

Status: Point in time view as at 31/01/2017.

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SCHEDULES

SCHEDULE 7 **U.K.**

ACTS OF THE ASSEMBLY

PART 2 **U.K.**

GENERAL RESTRICTIONS

Functions of a Minister of the Crown

- 1 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any pre-commencement function of a Minister of the Crown.
- (2) A provision of an Act of the Assembly cannot confer or impose, or confer power by subordinate legislation to confer or impose, any function on a Minister of the Crown.
- (3) In this Schedule “pre-commencement function” means a function which is exercisable by a Minister of the Crown before the day on which the Assembly Act provisions come into force.

Enactments other than this Act

- 2 ^[F1](1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the Table below—

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
^[F2] The Public Audit (Wales) Act 2013 (anaw 3)	Sections 2(1) to (3), 3(2) to (4), 6(2) to (3) and section 8(1) in so far as that

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section relates to the Auditor General's exercise of functions free from the direction or control of the Assembly or Welsh ^{F3}... Government.]

[^{F4}(2) Sub-paragraph (1) does not apply to any provision making modifications, 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 an enactment relating to the provision of redress for negligence in connection with the diagnosis of illness or the care or treatment of any patient (in Wales or elsewhere) as part of the health service in Wales.]

[^{F5}(2A) Sub-paragraph (1), so far as it applies in relation to sections 2(1) to (3), 3(2) to (4), 6(2) to (3) and 8(1) of the Public Audit (Wales) Act 2013 does not apply in relation to any provision to which sub-paragraph (4) applies.

(2B) But, subject to sub-paragraph (2C), a provision to which sub-paragraph (4) applies cannot modify or confer power by subordinate legislation to modify section 8(1) of the Public Audit (Wales) Act 2013.

(2C) Sub-paragraph (2B) does not prevent the conferral of functions on a committee of the Assembly that—

- (a) does not consist of or include any of the following persons—
 - (i) the First Minister or any person designated to exercise the functions of the First Minister,
 - (ii) a Welsh Minister appointed under section 48,
 - (iii) the Counsel General or any person designated to exercise the functions of the Counsel General, or
 - (iv) a Deputy Welsh Minister, and
- (b) is not chaired by an Assembly member who is a member of a political group with an executive role.]

[^{F6}(3) Sub-paragraph (1), so far as it applies in relation to sections 145, 145A and 146A(1) of the Government of Wales Act 1998, does not apply to a provision to which sub-paragraph (4) applies.

(4) This sub-paragraph applies to a provision of an Act of the Assembly which—

- (a) is a provision relating to the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions,
- (b) provides for the enforcement of a provision falling within paragraph (a) or is otherwise appropriate for making such a provision effective, or
- (c) is otherwise incidental to, or consequential on, such a provision.]

Textual Amendments

- F1** Sch. 7 Pt. 2 para. 2 renumbered as Sch. 7 Pt. 2 para. 2(1) (16.12.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Amendment of Schedule 7 to the Government of Wales Act 2006\) Order 2010 \(S.I. 2010/2968\)](#), arts. 1(2), **10(2)**
- F2** Words in Sch. 7 Pt. 2 para. 2(1) inserted (E.W.) (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), Sch. 4 para. 78(2) (with Sch. 3 para. 3); [S.I. 2013/1466](#), art. 3(1)
- F3** Words in Act omitted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), s. **4(2)(a)** (with s. 4(3))

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- F4** Sch. 7 Pt. 2 para. 2(2) inserted (16.12.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Amendment of Schedule 7 to the Government of Wales Act 2006\) Order 2010 \(S.I. 2010/2968\)](#), arts. 1(2), **10(3)**
- F5** Words in Sch. 7 Pt. 2 para. 2(2A)-(2C) inserted (E.W.) (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 78(3) (with Sch. 3 para. 3); [S.I. 2013/1466](#), **art. 3(1)**
- F6** Sch. 7 Pt. 2 para. 2(3)(4) inserted (22.5.2011) by [2011 c. 4, s. 29](#), **Sch. 6 para. 7(2)**

- 3 A provision of an Act of the Assembly 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.
- 4 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any functions of the Comptroller and Auditor General^{F7} or the National Audit Office].

Textual Amendments

- F7** Words in Sch. 7 para. 4 inserted (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 5 para. 28(1)**; [S.I. 2011/2576](#), **art. 5**

- ^{F8}4A A provision of an Act of the Assembly cannot—
- (a) remove or modify, or confer power by subordinate legislation, to remove or modify, any function of Her Majesty's Revenue and Customs, or
 - (b) confer or impose, or confer power by subordinate legislation to confer or impose, any function on Her Majesty's Revenue and Customs.]

