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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

Section 2

#### Textual Amendments

- F1** Sch. 1 repealed (16.2.2011) by Parliamentary Voting System and Constituencies Act 2011 (c. 1), ss. 13(2)(b), 19(1), Schs. 12

### SCHEDULE 2

Section 27

#### ASSEMBLY COMMISSION

##### *Membership*

- 1 (1) The Presiding Officer holds office as a member of the Assembly Commission until another person is elected to the office of Presiding Officer unless the Presiding Officer ceases to be an Assembly member otherwise than by reason of a dissolution.
- (2) Any other member of the Assembly Commission holds office until another Assembly member is appointed as a replacement unless sub-paragraph (3) applies.
- (3) This sub-paragraph applies if the person—
- (a) resigns office as a member of the Assembly Commission,
  - (b) ceases to be an Assembly member otherwise than by reason of a dissolution, or
  - (c) is removed from office as a member of the Assembly Commission by the Assembly.

#### Commencement Information

- I1** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

##### *Property*

- 2 The Assembly Commission may acquire, hold and dispose of property.

#### Commencement Information

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

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### *Staff*

- 3
- (1) The Assembly Commission may appoint staff.
  - (2) The Clerk and the other persons appointed by the Assembly Commission are referred to in this Act as the members of the staff of the Assembly.
  - (3) Employment as a member of the staff of the Assembly is not employment under the Crown (but see paragraph 12).
  - (4) The Assembly Commission must ensure that—
    - (a) the procedures for the recruitment and selection of persons as members of the staff of the Assembly are broadly in line with those applying to the recruitment and selection of persons as members of the staff of the Welsh Assembly Government, and
    - (b) the terms and conditions of employment of the members of the staff of the Assembly are broadly in line with those of the members of the staff of the Welsh Assembly Government.
  - (5) The Assembly Commission is to pay the salaries and expenses of the members of the staff of the Assembly.
  - (6) The Assembly Commission may make arrangements for the payment of pensions, gratuities or allowances to or in respect of anyone who has ceased to be a member of the staff of the Assembly.
  - (7) The Assembly Commission may, in particular, make contributions to, or payments towards the provision of, such pensions, gratuities or allowances.
  - (8) In Schedule 1 to the Superannuation Act 1972 (c. 11) (employments etc. to which section 1 of the Act applies), in the appropriate place in the list of “Other Bodies” insert— “Employment as a member of the staff of the National Assembly for Wales.”
  - (9) The Assembly Commission must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
    - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Assembly, and
    - (b) the expenses incurred in administering those pensions, allowances and gratuities.

#### **Commencement Information**

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

### *Powers*

- 4
- (1) The Assembly Commission may do anything which appears to it necessary or appropriate for the purpose of, or in connection with, the discharge of its functions.
  - (2) That includes, in particular—
    - (a) entering into contracts,

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- (b) charging for goods or services,
  - (c) investing sums not immediately required for the discharge of its functions, and
  - (d) accepting gifts.
- (3) Where (by will or otherwise) any property is (by whatever words used) expressed to be given to the Assembly, the gift takes effect as a gift to the Assembly Commission.
- (4) The Assembly Commission may—
- (a) sell goods or provide services to the public, or
  - (b) make arrangements for the sale of goods or the provision of services to the public.
- (5) The Assembly Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet expenditure.
- (6) The Assembly Commission—
- (a) may not borrow money otherwise than under sub-paragraph (5), and
  - (b) may borrow under that sub-paragraph only in accordance with special or general directions given by the Assembly to the Assembly Commission under section 27(6).
- (7) The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Assembly Commission but subject to any appropriate modifications.
- (8) A statutory instrument containing an order under sub-paragraph (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Commencement Information**

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

#### *Promotion of awareness of election system and devolved government*

- 5
- (1) The Assembly Commission may promote public awareness of—
- (a) the current or any pending system for the election of Assembly members, and
  - (b) the current or any pending system of devolved government in Wales.
- (2) For the purposes of this paragraph and paragraph 6 a system is “pending” if arrangements for giving effect to it have been made by any enactment but the arrangements are not yet in force.
- (3) The Assembly Commission may exercise its power under sub-paragraph (1) in such manner as it thinks fit but may, in particular, do so by—
- (a) carrying out programmes of education or information to promote public awareness, or
  - (b) making grants to other persons or bodies for the purpose of enabling them to carry out such programmes.
- (4) Any grant under sub-paragraph (3)(b) may be made subject to such conditions as the Assembly Commission considers appropriate.

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- 6 The Assembly Commission may provide financial assistance to the Electoral Commission for the purpose of enabling it to carry out its functions under section 13(1) of the Political Parties, Elections and Referendums Act 2000 (c. 41) so far as relating to the promotion of public awareness of—
- (a) the current or any pending system for the election of Assembly members, and
  - (b) the current or any pending system of devolved government in Wales.

#### *Delegation*

- 7 The Assembly Commission may delegate any of its functions to—
- (a) the Presiding Officer, or
  - (b) the Clerk.

#### **Commencement Information**

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

#### *Principles in accordance with which functions are to be exercised*

- 8 (1) The Assembly Commission must make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) In the exercise of the functions of the Assembly Commission due regard must be had to the principle of promoting sustainable development.
- (3) In the exercise of the functions of the Assembly Commission effect must be given, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.

#### **Commencement Information**

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

#### *Annual report*

- 9 After each financial year the Assembly Commission must—
- (a) publish a report relating to the exercise of its functions during the financial year, and
  - (b) lay a copy of the report before the Assembly.

#### **Commencement Information**

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

#### *Validity of acts*

- 10 The validity of any act of the Assembly Commission is not affected by—

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- (a) any vacancy in its membership,
- (b) any defect in the appointment of any member, or
- (c) any lack of qualification for membership of any member.

**Commencement Information**

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

*Proceedings*

- 11 (1) The Assembly Commission may determine its own procedure.
- (2) The Presiding Officer is to preside at meetings of the Assembly Commission but the Assembly Commission may appoint another of its members to preside if—
- (a) the office of Presiding Officer is vacant, or
  - (b) the Presiding Officer is for any reason unable to act.

**Commencement Information**

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

*Crown status*

- 12 (1) Her Majesty may by Order in Council provide for the Assembly Commission to be treated to any extent as a Crown body for the purposes of any enactment.
- (2) In particular, the Order in Council may for the purposes of any enactment provide—
- (a) for employment as a member of the staff of the Assembly to be treated as employment by the Assembly Commission as a Crown body, or
  - (b) for land held, used or managed by the Assembly Commission, or operations carried out by or on behalf of the Assembly Commission, to be treated as land held, used or managed by, or operations carried out by or on behalf of, the Assembly Commission as a Crown body.
- (3) For the purposes of this paragraph “Crown body” means a body which is a servant or agent of the Crown, and includes a government department.
- (4) A statutory instrument containing an Order in Council under this paragraph is subject to annulment in pursuance of—
- (a) a resolution of either House of Parliament, or
  - (b) a resolution of the Assembly.

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## SCHEDULE 3

Section 58

### TRANSFER ETC. OF FUNCTIONS: FURTHER PROVISIONS

#### PART 1

##### FUNCTIONS TRANSFERABLE ETC.

###### *Existing and future functions*

- 1 (1) Subject to sub-paragraph (2), an Order in Council under section 58 may make provision about any function of a Minister of the Crown (including a function conferred or imposed after the passing of this Act).
- (2) Such an Order in Council may not make provision about any function conferred or imposed by any provision of this Act except section 4.

###### **Commencement Information**

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

###### *Functions relating to culture*

- 2 If and to the extent that any function is exercisable by a Minister of the Crown in relation to the Welsh language or any other aspect of Welsh culture it is to be regarded for the purposes of section 58 as exercisable by the Minister of the Crown in relation to Wales.

###### **Commencement Information**

**I11** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

###### *Cross-border functions*

- 3 (1) The power conferred by section 58 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to Wales includes power to make provision about a function so far as exercisable by a Minister of the Crown in relation to—
- (a) a cross-border body, or
  - (b) subject to sub-paragraph (2), an English border area.
- (2) An Order in Council under section 58 may only include provision about a function so far as exercisable by a Minister of the Crown in relation to an English border area if—
- (a) the function relates to water resources management, water supply, rivers or other watercourses, control of pollution of water resources, sewerage or land drainage, and
  - (b) the Order in Council makes (or another such Order in Council has made) corresponding provision about the function so far as so exercisable in relation to a part of Wales adjoining England or the whole of Wales.

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- (3) This paragraph does not affect the power conferred by section 58 to make an Order in Council about a function so far as exercisable by a Minister of the Crown in relation to the whole or any part of Wales.

#### Commencement Information

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

#### *Functions exercisable beyond the territorial sea*

- 4 (1) The power conferred by section 58(1)(c) includes power to direct that any function under—

<sup>F2</sup>(a) .....

(b) Part 4 of the Petroleum Act 1998 (c. 17) (abandonment of offshore installations),

[<sup>F3</sup>(c) the provisions of Parts 4 and 8 of the Marine and Coastal Access Act 2009 (marine licensing and enforcement) specified in sub-paragraph (1A), or

(d) regulations under section 73 of that Act (appeals),]

so far as exercisable by a Minister of the Crown in relation to Welsh controlled waters is to be exercisable by the Minister of the Crown only after consultation with the Welsh Ministers.

[<sup>F4</sup>(1A) The provisions of the Marine and Coastal Access Act 2009 mentioned in sub-paragraph (1)(c) are—

(a) sections 67(1) to (5), 69(1), (3) and (4), 71(1) to (3) and 72(1) to (3) (marine licences), so far as relating to items 1 to 6 and 11 to 13 in section 66(1) of that Act (licensable marine activities);

(b) section 101 (registers);

(c) sections 106 and 91(7)(c) (power to take remedial action, and power to require payment of sum representing reasonable expenses of taking such action);

(d) section 107 (power to test, and charge for testing, certain substances);

(e) sections 235(3) and 240(1)(c) (enforcement officers).]

- (2) In this paragraph “Welsh controlled waters” means so much of the sea beyond the seaward boundary of the territorial sea as is adjacent to Wales.

- (3) The power conferred by section 58(3) includes (in particular) power to determine, or make provision for determining, for the purposes of the definition of “Welsh controlled waters” any boundary between—

(a) the parts of the sea which are to be treated as adjacent to Wales, and

(b) those which are not,

including power to make different determinations or provision for different purposes; and an order under section 158(3) may include any provision that by virtue of this sub-paragraph may be included in an Order in Council under section 58.

#### Textual Amendments

**F2** Sch. 3 para. 4(1)(a) repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 3(2)(a), Sch. 22 Pt. 2 (with s. 111); S.I. 2011/556, art. 3(2)(a)(d)

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- F3** Sch. 3 para. 4(1)(c)(d) inserted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 3(2)(b)** (with s. 111); S.I. 2011/556, art. 3(2)(a)
- F4** Sch. 3 para. 4(1A) inserted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 3(3)** (with s. 111); S.I. 2011/556, art. 3(2)(a)

**Commencement Information**

- I13** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 2**

EXERCISE OF TRANSFERRED FUNCTIONS

*[<sup>F5</sup>EU] obligations*

**Textual Amendments**

- F5** 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

- 5 Any power of a Minister of the Crown to make subordinate legislation which has been transferred by an Order in Council under section 58 continues to be exercisable by the Minister of the Crown (as it would be had it not been transferred) for the purpose of—
- (a) implementing any [<sup>F5</sup>EU] obligation of the United Kingdom,
  - (b) enabling any such obligation to be implemented,
  - (c) enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of [<sup>F5</sup>EU] Treaties to be exercised, or
  - (d) dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the European Communities Act 1972 (c. 68).

