 Pt. 1 Field 12: Matters 12.1-12.5 inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 235](#), 245(2), [Sch. 17 para. 2](#)
- F18** Sch. 5 Pt. 1 Field 15: Matter 15.1 inserted (10.7.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare\) Order 2008 \(S.I. 2008/1785\)](#), [art. 2](#)
- F19** Sch. 5 Pt. 1 Field 15: words inserted (11.12.2008) by [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), [art. 3\(a\)](#)
- F20** Sch. 5 Pt. 1 Field 15: words omitted (11.12.2008) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Social Welfare and Other Fields\) Order 2008 \(S.I. 2008/3132\)](#), [art. 3\(a\)](#)

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- F21** Sch. 5 Pt. 1 Field 15: Matters 15.2-15.8 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 3(b)**
- F22** Sch. 5 Pt. 1 Field 16: Matter 16.1 inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 4**
- F23** Sch. 5 Pt. 1: Matters 18.1-18.3 inserted (26.1.2009) by Planning Act 2008 (c. 29), **ss. 202**, 241(6) (with s. 226)
- F24** Sch. 5 Pt. 1: "Exceptions To Matters" inserted (11.12.2008) by The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (S.I. 2008/3132), **art. 5**

## PART 2

### GENERAL RESTRICTIONS<sup>F25</sup>

#### Textual Amendments

- F25** Sch. 5 Pt. 2 para. 2A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 235, 245(2), **Sch. 17 para. 3**

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### <sup>F26</sup>*Exceptions to matters*

#### Textual Amendments

- F26** Sch. 5 Pt. 2: para. A1 and headings preceding/after said para. inserted (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(9)**

**A1** These are the exceptions mentioned in section 94(4)(a) and (7)—  
*Highways and transport (field 10 of Part 1)*

- (1) Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.
- (2) Regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used (apart from regulation relating to matter 10.1).
- (3) Road traffic offences.
- (4) Driver licensing.
- (5) Driving instruction.
- (6) Insurance of motor vehicles.
- (7) Drivers' hours.
- (8) Traffic regulation on special roads (apart from regulation relating to matter 10.1).

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- (9) Pedestrian crossings.
  - (10) Traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000 for purposes relating to matter 10.1).
  - (11) Speed limits.
  - (12) Public service vehicle operator licensing.
  - (13) Provision and regulation of railway services, apart from financial assistance which—
    - (a) does not relate to the carriage of goods,
    - (b) is not made in connection with a railway administration order, and
    - (c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport.
  - (14) Transport security.
  - (15) Shipping, apart from financial assistance for shipping services to, from or within Wales.
  - (16) Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.
  - (17) Technical and safety standards of vessels.
  - (18) Harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for communications between places in Wales.
- Social welfare (field 15 of Part 1)*
- (1) Child support.
  - (2) Child trust funds, apart from subscriptions to such funds by—
    - (a) a county council or county borough council in Wales, or
    - (b) the Welsh Ministers.
  - (3) Tax credits.
  - (4) Child benefit and guardian's allowance.
  - (5) Social security.
  - (6) Independent living funds.
  - (7) Motability.
  - (8) Vaccine damage payments.
  - (9) Intercountry adoption, apart from adoption agencies and their functions, and functions of the “Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.
  - (10) The Children's Commissioner established under the Children Act 2004.
  - (11) Family law and proceedings apart from—

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- (a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and
  - (b) Welsh family proceedings officers.
- (12) Welfare foods.

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### *General restrictions]*

#### *Functions of Ministers of the Crown*

- 1 (1) A provision of an Assembly Measure cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown.
- (2) A provision of an Assembly Measure cannot confer or impose, or confer power by subordinate legislation to confer or impose, any function on a Minister of the Crown.

#### *Criminal offences*

- 2 (1) A provision of an Assembly Measure cannot create, or confer power by subordinate legislation to create, any criminal offence punishable—
- (a) on summary conviction, with imprisonment for a period exceeding the prescribed term or with a fine exceeding the amount specified as level 5 on the standard scale, or
  - (b) on conviction on indictment, with a period of imprisonment exceeding two years.
- (2) In sub-paragraph (1) “the prescribed term” means—
- (a) where the offence is a summary offence, 51 weeks, and
  - (b) where the offence is triable either way, twelve months.

#### *[<sup>F25</sup>Police areas*

- [<sub>F27</sub>2A A provision of an Assembly Measure cannot make any alteration in police areas.]]

#### **Textual Amendments**

**F27** Sch. 5 Pt. 2 para. 2A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 235, 245(2), Sch. 17 para. 3

#### *Enactments other than this Act*

- 3 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the Table below—

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## TABLE

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972 (c. 68)	The whole Act
Data Protection Act 1998 (c. 29)	The whole Act
Government of Wales Act 1998 (c. 38)	Sections 144(7), 145, 145A and 146A(1)
Human Rights Act 1998 (c. 42)	The whole Act
Civil Contingencies Act 2004 (c. 36)	The whole Act
Re-Use of Public Sector Information Regulations 2005 (S.I. 2005/1505)	The whole set of Regulations
4	A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.
5	A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any functions of the Comptroller and Auditor General.

*This Act*

- 6 (1) A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- (2) Sub-paragraph (1) does not apply to sections 20, 22, 24, 36(1) to (5) and (7) to (11), 53, 54 and 156(2) to (5).
- (3) Sub-paragraph (1) does not apply to any provision—
- making modifications of so much of any enactment as is modified by this Act, or
  - repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Assembly Measure.

**PART 3**EXCEPTIONS FROM PART 2<sup>F28F29</sup>**Textual Amendments**

**F28** Sch. 5 Pt. 3 para. 7A and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 235, 245(2), Sch. 17 para. 4



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**F29** Sch. 5 para. 11 and cross-heading inserted by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), art. 4 (with art. 2), the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see art. 2(1) of the amending Order and s. 161(5) of this Act

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*<sup>F30</sup> Interpretation*

**Textual Amendments**

**F30** Sch. 5 Pt. 3 para. 6Z and cross-heading inserted (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), art. 2(11)

6Z In this Part “general restrictions in Part 2” means paragraphs 1 to 6 of Part 2.]

**Textual Amendments**

**F30** Sch. 5 Pt. 3 para. 6Z and cross-heading inserted (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), art. 2(11)

*Functions of Ministers of the Crown*

7 Part 2 does not prevent a provision of an Assembly Measure removing or modifying, or conferring power by subordinate legislation to remove or modify, any function of a Minister of the Crown if the Secretary of State consents to the provision.

*<sup>F28</sup> Police areas*

7A Part 2 does not prevent a provision of an Assembly Measure making an alteration to the boundary of a police area in Wales if the Secretary of State consents to the provision.]

*Comptroller and Auditor General*

8 Part 2 does not prevent a provision of an Assembly Measure modifying, or conferring power by subordinate legislation to modify, any enactment relating to the Comptroller and Auditor General if the Secretary of State consents to the provision.

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### *Restatement*

- 9 Part 2 does not prevent a provision of an Assembly Measure—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
  - (b) repealing or revoking any spent enactment,
- or conferring power by subordinate legislation to do so.

### *Subordinate legislation*

- 10 Part 2 does not prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised,
  - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject, and
  - (c) applying any enactment comprised in or made under an Assembly Measure relating to the documents by which such powers may be exercised.

### *[<sup>F29</sup>Data Protection Act 1998*

- 11 Part 2 does not prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, section 31(6) of the Data Protection Act 1998 so that it applies to complaints under any Assembly Measure relating to matter 9.1 in Part 1.]

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**Changes to legislation:**

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