Textual Amendments

- F8** Sch. 7 Pt. 2 para. 4A inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 7(14)(a)**, 29(2)(b)(3)

This Act

- 5 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- ^{F9}(2) Sub-paragraph (1) does not apply to the following provisions—
- (a) sections 20, 22, 24, 35(1), 36(1) to (5) and (7) to (11), 53, 54, 78, ^{F10}79, ^{F11}120(2), 125 to 128, ^{F12}146, 147, 148 and 156(2) to (5);
 - ^{F12}(aa) section 119 in so far as it relates to estimated payments for a financial year into the Welsh Consolidated Fund or to the Welsh Ministers, the First Minister or the Counsel General;]
 - (b) paragraph 8(3) of Schedule 2.]
 - ^{F13}(c) any provision of Schedule 8^{F14}, other than paragraphs 1(1) to (3), 2(2) to (4) and 3].]
- (3) Sub-paragraph (1) does not apply to any provision—
- (a) making modifications of so much of any enactment as is modified by this Act, or

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- (b) 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 Act of the Assembly.

[^{F15}(4) Sub-paragraph (1) does not apply in relation to a provision to which paragraph 2(4) applies.

[Sub-paragraph (1), so far as it applies in relation to a provision of Part 5 or ^{F16}(4A) section 159, does not apply to a provision of an Act of the Assembly if—

- (a) the provision is incidental to, or consequential on, a provision of an Act of the Assembly relating to budgetary procedures or devolved taxes, and
(b) the Secretary of State consents to the provision.

(4B) In sub-paragraph (4A), “ budgetary procedures ” has the same meaning as in paragraph 13 of Part 1 of this Schedule.]

(5) [^{F17}But, subject to sub-paragraph (6), a provision to which paragraph 2(4) applies cannot modify, or confer power by subordinate legislation to modify, paragraph 3 of Schedule 8.]

(6) [^{F18}Sub-paragraph (5) does not prevent the conferral of functions on a committee of the Assembly that—

- (a) does not consist of or include any of the following persons—
(i) the First Minister or any person designated to exercise functions of the First Minister,
(ii) a Welsh Minister appointed under section 48,
(iii) the Counsel General or any person designated to exercise the functions of the Counsel General, or
(iv) a Deputy Welsh Minister, and
(b) is not chaired by an Assembly member who is a member of a political group with an executive role.]]

Textual Amendments

- F9** Sch. 7 Pt. 2 para. 5(2) substituted (16.12.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Amendment of Schedule 7 to the Government of Wales Act 2006\) Order 2010 \(S.I. 2010/2968\)](#), arts. 1(2), **11**
- F10** Word in Sch. 7 Pt. 2 para. 5(2)(a) inserted (12.2.2015) by [S.I. 2015/204](#), **art. 2**
- F11** Words in Sch. 7 Pt. 2 para. 5(2)(a) inserted (17.2.2015) by virtue of [Wales Act 2014 \(c. 29\)](#), **ss. 22(3)(a), 29(2)(b)(3)**
- F12** Sch. 7 Pt. 2 para. 5(2)(aa) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 22(3)(b), 29(2)(b)(3)**
- F13** Sch. 7 Pt. 2 para. 5(2)(c) inserted (22.5.2011) by [2011 c. 4, s. 29](#), **Sch. 6 para. 7(3)(a)**
- F14** Words in Sch. 7 Pt. 2 para. 5(2)(c) omitted (E.W.) (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 78(4)(a) (with Sch. 3 para. 3); [S.I. 2013/1466](#), **art. 3(1)**
- F15** Sch. 7 Pt. 2 para. 5(4)-(6) inserted (22.5.2011) by [2011 c. 4, s. 29](#), **Sch. 6 para. 7(3)(b)**
- F16** Sch. 7 Pt. 2 para. 5(4A)(4B) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 22(3)(c), 29(2)(b)(3)**
- F17** Words in Sch. 7 Pt. 2 para. 5(5) omitted (E.W.) (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 78(4)(b) (with Sch. 3 para. 3); [S.I. 2013/1466](#), **art. 3(1)**
- F18** Words in Sch. 7 Pt. 2 para. 5(6) omitted (E.W.) (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), Sch. 4 para. 78(4)(b) (with Sch. 3 para. 3); [S.I. 2013/1466](#), **art. 3(1)**

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Modifications etc. (not altering text)

- C1** Sch. 7 Pt. 2 para. 5(2) modified (temp.) (31.1.2017) by [Wales Act 2017 \(c. 4\)](#), s. 71(1)(b), [Sch. 7 para. 3](#) (with [Sch. 7 paras. 1, 6](#))

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