**Commencement Information**

- I14** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Agreement or consultation: Ministers and Parliament*

- 6 An Order in Council under section 58 which includes provision—
- (a) transferring to the Welsh Ministers, the First Minister or the Counsel General any function so far as exercisable by a Minister of the Crown in relation to a cross-border body or an English border area, or
  - (b) directing that any function is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General in relation to a cross-border body or an English border area concurrently with the Minister of the Crown by whom it is exercisable,
- may provide that (either generally or to such extent as may be specified in the Order in Council) the function may be exercised by the Welsh Ministers, the First Minister



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or the Counsel General only with the agreement of, or after consultation with, a Minister of the Crown.

**Commencement Information**

**I15** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 7 (1) This paragraph applies where a function is exercisable by a Minister of the Crown—
- (a) only with the agreement of, or after consultation with, another Minister of the Crown, or
  - (b) only with the authorisation of Parliament or either House of Parliament.
- (2) If an Order in Council under section 58 includes provision transferring the function to the Welsh Ministers, the First Minister or the Counsel General it is to be exercisable free from that requirement unless the Order in Council provides otherwise.
- (3) If an Order in Council under that section includes provision directing that the function is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General concurrently with the Minister of the Crown by whom it is exercisable, the Order in Council may provide that is to be exercisable free from that requirement.

**Commencement Information**

**I16** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Agreement or consultation etc.: Assembly and Assembly Commission*

- 8 (1) An Order in Council under section 58 may make provision for a function to be exercisable by the Welsh Ministers, the First Minister or the Counsel General only with the authorisation of, or after consultation with, the Assembly or the Assembly Commission.
- (2) An Order in Council under section 58 making provision for a function to be exercisable by the Welsh Ministers, the First Minister or the Counsel General may, by virtue of subsection (3) of that section, require the Welsh Ministers, the First Minister or the Counsel General—
- (a) to lay a report before the Assembly, or
  - (b) to send documents to the Clerk,
- in connection with the exercise of the function.

**Commencement Information**

**I17** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Parliamentary and Assembly procedure*

- 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.

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- (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 Assembly.
- (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,
  - (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 Assembly 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

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- (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 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.

#### **Commencement Information**

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

#### *Laying of reports and statements*

- 10 (1) This paragraph applies where—
- (a) a function to make or receive a report or statement (including a function conferred or imposed by or by virtue of 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, and
  - (b) immediately before the coming into force of the provisions of the Order in Council relating to the function, any enactment made provision (“provision for Parliamentary laying”) for a report or statement made or received in the exercise of the function to be laid before Parliament or either House of Parliament by the person making or receiving it.
- (2) The provision for Parliamentary laying applies to the exercise of the function by the Welsh Ministers, the First Minister or the Counsel General as if it required the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) In this paragraph references to a report or statement include any other document (except one containing subordinate legislation).

#### **Commencement Information**

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

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### *Powers to lend money*

- 11 (1) This paragraph applies where a power to lend money (including a power conferred by or by virtue of an Act passed after this Act) is transferred to the Welsh Ministers by an Order in Council under section 58; but subject to any provision to the contrary in the Order in Council.
- (2) Sub-paragraph (3) applies to any sums which, for the purpose or as a result of the exercise of the power, would be required (apart from that sub-paragraph)—
- (a) to be issued by the Treasury out of the National Loans Fund, or
  - (b) to be paid into that Fund.
- (3) Those sums are instead—
- (a) to be charged on the Welsh Consolidated Fund, or
  - (b) to be paid into that Fund.
- (4) The following provisions apply where—
- (a) the power was exercised by a Minister of the Crown before the transfer, and
  - (b) the sums required for the exercise of the power were issued by the Treasury out of the National Loans Fund.
- (5) Any amount payable by way of repayment of, or of interest on, the loan is to be paid to the Welsh Ministers and into the Welsh Consolidated Fund (instead of to the Minister of the Crown and into the National Loans Fund).
- (6) Amounts equal to those which are to be received by the Welsh Ministers in repayment of principal are to be treated as being loans made to the Welsh Ministers by the Secretary of State on the date of the transfer.
- (7) Such loans are to be repaid to the Secretary of State at such times and by such methods, and interest is to be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (8) Sums required to be paid to the Secretary of State under sub-paragraph (7) are to be charged on the Welsh Consolidated Fund.
- (9) Sums received by the Secretary of State under sub-paragraph (7) are to be paid into the National Loans Fund.

#### **Commencement Information**

**I20** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## **PART 3**

### SUPPLEMENTARY

#### *References to Minister of the Crown etc.*

- 12 References in section 58 and this Schedule to a Minister of the Crown include references to—
- (a) two or more Ministers of the Crown acting jointly, and
  - (b) an officer of a Minister of the Crown or of a government department,

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and, in relation to functions of such an officer, the references in section 58(1) and this Schedule to the Welsh Ministers include references to a member of the staff of the Welsh Assembly Government.

**Commencement Information**

**I21** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Saving*

- 13 An Order in Council under section 58 which includes provision—
- (a) transferring a function exercisable by a Minister of the Crown, or
  - (b) directing that a function is to be exercisable only with the agreement of, or after consultation with, any of the Welsh Ministers, the First Minister or the Counsel General,
- does not affect the validity of anything done by or in relation to the Minister of the Crown before the coming into force of the Order in Council.

**Commencement Information**

**I22** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

SCHEDULE 4

Section 88

TRANSFERS OF MINISTERIAL PROPERTY, RIGHTS AND LIABILITIES

*General transfer of property, rights and liabilities*

- 1 (1) The property, rights and liabilities to which, at the coming into force of an Order in Council under section 58, a Minister of the Crown is entitled or subject in connection with any function exercisable by the Minister of the Crown and transferred by the Order in Council are transferred to and vest in the transferee of the function.
- (2) In this Schedule “the transferee”, in relation to a function transferred by an Order in Council under section 58, means whichever of the Welsh Ministers, the First Minister or the Counsel General may exercise the function by virtue of the Order in Council.
- (3) Anything (including legal proceedings) which relates to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in the process of being done by or in relation to the Minister of the Crown immediately before the coming into force of the Order in Council may be continued by or in relation to the transferee of the function.
- (4) Anything which was done by a Minister of the Crown for the purpose of or in connection with—

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- (a) any function exercisable by the Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in effect immediately before the coming into force of the Order in Council has effect as if done by the transferee of the function.
- (5) In any instruments, contracts or legal proceedings which relate to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which are made or commenced before the coming into force of the Order in Council, the transferee of the function is substituted for the Minister of the Crown.

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

- C1** Sch. 4 para. 1(1) excluded (1.4.2009) by [The Welsh Ministers \(Transfer of Functions\) Order 2009 \(S.I. 2009/703\)](#), [art. 3](#)
- C2** Sch. 4 para. 1(1) excluded (31.3.2010) by [The Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010 \(S.I. 2010/760\)](#), [arts. 1\(3\), 8](#)
- C3** Sch. 4 para. 1(1) excluded (31.12.2011) by [The Welsh Ministers \(Transfer of Functions\) \(No. 2\) Order 2009 \(S.I. 2009/3019\)](#), [art. 7](#)

**Commencement Information**

- I23** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 (1) An Order in Council under section 58 may provide that all or any of the provisions of paragraph 1—
- (a) do not apply in relation to the transfer of functions by the Order in Council or to the property, rights and liabilities connected with the functions,
  - (b) are to apply only in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council,
  - (c) do not apply in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council, or
  - (d) apply with modifications in relation to the transfer of a particular function by the Order in Council or to particular property, rights or liabilities connected with the function transferred by the Order in Council in a case where, by virtue of provision made under section 58(2), there is more than one transferee of that function.
- (2) Paragraph 1 does not apply to rights or liabilities relating to the employment of persons in Crown employment (as defined in section 191(3) of the Employment Rights Act 1996 (c. 18)).

**Commencement Information**

- I24** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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*Power to make specific transfers etc.*

- 3 (1) The Secretary of State may by order provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of—
- (a) any specified property, rights or liabilities, or
  - (b) property, rights or liabilities of any specified description, to which a Minister of the Crown is entitled or subject.
- (2) An order under sub-paragraph (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under sub-paragraph (1) may provide—
- (a) for the creation in favour of a Minister of the Crown of interests in, or rights over, property transferred to the Welsh Ministers, the First Minister or the Counsel General,
  - (b) for the creation in favour of the Welsh Ministers, the First Minister or the Counsel General of interests in, or rights over, property retained by a Minister of the Crown, or
  - (c) for the creation of new rights and liabilities between the Welsh Ministers, the First Minister or the Counsel General on the one hand and a Minister of the Crown on the other.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Welsh Ministers, the First Minister or the Counsel General of—
- (a) any specified thing, or
  - (b) anything of a specified description,
- commenced by or in relation to a Minister of the Crown.
- (5) The Secretary of State may by order make provision for—
- (a) any specified thing, or
  - (b) anything of a specified description,
- done by a Minister of the Crown to have effect as if done by the Welsh Ministers, the First Minister or the Counsel General.
- (6) The Secretary of State may by order make provision for the substitution of the Welsh Ministers, the First Minister or the Counsel General for any Minister of the Crown in—
- (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this paragraph may be made in consequence of the making of an Order in Council under section 58 or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I25** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### Supplementary

- 4 (1) A certificate issued by the Secretary of State that any property has been transferred by—
- (a) paragraph 1, or
  - (b) an order under paragraph 3,
- is conclusive evidence of the transfer.
- (2) Paragraph 1, and orders under paragraph 3, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer of the property, rights or liabilities.

#### Commencement Information

**I26** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## SCHEDULE 5

Section 94

### ASSEMBLY MEASURES

#### PART 1

#### MATTERS

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

###### *[<sup>F6</sup>Matter 1.1*

The red meat industry, in relation to—

- (a) increasing efficiency or productivity in the industry;
- (b) improving marketing in the industry;
- (c) improving or developing services that the industry provides or could provide to the community;
- (d) improving the ways in which the industry contributes to sustainable development.

###### *Interpretation of this field*

In this field “the red meat industry” means all of the activities comprised in—

- (a) breeding, keeping, processing, marketing and distributing cattle, sheep and pigs (alive or dead), and
- (b) producing, processing, marketing, manufacturing and distributing products derived to any substantial extent from those animals (apart from milk and milk products, fleece wool and hides).

For the purposes of this definition—“cattle” means bovine animals, including bison and buffalo; “pigs” means porcine animals, including wild boar and other feral pigs. ]

##### *Field 2: ancient monuments and historic buildings*

###### *[<sup>F7</sup>Matter 2.1*

The functions of local authorities in the support, improvement and promotion of the appreciation by the public of archaeological remains, ancient monuments, buildings and places of historical or architectural interest, and historic wrecks.



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In this matter “local authorities” means the councils of counties and county boroughs in Wales.

*Field 3: culture*

*[<sup>F8</sup>Matter 3.1*

The functions of local authorities in the support, improvement and promotion of arts and crafts, museums and galleries, libraries, archives and historical records, and cultural activities and projects.

This matter does not include licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.

In this matter “local authorities” means the councils of counties and county boroughs in Wales.

*Field 4: economic development*

*Field 5: education and training*

*[<sup>F9</sup>Matter 5.1*

Provision about the categories of school that may be maintained by [<sup>F10</sup>local authorities].

*Matter 5.2*

Provision about the establishment and discontinuance of schools maintained by [<sup>F10</sup>local authorities], their change from one category to another and their alteration in other respects.

*[<sup>F11</sup>Matter 5.2A*

Conduct and governance of schools maintained by local authorities, including the allocation of functions, property, rights and liabilities relating to such schools.

*Matter 5.2B*

Securing collaboration between persons or bodies with functions relating to schools maintained by local authorities.

*Matter 5.2C*

The following activities by persons or bodies with functions relating to schools maintained by local authorities—

- (a) establishment of bodies to do all or any of the following—
  - (i) carry out activities relating to education or training,
  - (ii) exercise education functions on behalf of local authorities;
- (b) involvement with bodies mentioned in paragraph (a).]

*Matter 5.3*

Provision about the admission of pupils to schools maintained by [<sup>F10</sup>local authorities].

*[<sup>F12</sup>Matter 5.4A*

The regulation of—

- (a) schools that are not maintained by [<sup>F10</sup>local 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*

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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*

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>F13</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>F14</sup>

[<sup>F15</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,

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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;
- (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>F16</sup>schools;
- (zb) relevant independent educational institutions;]
- (a) education or training provided by institutions concerned with the provision of further education;
- (b) <sup>F17</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>F18</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>F19</sup>*Matter 5.17*

<sup>F20</sup> ..... ]

<sup>F21</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>F22</sup>In this field—

<sup>F23</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;

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“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>F24</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—

- (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*

[<sup>F25</sup>*Matter 6.1*

Preventing, reducing, collecting, managing, treating or disposing of waste.

This matter does not include—

- (a) regulation of any activity in the sea;
- (b) regulation of the provision of postal services by a person who holds, or is required to hold, a licence from the Postal Services Commission authorising the person to convey letters from one place to another (whether or not the licence relates to the services).

See below for further provision about what this matter does not include.

*Matter 6.2*

Disposal of waste in the sea where the waste has been collected, managed or treated on land.

This matter does not include regulation of the following activities—

- (a) depositing any substance or object in the sea or on or under the seabed from any vehicle, vessel, aircraft, marine structure or floating container;
- (b) depositing any explosive substance or article in the sea or on or under the seabed;
- (c) incinerating any substance or object on any vehicle, vessel, marine structure or floating container.

See below for further provision about what this matter does not include.

*Matter 6.3*

Protecting or improving the environment in relation to pollution.

This matter does not include—

- (a) regulating the composition and content of fuel used in—

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- (i) a means of transport,
  - (ii) non-road mobile machinery, or
  - (iii) an agricultural or forestry tractor;
- (b) obligations upon persons who supply transport fuel at or for delivery to places in the United Kingdom to produce evidence showing the supply of renewable transport fuel;
- (c) making provision regarding the proportion of renewable energy consumed in transport, including the imposition of requirements relating to sustainability that determine whether any particular renewable energy is to be counted towards any renewable energy obligation or target;
- (d) provision of financial support in connection with—
- (i) the production of renewable energy for consumption in transport, or
  - (ii) the use of that energy in transport,
- including the imposition of requirements relating to sustainability that determine whether any particular renewable energy qualifies for financial support.
- (e) regulation of oil and gas exploration and exploitation in those parts of the territorial sea that are not relevant territorial waters.

See below for further provision about what this matter does not include.

#### *Matter 6.4*

Protecting or improving the environment in relation to nuisances.

This matter does not include—

- (a) imposition of criminal or civil liability in respect of energy nuisances that consist of acts, omissions and states of affairs for which there is statutory authority, except criminal or civil liability which the Welsh Ministers have power to impose;
- (b) removal of relevant defences to, or relevant exclusions from, rules of law which impose civil or criminal liability in respect of energy nuisances, except those defences and exceptions which the Welsh Ministers have power to remove;
- (c) regulation of the emission of smoke, artificial light or noise from military premises;
- (d) regulation of gas activities, oil activities, and infrastructure that is necessary for carrying out any such activities;
- (e) regulation of oil and gas exploration and exploitation in the sea;
- (f) regulation of electronic communications and electronic communications networks.

See below for further provision about what this matter does not include.

*Not included in matters 6.1, 6.2, 6.3 and 6.4*

Matters 6.1, 6.2, 6.3 and 6.4 do not include any of the following—

- (a) regulation concerning the control of major accident hazards involving dangerous substances (this exception is to be interpreted in accordance with Council Directive [96/82/EC](#)<sup>F26</sup> and it relates only to activity within the scope of that Directive);
- (b) regulation of the decommissioning of offshore energy installations and related infrastructure.

*Not included in matters 6.1 and 6.2*

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Matters 6.1 and 6.2 do not include any of the following—

- (a) regulation of decommissioned explosives that are outside the scope of the Waste Directive by virtue of [F27 Article 2(1)(b)(v)][F27 Article 2(1)(e)] of the Waste Directive and are or have been—
  - (i) held on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or
  - (ii) held by or for the purposes of visiting forces;
- (b) regulation of radioactive material that is at military premises;
- (c) regulation of the capture, conveyance or disposal of carbon dioxide as part of relevant carbon capture and storage.

*Not included in matters 6.3 and 6.4*

Matters 6.3 and 6.4 do not include any of the following—

- (a) regulation of the contained use of genetically modified organisms;
- (b) regulation of the following activities in the sea—
  - (i) depositing any substance or object in the sea or on or under the seabed from any vehicle, vessel, aircraft, marine structure or floating container, or any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
  - (ii) scuttling any vessel or floating container;
  - (iii) constructing, altering or improving works in or over the sea or on or under the seabed;
  - (iv) using any vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed;
  - (v) dredging;
  - (vi) depositing or using any explosive substance or article in the sea or on or under the seabed;
  - (vii) incinerating any substance or object on any vehicle, vessel, marine structure or floating container;
- (c) marine licensing under Part 4 of the Marine and Coastal Access Act 2009<sup>F28</sup>.

*Meaning of “pollution”*

In this field “pollution” means pollution of the air, water or land which may give rise to any environmental harm, including (but not limited to) pollution caused by light, noise, heat or vibrations or any other kind of release of energy.

For the purposes of this definition “air” includes (but is not limited to) air within buildings and air within other natural or man-made structures above or below ground.

*Meaning of “nuisance”*

In this field “nuisance” means an act or omission affecting any place, or a state of affairs in any place, which may impair, or interfere with, the amenity of the environment or any legitimate use of the environment, apart from an act, omission or state of affairs that constitutes pollution. *Meaning of “relevant defence” and “relevant exclusion”*

In matter 6.4, in relation to a rule of law which imposes civil or criminal liability in respect of an energy nuisance (“the unlawful nuisance”)—“relevant defence” means statutory removal (however expressed, and whether conditional or not) of the civil or criminal liability in respect of an act, omission or state of affairs that is within the scope of the unlawful nuisance; “relevant exclusion” means statutory exclusion

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(however expressed, and whether conditional or not) of an act, omission or state of affairs from the scope of the unlawful nuisance.

In those definitions, a reference to the scope of the unlawful nuisance is a reference to the class of acts, omissions and states of affairs that constitutes the unlawful nuisance.

*Other interpretation of this field*

In this field— “electricity activity” means any of the following—

- (a) generating electricity at a generating station whose construction, extension or operation requires—
  - (i) the consent of the Secretary of State, or
  - (ii) the authority of an order granting development consent under the Planning Act 2008 <sup>F29</sup> ;
- (b) transmitting, distributing or supplying electricity;

and for this purpose, the reference to consent of the Secretary of State is a reference to consent under powers to regulate generation of electricity; “electronic communication” means a communication transmitted—

- (a) by means of an electronic communications network, or
- (b) by other means but while in an electronic form;

“electronic communications network” means—

- (a) a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of signals of any description, and
- (b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of the signals—
  - (i) apparatus comprised in the system,
  - (ii) apparatus used for the switching or routing of the signals, and
  - (iii) software and stored data;

“energy nuisance” means a nuisance that relates to electricity activities, gas activities, oil activities, or infrastructure that is necessary for carrying out any such activities; “environmental harm” means any of the following—

- (a) harm to the health of humans and other living organisms;
- (b) harm to the quality of the environment, including—
  - (i) harm to the quality of the environment taken as a whole,
  - (ii) harm to the quality of the air, water or land, and
  - (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part;
- (c) offence to the senses of human beings;
- (d) damage to property;
- (e) impairment of, or interference with, the amenity of the environment or any legitimate use of the environment;

“gas activity” means storing, conveying or supplying gas, except any such activity that is carried out by an individual for the domestic purposes of the individual; “marine structure” means a platform or other artificial structure at sea, other than a pipeline; “military premises” means premises which are—

- (a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or
- (b) occupied by or for the purposes of visiting forces;

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“offshore energy installation” means any of the following installations that are maintained in the sea or on the foreshore or other land intermittently covered with water, and that are not connected with dry land by a permanent structure providing access at all times and for all purposes—

- (a) installations used for oil activities, gas activities or for the exploration or exploitation of gas or oil;
- (b) carbon dioxide storage installations;
- (c) renewable energy installations;

“oil activity” means storing, conveying or supplying oil, except any such activity that is carried out by an individual for the domestic purposes of the individual; “relevant carbon capture and storage” means the capture and underground disposal of carbon dioxide by a method in which the carbon dioxide is captured at the place of its production and conveyed for disposal by pipeline directly from the place of production to a place of underground disposal; “relevant territorial waters” means the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to Wales is measured; but any order made under section 104(4)(a) of the Water Resources Act 1991 <sup>F30</sup> for the purposes of Part 3 of that Act in relation to an area of the territorial sea adjacent to Wales also applies for the purposes of determining what are relevant territorial waters for the purposes of this field; “sea” means (except where the context otherwise requires) the sea adjacent to Wales out as far as the seaward boundary of the territorial sea; “statutory” means arising by virtue of an Act; “visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952; <sup>F31</sup>“Waste Directive” means Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste, as it was originally adopted. <sup>F31</sup> [“Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste. ] .

An order or an Order in Council made under or by virtue of section 158(3) or (4) for the purposes of that section also applies for the purpose of determining any boundary between the parts of the sea which are to be treated as adjacent to Wales for the purposes of this field and those which are not.]

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

*Field 8: food*

*Field 9: health and health services*

<sup>F32</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.

<sup>F33</sup>*Matter 9.2*

Assessment of mental health and treatment of mental disorder.

This matter does not include any of the following—

- (a) subjecting patients to—
  - (i) compulsory attendance at any place for the purposes of assessment or treatment,
  - (ii) compulsory supervision, or
  - (iii) guardianship;
- (b) consent to assessment or treatment;



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- (c) restraint;
- (d) detention.

For the purposes of this matter, “treatment of mental disorder” means treatment to alleviate, or prevent a worsening of, a mental disorder or one or more of its symptoms or manifestations; and it includes (but is not limited to) nursing, psychological intervention, habilitation, rehabilitation and care. ]

*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;

[<sup>F34</sup>“mental disorder” means any disorder or disability of the mind, apart from dependence on alcohol or drugs;]

“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>F35</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.

<sup>F36</sup> . . .

[<sup>F37</sup>*Matter 10.2*

Concessionary travel on the following services—

- (a) bus services;
- (b) Welsh services provided under a franchise agreement to which the Welsh Ministers are a party.

Any expression which is used in paragraph (b) and the Railways Act 2005 has the meaning given in that Act.]

*Interpretation of this field*

In this field—

“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*

[<sup>F38</sup>*Matter 11.1*

*Status: Point in time view as at 24/05/2011.*

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The provision of automatic fire suppression systems in new residential premises. In this matter “new residential premises” means—

- (a) premises newly constructed for residential use;
- (b) premises newly converted to residential use;
- (c) premises converted to use as one or more new residences by subdivision of one or more existing residences; and
- (d) premises converted to use as one or more new residences by amalgamation of one or more existing residences.]

*f<sup>39</sup>Matter 11.2*

Social housing providers.

*Matter 11.3*

Relevant social housing bodies.

*Matter 11.4*

Tenure of rented social housing and other arrangements under which social housing is provided.

*Matter 11.5*

Disposals of—

- (a) social housing,
- (b) land held or used for the purposes of, or in connection with, social housing, and
- (c) land to which a provision of any of the following enactments applies—
  - (i) Part 2 of the Housing Act 1985;
  - (ii) Part 5 of the Housing Act 1985;
  - (iii) Chapter 2 of Part 1 of the Housing Act 1996;
  - (iv) Chapter 4 of Part 1 of the Housing Act 1996;
  - (v) Chapter 4 of Part 2 of the Housing and Regeneration Act 2008

(insofar as the disposal does not fall within paragraph (a) or (b) of this matter).

*Matter 11.6*

Provision of advice and non-financial assistance to individuals in respect of their obtaining, and living in, housing.

This matter includes, in particular, advice and non-financial assistance in respect of skills that are relevant to the ability to live independently, or more independently, in housing.

*Matter 11.7*

Provision by local authorities of caravan sites for use by Gypsies and Travellers.

*Matter 11.8*

Homelessness.

*Interpretation of this field*

In this field—

“caravan site” means—

- (a) land on which a caravan or other mobile accommodation (apart from a tent) is stationed for the purposes of human habitation, and
- (b) land which is used in conjunction with land falling within paragraph (a) of this definition;

“local authority” means a county council or a county borough council in Wales;

“relevant social housing body” means a person (if, or insofar as, it is not a social housing provider) which has functions relating to—

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- (a) social housing providers, or
- (b) social housing;

but such a person is a relevant social housing body only insofar as the person has functions relating to social housing providers or social housing;

“social housing” means any housing provided by a social housing provider;

“social housing provider” means—

- (a) a local authority, and
- (b) a person (other than a local authority) which—
  - (i) provides housing to, or
  - (ii) has functions relating to allocation of housing to,

people whose needs are not adequately served by the commercial housing market;

but a local authority or such other person is a social housing provider only insofar as it provides, or has functions relating to allocation of, housing.]

*Field 12: local government*

*<sup>F40</sup>Matter 12.1*

<sup>F41</sup> . . .

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—

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“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*

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.]

#### <sup>F42</sup>*Matter 12.6*

This matter does not include—

- (a) direct elections to executives of principal councils, or
- (b) the creation of a form of executive requiring direct elections.

For the purposes of this matter—

- (a) “executive arrangements” has the same meaning as in Part 2 of the Local Government Act 2000;
- (b) <sup>F43</sup> .....
- (c) “direct elections” means elections by local government electors (within the meaning of section 270(1) of the Local Government Act 1972).

Arrangements by principal councils with respect to the discharge of their functions, including executive arrangements.]

#### <sup>F44</sup>*Matter 12.7*

Committees of principal councils with functions of—

- (a) review or scrutiny, or
- (b) making reports or recommendations.

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This matter does not include committees under section 19 of the Police and Justice Act 2006 (crime and disorder committees).

<sup>F45</sup> . . . ]

<sup>F46</sup> *Matter 12.8*

Areas of communities and constitution, structure, and procedures of local government institutions for communities.

*Matter 12.9*

Electoral arrangements for elected local government institutions for communities. In this matter “electoral arrangements” does not include—

- (a) the local government franchise;
- (b) electoral registration and administration;
- (c) the voting system for the return of members in an election.

*Matter 12.10*

Conferral on local government institutions for communities of powers—

- (a) to which this matter applies,
- (b) that are exercisable in relation to their areas, and
- (c) that are powers exercisable by principal councils in relation to principal areas.

This matter applies to powers to do anything which the holder of the power considers likely to promote or improve the economic, social or environmental well-being of an area.

*Matter 12.11*

Grants from the Welsh Ministers to fund local government for communities.

*Matter 12.12*

Relations between different communities (and their local government institutions), or between communities (and their local government institutions) and principal councils.

*Matter 12.13*

Schemes for the accreditation of quality in local government for communities.

*Matter 12.14*

Public participation in local government for communities (apart from elections).

*Matter 12.15*

The provision of information relating to local government to the public. For the purposes of this matter “local government” means—

- (a) local government for communities;
- (b) local government for counties and county boroughs.

*Matter 12.16*

Salaries, allowances, pensions and other payments for members of the following—

- (a) local government institutions for communities;
- (b) county councils and county borough councils;
- (c) National Park authorities;
- (d) fire and rescue authorities constituted by schemes under section 2 of the Fire and Rescue Services Act 2004 or schemes to which section 4 of that Act apply.

*Matter 12.17*

Promoting and supporting membership of the following—

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- (a) local government institutions for communities;
- (b) county councils and county borough councils.

*[<sup>F47</sup>Matter 12.18*

Council tax payable in respect of dwellings that are not the main residence of an individual.]

*Interpretation of this field*

In this field— “communities” means separate areas for the administration of local government, each of which is wholly within a principal area (but does not constitute the whole of a principal area); “principal area” means a county borough or a county; “principal council” means a council for a principal area. ]

*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
- (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*

*[<sup>F48</sup>Matter 14.1* The following provision relating to the Auditor General—

- (a) the following aspects of the Auditor General's terms of appointment—

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- (i) the period of the appointment;
- (ii) salary, allowances and superannuation benefits;
- (iii) pensions and gratuities payable after a person has ceased to be Auditor General;
- (b) the number of times a person may be appointed as Auditor General;
- (c) restrictions on the other offices and positions which may be held by the Auditor General;
- (d) activities of a person who has been (but no longer is) Auditor General;
- (e) provision requiring the Auditor General—
  - (i) to aim to do things efficiently and cost-effectively;
  - (ii) to have regard, as the Auditor General considers appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow;
- (f) the authorisation of persons to exercise functions of the Auditor General on the Auditor General's behalf (including during a vacancy in the office);
- (g) the oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions;
- (h) the provision or use of resources for the purposes of the Auditor General's functions including (in particular)—
  - (i) the employment and use of staff;
  - (ii) the procurement and use of services;
  - (iii) the holding of documents or information;
  - (iv) the keeping of records;
    - (i) the charging of fees or other amounts in relation to functions of—
      - (i) the Auditor General, or
      - (ii) auditors appointed by the Auditor General under an enactment;
    - (j) the restatement of any law relating to the Auditor General.]

*Field 15: social welfare*

*[<sup>F49</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>F50</sup> charges and payments for residential care. ]<sup>F51</sup> . . . ]

*[<sup>F52</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*

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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;
- (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.

<sup>F53</sup>*Matter 15.9*

Supporting the provision of care by carers and promoting the well-being of carers.

This matter includes (but is not limited to) social care services to help carers.



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In this matter “carers” means individuals who provide or intend to provide a substantial amount of care on a regular basis for—

- (a) a child with a physical or mental impairment, or
- (b) an individual aged 18 or over,

but it does not include individuals who provide or intend to provide care—

- (a) by virtue of a contract of employment or other contract with any person, or
- (b) as a volunteer for a body (whether or not incorporated)]

[<sup>F54</sup>Matter 15.10

Social care services connected to mental health.

This matter does not include the independent mental capacity advocacy services established by Part 1 of the Mental Capacity Act 2005.]

*Interpretation of this field*

In this field—

[<sup>F55</sup>“advocacy services” means services providing assistance (by way of representation or otherwise) in connection with the well-being of any person;]

“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; [<sup>F56</sup>information,] advice, counselling or advocacy services; financial or any other assistance;

“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;

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- (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>F57</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.]

*[<sup>F58</sup>Matter 16.2*

The establishment and maintenance of a route (or a number of routes) for the coast to enable the public to make recreational journeys.

This matter does not include—

- (a) enabling the public to make journeys by mechanically propelled vehicles (except permitted journeys by qualifying invalid carriages);
- (b) the creation of new highways (whether under the Highways Act 1980 or otherwise).

*Matter 16.3*

Securing public access to relevant land for the purposes of open-air recreation.

Land is relevant land if it—

- (a) is at the coast,
- (b) can be used for the purposes of open-air recreation in association with land within paragraph (a), or
- (c) can be used for the purposes of open-air recreation in association with a route within matter 16.2.

In this matter the reference to land at the coast is not limited to coastal land within the meaning of section 3 of the Countryside and Rights of Way Act 2000.

*[<sup>F59</sup>Matter 16.4*

The functions of local authorities in the support, improvement and promotion of sport and recreational activities.

This matter does not include licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.]

*Interpretation of this field*

In this field—

“coast” means the coast of Wales adjacent to the sea, including the coast of any island (in the sea) comprised in Wales;

“estuarial waters” means any waters within the limits of transitional waters within the meaning of the Water Framework Directive (that is to say, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy);

“highway” has the same meaning as in the Highways Act 1980;

[<sup>F60</sup>“local authorities” means the councils of counties and county boroughs in Wales;]

“public foot crossing”, in relation to a river, means a bridge over which, or tunnel through which, there is a public right of way, or a public right of access, by virtue of which the public are able to cross the river on foot;

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“qualifying invalid carriage” means an invalid carriage within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970 (use of invalid carriages on highways) which complies with the prescribed requirements within the meaning of that section;

“relevant upstream waters”, in relation to a river, means the waters from the seaward limit of the estuarial waters of the river upstream to the first public foot crossing;

“sea” includes the relevant upstream waters of a river;

and a journey by a qualifying invalid carriage is a permitted journey if the carriage is being used in accordance with the prescribed conditions within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970.]

*Field 17: tourism*

*Field 18: town and country planning*

*<sup>F61</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.

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>F62</sup>Matter 20.1*

Promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality.

This matter does not include the use of the Welsh language in courts.

This matter does not include imposing duties on persons other than the following—

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- (a) public authorities;
- (b) persons providing services to the public under an agreement, or in accordance with arrangements, made with a public authority;
- (c) persons providing services to the public established by an enactment;
- (d) persons established by prerogative instrument—
  - (i) to advance learning and knowledge by teaching or research or by developing or awarding qualifications;
  - (ii) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding;
  - (iii) to support, improve, promote or provide access to heritage, culture, sport or recreational activities;
  - (iv) engaged in promoting a wider knowledge and representing the interests of Wales to other countries;
  - (v) engaged in central banking;
- (e) persons upon whom functions of providing services to the public are conferred or imposed by an enactment;
- (f) persons providing services to the public who receive public money amounting to £400,000 or more in a financial year;
- (g) persons overseeing the regulation of a profession, industry or other similar sphere of activity;
- (h) providers of social housing;
- (i) persons providing the public with the following kinds of services or with other services which relate to any of those services—
  - (i) gas, water or electricity services (including supply or distribution);
  - (ii) sewerage services (including disposal of sewage);
  - (iii) postal services and post offices;
  - (iv) telecommunications services;
  - (v) education, training (where the provider receives public money for its provision), or career guidance, and services to encourage, enable or assist participation in education, training or career guidance;
  - (vi) bus and railway services;
  - (vii) services to develop or award educational or vocational qualifications;
- (j) persons opting or agreeing to be subject to the imposition of the duties.

With regard to imposing duties in relation to paragraph (b), this matter only includes duties in respect of services to the public provided under an agreement, or in accordance with arrangements, made with a public authority.

A person who receives public money amounting to £400,000 or more in a financial year does not fall within paragraph (f) unless—

- (a) that person also received public money in a previous financial year, or
- (b) a decision has been made that that person will receive public money in a subsequent financial year.

With regard to imposing duties in relation to paragraph (i)—

- (a) this matter only includes duties in respect of the services and the other related services mentioned, and
- (b) in respect of the related services, this matter does not include the provision of related services in a shop, other than post office counter services and the sale of tickets or provision of timetables for bus and railway services.

This matter does not include imposing duties about broadcasting.

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This matter does not include imposing duties on a person (other than on a Welsh language authority) unless there is a means for that person to challenge those duties, as they apply to that person, on grounds of reasonableness and proportionality.

*Matter 20.2*

Provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations upon it).

*Interpretation of this field*

In this field— “broadcasting” means the commissioning, production, scheduling, transmission or distribution of programmes (including advertisements, subtitles, continuity announcements and teletext), access services, interactivity, online content and other output of a similar nature for television, radio, the internet or other online or wireless platforms; “bus service” means a scheduled service, by public service vehicle (within the meaning of section 1 of the Public Passenger Vehicles Act 1981), for the carriage of passengers at separate fares, other than a service—

- (a) for which the whole capacity of the vehicle has been purchased by a charterer for the charterer's own use or for resale;
- (b) which is a journey or trip organised privately by any person acting independently of the vehicle operator; or
- (c) on which the passengers travel together on a journey, with or without breaks and whether or not on the same day, from one or more places to one or more places and back;

“enactment” includes any future enactment; “shop” means any premises where the sale of goods is the principal trade or business carried on; “postal services” means the service of conveying letters, parcels, packets or other articles from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such articles; “public authority” means each public authority within the meaning of section 6 of the Human Rights Act 1998; “public money” means—

- (a) moneys made available directly or indirectly by—
  - (i) the National Assembly for Wales;
  - (ii) the Welsh Ministers;
  - (iii) Parliament;
  - (iv) Ministers of the Crown; or
  - (v) an institution of the [F63European Union];
- (b) moneys provided by virtue of any enactment;

“telecommunications service” means any service that consists of providing access to, or facilities for making use of, any system which exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical, magnetic or electro-magnetic energy (including the apparatus comprised in the system), but does not include broadcasting, radio, or television; “Welsh language authority” means a person upon whom an enactment confers or imposes functions of—

- (a) imposing or enforcing on other persons duties relating to the Welsh language,
- (b) determining the duties relating to the Welsh language that are imposed on other persons, or
- (c) deciding challenges to the duties relating to the Welsh language that are imposed on other persons.]

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### Textual Amendments

- F6** Sch. 5 Pt. 1 Field 1: Matter 1.1 inserted (9.7.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Agriculture and Rural Development\) Order 2009 \(S.I. 2009/1758\)](#), **art. 2**
- F7** Sch. 5 Pt. 1 Field 2: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\)](#), arts. 1, **2(2)**
- F8** Sch. 5 Pt. 1 Field 3: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\)](#), arts. 1, **2(3)**
- F9** 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.
- F10** Words in Sch. 5 Pt. 1 Field 5 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 59(2)**
- F11** Sch. 5 Pt. 1 Field 5: words inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Education\) Order 2010 \(S.I. 2010/1209\)](#), arts. 1, **2** (with art. 3)
- F12** Sch. 5 Pt. 1: Matter 5.4A inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173(2)(a)
- F13** 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)**
- F14** 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)**
- F15** 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)
- F16** Words in Sch. 5 Pt. 1 inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F17** 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
- F18** Words in Sch. 5 Pt. 1 substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F19** 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)**
- F20** 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)**
- F21** 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**
- F22** Sch. 5 Pt. 1 Field 5: words inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 27**, 32(2)
- F23** 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)**
- F24** Sch. 5 Pt. 1: definition inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 149**, 173
- F25** Sch. 5 Pt. 1 Field 6: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\)](#), arts. 1(2), **2**
- F26** O.J. No. L10, 14.1.1997, pp. 13-33. The scope of the Directive was extended by Directive 2003/105/EC of the European Parliament and of the Council (O.J. No. L345, 31.12.2003, pp 97-105). There have been other amendments which are not relevant to this Order.
- F27** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), **Sch. 4 para. 7(2)(a)** (with regs. 2, 47(2))
- F28** 2009 c.23.
- F29** 2008 c. 29. See Part 4 for the requirement for development consent.
- F30** 1991 c. 57.

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- F31** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(b)** (with regs. 2, 47(2))
- F32** 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)
- F33** Sch. 5 Pt. 1 Field 9: Matter 9.2 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **2(2)**
- F34** Sch. 5 Pt. 1 Field 9: definition of "mental disorder" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **2(3)**
- F35** Sch. 5 Pt. 1 Field 10: Matter 10.1 inserted (26.1.2009) by Local Transport Act 2008 (c. 26), **ss. 122, 134(2)**
- F36** Sch. 5 Pt. 1 Field 10: words in Matter 10.1 repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**
- F37** Sch. 5 Pt. 1 Field 10: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (S.I. 2010/1208), arts. 1(2), **2**
- F38** Sch. 5 Pt. 1 Field 11: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010 (S.I. 2010/1210), arts. 1, **2**
- F39** Sch. 5 Pt. 1 Field 11: Matters 11.2-11.8 and "Interpretation of this field" with relevant text inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **2(2)**
- F40** 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**
- F41** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(2)**
- F42** Sch. 5 Pt. 1 Field 12: Matter 12.6 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F43** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(3)**
- F44** Sch. 5 Pt. 1 Field 12: Matter 12.7 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F45** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(4)**
- F46** Sch. 5 Pt. 1 Field 12: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(5)**
- F47** Sch. 5 Pt. 1 Field 12: Matter 12.18 inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **3(2)**
- F48** Words in Sch. 5 Pt. 1 inserted (22.5.2011) by Budget Responsibility and National Audit Act 2011 (c. 4), s. 29, **Sch. 6 para. 3**
- F49** 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**
- F50** 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)**
- F51** 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)**
- F52** 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)**
- F53** Sch. 5 Pt. 1 Field 15: Matter 15.9 inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F54** Sch. 5 Pt. 1 Field 15: Matter 15.10 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(2)**

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- F55** Sch. 5 Pt. 1 Field 15: definition of "advocacy services" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(3)**
- F56** Sch. 5 Pt. 1 Field 15: word inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F57** 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**
- F58** Sch. 5 Pt. 1 Field 16: Matters 16.2, 16.3 and Interpretation inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 310, 324(2)(d)** (with s. 308)
- F59** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(a)**
- F60** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(b)**
- F61** 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)
- F62** Sch. 5 Pt. 1 Field 20: Matter 20.1 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2010 (S.I. 2010/245), arts. 1(2), **3(2)**
- F63** 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**
- F64** Sch. 5 Pt. 1: "Exceptions to Matters" repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**

### Textual Amendments

- F6** Sch. 5 Pt. 1 Field 1: Matter 1.1 inserted (9.7.2009) by The National Assembly for Wales (Legislative Competence) (Agriculture and Rural Development) Order 2009 (S.I. 2009/1758), **art. 2**
- F7** Sch. 5 Pt. 1 Field 2: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(2)**
- F8** Sch. 5 Pt. 1 Field 3: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(3)**
- F9** 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.
- F10** Words in Sch. 5 Pt. 1 Field 5 substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(2)**
- F11** Sch. 5 Pt. 1 Field 5: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Education) Order 2010 (S.I. 2010/1209), arts. 1, **2** (with **art. 3**)
- F12** Sch. 5 Pt. 1: Matter 5.4A inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173(2)(a)**
- F13** 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)**
- F14** 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)**
- F15** 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)**
- F16** Words in Sch. 5 Pt. 1 inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**
- F17** 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**
- F18** Words in Sch. 5 Pt. 1 substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**



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- F19** 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)**
- F20** 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)**
- F21** 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**
- F22** Sch. 5 Pt. 1 Field 5: words inserted (23.12.2007) by Further Education and Training Act 2007 (c. 25), **ss. 27, 32(2)**
- F23** 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)**
- F24** Sch. 5 Pt. 1: definition inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), **ss. 149, 173**
- F25** Sch. 5 Pt. 1 Field 6: words inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Environment) Order 2010 (S.I. 2010/248), **arts. 1(2), 2**
- F26** O.J. No. L10, 14.1.1997, pp. 13-33. The scope of the Directive was extended by Directive 2003/105/EC of the European Parliament and of the Council (O.J. No. L345, 31.12.2003, pp 97-105). There have been other amendments which are not relevant to this Order.
- F27** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(a)** (with regs. 2, 47(2))
- F28** 2009 c.23.
- F29** 2008 c. 29. See Part 4 for the requirement for development consent.
- F30** 1991 c. 57.
- F31** Words in Sch. 5 Pt. 1 substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **Sch. 4 para. 7(2)(b)** (with regs. 2, 47(2))
- F32** 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)
- F33** Sch. 5 Pt. 1 Field 9: Matter 9.2 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), **arts. 1(2), 2(2)**
- F34** Sch. 5 Pt. 1 Field 9: definition of "mental disorder" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), **arts. 1(2), 2(3)**
- F35** Sch. 5 Pt. 1 Field 10: Matter 10.1 inserted (26.1.2009) by Local Transport Act 2008 (c. 26), **ss. 122, 134(2)**
- F36** Sch. 5 Pt. 1 Field 10: words in Matter 10.1 repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**
- F37** Sch. 5 Pt. 1 Field 10: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 (S.I. 2010/1208), **arts. 1(2), 2**
- F38** Sch. 5 Pt. 1 Field 11: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010 (S.I. 2010/1210), **arts. 1, 2**
- F39** Sch. 5 Pt. 1 Field 11: Matters 11.2-11.8 and "Interpretation of this field" with relevant text inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), **arts. 1(2), 2(2)**
- F40** 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**
- F41** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), **arts. 1, 2(2)**
- F42** Sch. 5 Pt. 1 Field 12: Matter 12.6 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**
- F43** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), **arts. 1, 2(3)**
- F44** Sch. 5 Pt. 1 Field 12: Matter 12.7 inserted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 33(2)(3), 148(2)(a)(ii)**

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- F45** Sch. 5 Pt. 1 Field 12: words omitted (13.4.2010) by virtue of The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(4)**
- F46** Sch. 5 Pt. 1 Field 12: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Local Government) Order 2010 (S.I. 2010/1211), arts. 1, **2(5)**
- F47** Sch. 5 Pt. 1 Field 12: Matter 12.18 inserted (22.7.2010) by The National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010 (S.I. 2010/1838), arts. 1(2), **3(2)**
- F48** Words in Sch. 5 Pt. 1 inserted (22.5.2011) by Budget Responsibility and National Audit Act 2011 (c. 4), s. 29, **Sch. 6 para. 3**
- F49** 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**
- F50** 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)**
- F51** 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)**
- F52** 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)**
- F53** Sch. 5 Pt. 1 Field 15: Matter 15.9 inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F54** Sch. 5 Pt. 1 Field 15: Matter 15.10 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(2)**
- F55** Sch. 5 Pt. 1 Field 15: definition of "advocacy services" inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236), arts. 1(2), **3(3)**
- F56** Sch. 5 Pt. 1 Field 15: word inserted (18.11.2009) by The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (S.I. 2009/3010), **art. 2**
- F57** 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**
- F58** Sch. 5 Pt. 1 Field 16: Matters 16.2, 16.3 and Interpretation inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 310, 324(2)(d)** (with s. 308)
- F59** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(a)**
- F60** Sch. 5 Pt. 1 Field 16: words inserted (13.4.2010) by The National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010 (S.I. 2010/1212), arts. 1, **2(4)(b)**
- F61** 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)
- F62** Sch. 5 Pt. 1 Field 20: Matter 20.1 inserted (11.2.2010) by The National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2010 (S.I. 2010/245), arts. 1(2), **3(2)**
- F63** 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**
- F64** Sch. 5 Pt. 1: "Exceptions to Matters" repealed (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(7)**

## PART 2

### [<sup>F65</sup>EXCEPTIONS TO MATTERS AND GENERAL RESTRICTIONS]

#### Textual Amendments

- F65** Sch. 5 Pt. 2: heading substituted (19.11.2009) by The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009 (S.I. 2009/3006), **art. 2(8)**

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## ***[<sup>F66</sup>Exceptions to matters***

### **Textual Amendments**

**F66** 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\(9\)](#)

- [<sup>F67</sup>A1] These are the exceptions mentioned in section 94(4)(a) and (7)—
- [<sup>F68</sup>Culture (field 3 of Part 1)*
- (1) Public lending right.
  - (2) Classification of films, and video recordings.]
- [<sup>F69</sup>Economic development (field 4 of Part 1)*
- (1) Generation of electricity at generating stations whose construction, extension or operation requires—
    - (a) the consent of the Secretary of State, or
    - (b) the authority of an order granting development consent under the Planning Act 2008,and for this purpose, the reference to consent of the Secretary of State is a reference to consent under powers to regulate generation of electricity.
  - (2) Transmitting, distributing or supplying electricity.
  - (3) Energy conservation, apart from the encouragement of energy efficiency otherwise than by prohibition or regulation.
  - (4) Nuclear energy and nuclear installations, including—
    - (a) nuclear safety, and
    - (b) liability for nuclear occurrences,but this paragraph does not include disposal of very low level radioactive waste moved from a site whose use requires a nuclear site licence under the Nuclear Installations Act 1965]
- 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.
- [ Road freight transport services, including goods vehicles operating licensing.]
- <sup>F70</sup>(1A)
- [<sup>F71</sup>(2) Regulation of the use of relevant vehicles on roads, the construction and use of relevant vehicles, and conditions under which relevant vehicles may be so used, apart from—
- (a) regulation of use of relevant vehicles carrying animals for the purposes of protecting human, animal, fish or plant health or the environment,<sup>F72</sup> . . .
  - (b) regulation relating to matter 10.1[<sup>F73</sup>, and
  - (c) regulation of the description of vehicle which may be used pursuant to learner transport arrangements (including description by reference to a vehicle's construction or equipment), but not including the setting of

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technical standards for construction or equipment which differ from the standards that would or might otherwise apply to that vehicle.]

For the purpose of this paragraph, “ relevant vehicles ” means motor vehicles, mobile machinery and agricultural and forestry tractors. ]

- (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).
- (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 [<sup>F74</sup>Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road].
- (14) Transport security<sup>F75</sup> (apart from regulation relating to the carriage of supervising adults on vehicles used pursuant to learner transport arrangements)
 

[ Aviation, air transport, airports and aerodromes, apart from—

  - <sup>F76</sup>(14A) (a) financial assistance to providers or proposed providers of air transport services or airport facilities or services,
  - (b) strategies by the Welsh Ministers or local or other public authorities about provision of air services, and
  - (c) regulation of the use of aircraft carrying animals for the purpose of protecting—
    - (i) human health, apart from the health of persons in aircraft,
    - (ii) animal, fish or plant health, or
    - (iii) the environment.]
- [<sup>F77</sup>(15) Shipping, apart from—
  - (a) financial assistance for shipping services to, from or within Wales, and
  - (b) regulation of the use of vessels carrying animals for the purposes of protecting—
    - (i) human health, apart from the health of persons on vessels,
    - (ii) animal, fish or plant health, or
    - (iii) the environment.]

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(16) Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.

(17) Technical and safety standards of vessels.

[<sup>F78</sup>(18) Harbours, docks, piers and boatslips, apart from—

- (a) those used or required wholly or mainly for the fishing industry, for recreation, or for communications between places in Wales (or for two or more of those purposes), and
- (b) regulation for the purposes of protecting human, animal, fish or plant health or the environment.

(19) Carriage of dangerous goods, including transport of radioactive material.]

[<sup>F79</sup> In paragraphs (2) and (14) “ learner transport arrangements ” means arrangements of the kind described in matter 5.10 which consist of the provision of motor vehicles and are made by—

- (a) public authorities (within the meaning of field 15) exercising functions relating to education or training, or
- (b) institutions or other bodies concerned with the provision of education or training.]

*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—

- (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.

[<sup>F80</sup>*Sport and recreation (field 16 of Part 1)*

- (1) Betting, gaming and lotteries.]

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*[<sup>F81</sup>Water and flood defence (field 19 of Part 1)*

- (1) Appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales.
- (2) Licensing and regulation of any licensed water supplier within the meaning of the Water Industry Act 1991, apart from regulation in relation to licensed activities using the supply system of a water undertaker whose area is wholly or mainly in Wales.]]

**Textual Amendments**

- F67** 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\(9\)](#)
- F68** Sch. 5 Pt. 2 para. A1: heading and following text inserted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\), arts. 1, 3\(2\)](#)
- F69** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(2\)](#)
- F70** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(a\)](#)
- F71** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(b\)](#)
- F72** Word in Sch. 5 Pt. 2 para. A1(2) omitted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(2\)\(a\)](#)
- F73** Sch. 5 Pt. 2 para. A1(2)(c) and word inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(2\)\(b\)](#)
- F74** Words in Sch. 5 Pt. 2 para. A1(13)(c) substituted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 4\(2\)](#)
- F75** Words in Sch. 5 Pt. 2 para. A1(14) inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(3\)](#)
- F76** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(c\)](#)
- F77** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(d\)](#)
- F78** Sch. 5 Pt. 2 para. A1: words substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(3\)\(e\)](#)
- F79** Words in Sch. 5 Pt. 2 para. A1(19) inserted (13.4.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Transport\) Order 2010 \(S.I. 2010/1208\), arts. 1\(2\), 3\(4\)](#)
- F80** Sch. 5 Pt. 2 para. A1: heading and following text inserted (13.4.2010) by virtue of [The National Assembly for Wales \(Legislative Competence\) \(Culture and Other Fields\) Order 2010 \(S.I. 2010/1212\), arts. 1, 3\(3\)](#)
- F81** Sch. 5 Pt. 2 para. A1: words inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Environment\) Order 2010 \(S.I. 2010/248\), arts. 1\(2\), 3\(4\)](#)

***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.

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### *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>F82</sup>Police areas*

#### **Textual Amendments**

**F82** 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](#)

[<sup>F83</sup>2A A provision of an Assembly Measure cannot make any alteration in police areas.]

#### **Textual Amendments**

**F83** 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 [<sup>F84</sup>(1)] 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—

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

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- [<sup>F85</sup>(2) 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 (3) applies.
- (3) This sub-paragraph applies to a provision of an Assembly Measure which—
- (a) is a provision relating to matter 14.1,
  - (b) provides for the enforcement of a provision relating to matter 14.1 or is otherwise appropriate for making such a provision effective, or
  - (c) is otherwise incidental to, or consequential on, such a provision.]

#### Textual Amendments

- F84** Sch. 5 para. 3(1): Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\), s. 29, Sch. 6 para. 4\(2\)\(a\)](#)
- F85** Sch. 5 para. 3(2), (3) inserted (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\), s. 29, Sch. 6 para. 4\(2\)\(b\)](#)

- 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.
- [<sup>F86</sup>(2) Sub-paragraph (1) does not apply to—
- (a) sections 20, 22, 24, 35(1), 36(1) to (5) and (7) to (11), 53, 54, 78 and 156(2) to (5); or
  - (b) paragraph 8(3) of Schedule 2.]
- (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
  - (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 Assembly Measure.
- [<sup>F87</sup>(4) Sub-paragraph (1) does not apply in relation to any provision to which paragraph 3(3) applies.
- (5) But, subject to sub-paragraph (6), a provision to which paragraph 3(3) applies cannot modify, or confer power by subordinate legislation to modify, paragraph 3 of Schedule 8.
- (6) Sub-paragraph (5) does not prevent the conferral of functions on a committee of the Assembly that—



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- (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

- F86** Sch. 5 Pt. 2 para. 6(2) substituted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **4(2)**
- F87** Sch. 5 para. 6(4)-(6) inserted (22.5.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 6 para. 4(3)**

### PART 3

#### [<sup>F88</sup>EXCEPTIONS FROM GENERAL RESTRICTIONS IN PART 2]

#### Textual Amendments

- F88** Sch. 5 Pt. 3: heading substituted (19.11.2009) by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(10)**

#### [<sup>F89</sup>Interpretation

#### Textual Amendments

- F89** 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

- F89** 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 [<sup>F90</sup>(1)] [<sup>F91</sup>The general restrictions in Part 2 do 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.

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[<sup>F92</sup>(2) Part 2 does not prevent a provision of an Assembly Measure relating to matter 20.1 or 20.2 of Part 1, conferring or imposing, or conferring power by subordinate legislation to confer or impose, any function on a Minister of the Crown if the Secretary of State consents to the provision, but functions so conferred or imposed may not be made enforceable against Ministers of the Crown by means of criminal offences.]

#### Textual Amendments

- F90** Sch. 5 Pt. 3 para. 7 renumbered as para. 7(1) (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **5(2)**
- F91** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(12)**
- F92** Sch. 5 Pt. 3 para. 7(2) inserted (11.2.2010) by [The National Assembly for Wales \(Legislative Competence\) \(Welsh Language\) Order 2010 \(S.I. 2010/245\)](#), arts. 1(2), **5(2)**

#### <sup>F93</sup>Police areas

#### Textual Amendments

- F93** 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**

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 [<sup>F94</sup>The general restrictions in Part 2 do 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.

#### Textual Amendments

- F94** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(12)**

#### *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.

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### *Subordinate legislation*

- 10 [F95]The general restrictions in Part 2 do 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.

#### **Textual Amendments**

**F95** Sch. 5 Pt. 3: words substituted (19.11.2009) in each place by [The National Assembly for Wales \(Legislative Competence\) \(Exceptions to Matters\) Order 2009 \(S.I. 2009/3006\)](#), **art. 2(12)**

### *[F96]Data Protection Act 1998*

#### **Textual Amendments**

**F96** 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

- 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.]

#### **Textual Amendments**

**F96** 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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## SCHEDULE 6

Section 103

### REFERENDUMS ON COMMENCEMENT OF ASSEMBLY ACT PROVISIONS

#### *Entitlement to vote*

- 1 (1) The persons entitled to vote in a referendum held by virtue of section 103(1) are those who would be entitled to vote in a general election of Assembly members if one were held on the date of the poll at the referendum (as to which see section 12).
- (2) But an Order in Council under section 103(1) may include provision for disregarding alterations made in a register of electors after a specified date.

#### **Commencement Information**

**I27** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Conduct etc. of referendum*

- 2 (1) An Order in Council under section 103(1) may make provision for and in connection with the referendum which it causes to be held.
- (2) Such an Order in Council may, in particular, apply or incorporate, with or without modification, any enactment relating to referendums, elections or donations.
- (3) In sub-paragraph (2) "donations" means anything which is or corresponds to a donation within the meaning of Part 4 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

#### **Commencement Information**

**I28** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Referendum question and statement*

- 3 (1) An Order in Council under section 103(1)—
  - (a) must specify the question to be included on the ballot paper at the referendum which it causes to be held, and
  - (b) may specify a statement to precede the question on that ballot paper.
- (2) A question or statement specified by virtue of sub-paragraph (1) must be specified in both English and Welsh.
- (3) The Secretary of State must, no later than the time at which paragraph (b) of section 104(4) of the Political Parties, Elections and Referendums Act 2000 (report stating views as to intelligibility of referendum question expressed by Electoral Commission) is complied with, send to the First Minister a copy of the report laid before Parliament under that paragraph.
- (4) As soon as is reasonably practicable after the First Minister receives a copy of a report under sub-paragraph (3) the First Minister must lay a copy of the report before the Assembly.

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*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Government of Wales Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I29** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Date of referendum*

- 4 (1) An Order in Council under section 103(1) must specify the date of the poll at the referendum which it causes to be held.
- (2) The Secretary of State may by order vary the date of the poll specified in such an Order in Council (including a date previously set by virtue of this sub-paragraph) if it appears inappropriate for it to be held on that date.
- (3) No order may be made under sub-paragraph (2) without the consent of the Welsh Ministers.
- (4) A statutory instrument containing an order under sub-paragraph (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I30** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Referendum period*

- 5 An Order in Council under section 103(1) must determine the referendum period for the purposes of Part 7 of the Political Parties, Elections and Referendums Act 2000 in the case of the referendum which it causes to be held.

**Commencement Information**

**I31** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Combination of polls*

- 6 An Order in Council under section 103(1) may make provision for and in connection with the combination of the poll at the referendum which it causes to be held with that at an election or at another referendum (or both).

**Commencement Information**

**I32** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Encouraging voting*

- 7 An Order in Council under section 103(1) may authorise or require the Electoral Commission to do things for the purpose of encouraging voting in the referendum which it causes to be held (including imposing obligations or conferring powers on counting officers or other persons).

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**Commencement Information**

**I33** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Provision of information to voters*

- 8 (1) This paragraph applies in relation to a referendum held by virtue of section 103(1) if the Electoral Commission have not, before the appropriate day, designated an organisation under section 108 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (organisations to whom assistance is available under section 110 of that Act) in relation to each possible outcome of the referendum.
- (2) The Electoral Commission may take such steps as they think appropriate to provide such information for persons entitled to vote in the referendum as the Commission think is likely to promote awareness among those persons about the arguments for each answer to the referendum question.
- (3) Information provided in pursuance of sub-paragraph (2) must be provided by whatever means the Electoral Commission think is most likely to secure (in the most cost-effective way) that the information comes to the notice of everyone entitled to vote in the referendum.
- (4) In this paragraph “the appropriate day” means—
- (a) if an order is made under section 109(6) of the Political Parties, Elections and Referendums Act 2000 (variation of period for applications for designation under section 108 or period for determination of applications or both) in the case of the referendum, such day as that order specifies as the appropriate day,
  - (b) if no such order is made and one or more applications are made in relation to each possible outcome of the referendum before the 29th day of the referendum period, the 43rd day of the referendum period, and
  - (c) in any other case in which no such order is made, the 29th day of the referendum period.

**Commencement Information**

**I34** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Referendum material*

- 9 Section 126 of the Political Parties, Elections and Referendums Act 2000 (details to appear on referendum material) does not apply to any material published for the purposes of a referendum held by virtue of section 103(1) if the publication is required under or by virtue of the Order in Council that causes the referendum to be held.

**Commencement Information**

**I35** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Funding and accounts*

- 10 An Order in Council under section 103(1) must include provision for the funding of costs of the referendum which it causes to be held (and may, in particular, include provision for the costs to be charged on, or payable out of, the Welsh Consolidated Fund).

#### **Commencement Information**

**I36** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 11 An Order in Council under section 103(1) must include provision as to the preparation and audit of accounts relating to payments made by virtue of provision included in the Order in Council under paragraph 10.

#### **Commencement Information**

**I37** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *No legal challenge to referendum result*

- 12 (1) No court may entertain any proceedings for questioning the number of ballot papers counted or votes cast in a referendum held by virtue of section 103(1) as certified by the Chief Counting Officer or a counting officer unless—
- (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed before the end of the permitted period.
- (2) In sub-paragraph (1) "the permitted period" means the period of six weeks beginning with—
- (a) the date on which the Chief Counting Officer or counting officer gives a certificate as to the number of ballot papers counted and votes cast in the referendum, or
  - (b) if the Chief Counting Officer or counting officer gives more than one such certificate, the date on which the last is given.

#### **Commencement Information**

**I38** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Supplementary*

- 13 An Order in Council under section 103(1) may include provision creating criminal offences.

#### **Commencement Information**

**I39** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### Interpretation

- 14 Expressions used in this Schedule and in Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41) have the same meaning in this Schedule as in that Part.

#### Commencement Information

- I40** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## SCHEDULE 7

Section 108

### ACTS OF THE ASSEMBLY

#### PART 1

#### SUBJECTS

*[<sup>F97</sup>Agriculture, forestry, animals, plants and rural development]*

#### Textual Amendments

- F97** Words in *Sch. 7 Pt. 1 para. 1* cross-heading 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), **3(1)**

- <sup>F98</sup>1 Agriculture. Horticulture. Forestry. Fisheries and fishing. Animal health and welfare. Plant health. Plant varieties and seeds. Rural development.

In this Part of this Schedule “animal” means—

- (a) all mammals apart from humans, and
- (b) all animals other than mammals;

and related expressions are to be construed accordingly.]

*Exceptions—*

Hunting with dogs.

Regulation of scientific or other experimental procedures on animals.

Import and export control, and regulation of movement, of animals, plants and other things, apart from (but subject to provision made by or by virtue of any Act of Parliament relating to the control of imports or exports)—

- (a) the movement into and out of, and within, Wales of animals, animal products,<sup>F99</sup> . . . plants, plant products and other things related to them for the purposes of protecting human, animal [<sup>F100</sup>or plant] health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy, and
- (b) the movement into and out of, and within, Wales of animal feedstuff,<sup>F101</sup> . . . fertilisers and pesticides (or things treated by virtue of



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any enactment as pesticides) for the purposes of protecting human, animal  
[<sup>F102</sup>or plant] health or the environment.

Authorisations of veterinary medicines and medicinal products.

#### Textual Amendments

- F98** Words in Sch. 7 Pt. 1 para. 1 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), **3(2)**
- F99** Words in Sch. 7 Pt. 1 para. 1: exceptions "Import" para. (a) omitted (16.12.2010) by virtue of 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), **3(3)(a)(i)**
- F100** Words in Sch. 7 Pt. 1 para. 1: exceptions "Import" para. (a) 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), **3(3)(a)(ii)**
- F101** Words in Sch. 7 Pt. 1 para. 1: exceptions "Import" para. (b) omitted (16.12.2010) by virtue of 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), **3(3)(b)(i)**
- F102** Words in Sch. 7 Pt. 1 para. 1: exceptions "Import" para (b) 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), **3(3)(b)(ii)**

#### *Ancient monuments and historic buildings*

- 2 Archaeological remains. Ancient monuments. Buildings and places of historical or architectural interest. Historic wrecks.

#### *Culture*

- 3 Arts and crafts. Museums and galleries. Libraries. Archives and historical records. Cultural activities and projects.

#### *Exceptions—*

Public lending right.  
Broadcasting.  
Classification of films, and video recordings.  
Government indemnities for objects on loan.  
Payments to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax, apart from property in which there is a Welsh national interest.

#### *Economic development*

- 4 Economic regeneration and development, including social development of communities, reclamation of derelict land and improvement of the environment. Promotion of business and competitiveness.

#### *Exceptions—*

Fiscal, economic and monetary policy and regulation of international trade.  
Regulation of anti-competitive practices and agreements, abuse of dominant position and monopolies and mergers.

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Intellectual property, apart from plant varieties.

Creation, operation, regulation and dissolution of types of business association.

Insolvency.

Product standards, safety and liability, apart from in relation to food (including packaging and other materials which come into contact with food), agricultural and horticultural products, [<sup>F103</sup>animals and animal products,] seeds, fertilisers and pesticides (and things treated by virtue of any enactment as pesticides).

Consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indications, apart from in relation to food (including packaging and other materials which come into contact with food), agricultural and horticultural products, [<sup>F103</sup>animals and animal products,] seeds, fertilisers and pesticides (and things treated by virtue of any enactment as pesticides).

Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

[<sup>F104</sup>Occupational and personal pension schemes (including schemes which make provision for compensation for loss of office or employment, compensation for loss or diminution of emoluments, or benefits in respect of death or incapacity resulting from injury or disease), apart from schemes for or in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General or Deputy Welsh Ministers [<sup>F105</sup>and schemes for or in respect of members of local authorities].]

Financial markets, including listing and public offers of securities and investments, transfers of securities, insider dealing and money laundering.

Telecommunications, wireless telegraphy (including electromagnetic disturbance), internet services and electronic encryption.

Postal services, post offices and the Post Office, apart from financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices.

Generation, transmission [<sup>F106</sup>, distribution] and supply of electricity <sup>F107</sup> . . . .

Energy conservation, apart from the encouragement of energy efficiency otherwise than by prohibition or regulation.

Coal, including mining and subsidence, apart from land restoration and other environmental matters.

Oil and gas <sup>F108</sup> . . . .

[<sup>F109</sup>Nuclear energy and nuclear installations

[ including nuclear safety and liability for nuclear occurrences;

<sup>F110</sup>(a)

(b) but not including disposal of very low level radioactive waste moved from a site requiring a nuclear site licence]]

Units and standards of weights and measurement and the regulation of trade so far as involving weighing, measuring and quantities.

Industrial Development Advisory Board.

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### Textual Amendments

- F103** Words in Sch. 7 Pt. 1 para. 4 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), **4(1)(2)(a)(b)**
- F104** Sch. 7 Pt. 1: exception inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 4**
- F105** Words in Sch. 7 Pt. 1 para. 4 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), **art. 4(1)(3)**
- F106** Words in Sch. 7 Pt. 1 para. 4 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), **art. 4(1)(4)**
- F107** Words in Sch. 7 Pt. 1 omitted (26.7.2007) by virtue of The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 4**
- F108** Words in Sch. 7 Pt. 1 omitted (26.7.2007) by virtue of The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 4**
- F109** Sch. 7 Pt. 1: exception inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 4**
- F110** Words in Sch. 7 Pt. 1 para. 4 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), **4(1)(5)**

### *Education and training*

- 5 Education, vocational, social and physical training and the careers service. Promotion of advancement and application of knowledge.

*Exception—*

Research Councils.

### *Environment*

- 6 Environmental protection, including pollution, nuisances and hazardous substances. <sup>[<sup>F111</sup>Prevention, reduction, collection, management, treatment and disposal of waste.]</sup> Land drainage and land improvement. Countryside and open spaces (including the designation and regulation of national parks and areas of outstanding natural beauty). Nature conservation and sites of special scientific interest. Protection of natural habitats, coast and marine environment (including seabed). Biodiversity. Genetically modified organisms. Smallholdings and allotments. Common land. Town and village greens. Burial and cremation <sup>[<sup>F112</sup>, except coroners' functions].</sup>

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#### Textual Amendments

- F111** Words in Sch. 7 Pt. 1 para. 6 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), **5**
- F112** Words in Sch. 7 Pt. 1 inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 5**

#### *[<sup>F113</sup>Fire and rescue services and fire safety]*

#### Textual Amendments

- F113** Words in Sch. 7 Pt. 1 para. 7 cross-heading 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), **6(1)**

- 7 Fire and rescue services. [<sup>F114</sup>Provision of automatic fire suppression systems in newly constructed and newly converted residential premises.] Promotion of fire safety otherwise than by prohibition or regulation.

#### Textual Amendments

- F114** Words in Sch. 7 Pt. 1 para. 7 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), **6(2)**

#### *Food*

- 8 Food and food products. Food safety (including packaging and other materials which come into contact with food). Protection of interests of consumers in relation to food.
- “Food” includes drink.

#### *Health and health services*

- 9 Promotion of health. Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder. Control of disease. Family planning. Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities. Clinical governance and standards of health care. Organisation and funding of national health service.

#### *Exceptions—*

- Abortion.
- Human genetics, human fertilisation, human embryology, surrogacy arrangements.
- Xenotransplantation.
- Regulation of health professionals (including persons dispensing hearing aids).
- Poisons.

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Misuse of and dealing in drugs.  
Human medicines and medicinal products, including authorisations for use and regulation of prices.  
Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).  
Vaccine damage payments.  
Welfare foods.  
<sup>F115</sup> . . . Health and Safety Executive and Employment Medical Advisory Service and provision made by health and safety regulations.

#### Textual Amendments

**F115** Sch. 7 Pt. 1 para. 9 Exceptions: words in entry omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 22, **Sch. 3** (with Sch. 2)

#### *Highways and transport*

10 Highways, including bridges and tunnels. Streetworks. Traffic management and regulation. Transport facilities and services.

#### *Exceptions—*

[<sup>F116</sup>Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.]

Road freight transport services, including goods vehicles operating licensing.

[<sup>F117</sup>Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads, apart from—

(a) any such regulation which—

(i) relates to schemes for imposing charges in respect of the use or keeping of vehicles on Welsh trunk roads (“trunk road charging schemes”), or

(ii) relates to the descriptions of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training, unless the regulation is the setting of technical standards for construction or equipment of motor vehicles or trailers which differ from the standards that would or might otherwise apply to them; and

(b) regulation of the use of motor vehicles and trailers carrying animals for the purpose of protecting human, animal or plant health, animal welfare or the environment.]

Road traffic offences.

Driver licensing.

Driving instruction.

Insurance of motor vehicles.

Drivers' hours.

[<sup>F118</sup>Traffic regulation on special roads, apart from regulation relating to trunk road charging schemes.]

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Pedestrian crossings.

Traffic signs, apart from the placing and maintenance of traffic signs relating to trunk road charging schemes.

Speed limits.]

International road transport services for passengers.

Public service vehicle operator licensing.

Documents relating to vehicles and drivers for purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.

Vehicle excise duty and vehicle registration.

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) [<sup>F119</sup>is not made in connection with Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road <sup>F120</sup>.

[<sup>F121</sup>Transport] security.[<sup>F122</sup>, apart from regulation relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training]

Railway heritage.

Aviation, air transport, airports and aerodromes, apart from—

- (a) financial assistance to providers or proposed providers of air transport services or airport facilities or services,
- (b) strategies by the Welsh Ministers or local or other public authorities about provision of air services, and
- (c) regulation of use of aircraft carrying animals for [<sup>F123</sup>the purposes of protecting human, animal [<sup>F124</sup>or plant] health], animal welfare or the environment.

Shipping, apart from—

- (a) financial assistance for shipping services to, from or within Wales, and
- (b) regulation of use of vessels carrying animals [<sup>F123</sup>the purposes of protecting human, animal [<sup>F124</sup>or plant] health], animal welfare or the environment.

Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.

Technical and safety standards of vessels.

Harbours, docks, piers and boatslips,[<sup>F125</sup> apart from—

- (a) those used or required wholly or mainly for the fishing industry, for recreation, or for communication between places in Wales (or for two or more of those purposes), and
- (b) regulation for the purposes of protecting human, animal [<sup>F124</sup>or plant] health, animal welfare or the environment.]

Carriage of dangerous goods (including transport of radioactive material).

[<sup>F126</sup>Technical specifications for fuel for use in internal combustion engines.]]

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### Textual Amendments

- F116** Sch. 7 Pt. 1: exception inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 6**
- F117** Sch. 7 Pt. 1 para. 10: exception beginning "Regulation of the construction and equipment of motor vehicles" 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), **7(1)(2)**
- F118** Sch. 7 Pt. 1 para. 10: exceptions beginning "Traffic regulation on special roads" 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), **7(1)(3)**
- F119** Sch. 7 Pt. 1 para. 10: exception beginning "Provision and regulation of railway services" para. (c) 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), **7(1)(4)**
- F120** OJ No. L315, 3.12.2007, p. 1.
- F121** Words in Sch. 7 Pt. 1 substituted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 6**
- F122** Sch. 7 Pt. 1 para. 10: words in exception "Transport security" 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), **7(1)(5)**
- F123** Words in Sch. 7 Pt. 1 substituted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 6**
- F124** Sch. 7 Pt. 1 para. 10: words in exceptions beginning "Aviation", "Shipping", "Harbours" 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), **7(1)(6)**
- F125** Words in Sch. 7 Pt. 1 substituted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 6**
- F126** Sch. 7 Pt. 1 para. 10: exception 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), **7(1)(7)**

### *Housing*

- 11 <sup>[F127]</sup>Housing. Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits.] Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes.

### Textual Amendments

- F127** Words in Sch. 7 Pt. 1 substituted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 7**

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### *Local government*

- 12 Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

“Local authorities” does not include police authorities.

#### *Exceptions—*

- Local government franchise.
- Electoral registration and administration.
- Registration of births, marriages, civil partnerships and deaths.
- Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.
- Anti-social behaviour orders.
- Local land charges, apart from fees.
- Sunday trading.
- Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

### *National Assembly for Wales*

- 13 Complaints about Assembly members (including provision for and about an office or body for investigating such complaints and reporting outcome of investigations). Assembly Commission. Salaries, allowances, pensions and gratuities for and in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers. Register of interests of Assembly members and the Counsel General. Meaning of Welsh words and phrases in Assembly Measures and Acts of the Assembly, in subordinate legislation made under Assembly Measures and Acts of the Assembly and in other subordinate legislation if made by the Welsh Ministers, the First Minister or the Counsel General. Private legislation in the Assembly. Financial assistance for political groups to which Assembly members belong. The Welsh Seal. Arrangements for the printing of Acts of the Assembly, of subordinate legislation made under Assembly Measures and Acts of the Assembly and of other subordinate legislation if made by the Welsh Ministers, the First Minister or the Counsel General.

### *Public administration*

- 14 Public Services Ombudsman for Wales. [<sup>F128</sup>Auditor General for Wales.]. Audit, examination, regulation and inspection of auditable public authorities. Inquiries [<sup>F129</sup>in respect of matters in relation to which the Welsh Ministers, the First Minister or the Counsel General exercise functions]. Equal opportunities in relation to equal opportunity public authorities. Access to information held by open access public authorities. The following are “auditable public authorities” and “equal opportunity public authorities”—
- (a) the Assembly,
  - (b) the Assembly Commission,
  - (c) the Welsh Assembly Government,
  - (d) persons who exercise functions of a public nature and in respect of whom the Welsh Ministers exercise functions,



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- (e) persons who exercise functions of a public nature and at least half of the cost of whose functions in relation to Wales are funded (directly or indirectly) by the Welsh Ministers, and
- (f) persons established by enactment and having power to issue a precept or levy.

The following are “open access public authorities”—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Assembly Government, and
- (d) authorities which are Welsh public authorities, within the meaning of the Freedom of Information Act 2000 (c. 36).

*Exception—*

Regulation of the profession of auditor.

#### **Textual Amendments**

**F128** Sch. 7 Pt. 1 para. 14 words inserted (22.5.2011) by 2011 c. 4, s. 29, **Sch. 6 para. 6**

**F129** Words in Sch. 7 Pt. 1 inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 8**

#### *Social welfare*

- 15 Social welfare including social services. Protection and well-being of children (including adoption and fostering) [<sup>F130</sup>and of young adults]. Care of [<sup>F131</sup>children,] young adults, vulnerable persons and older persons, including care standards. Badges for display on motor vehicles used by disabled persons.

*Exceptions—*

Child support.

[<sup>F132</sup>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.]

Tax credits.

Child benefit and guardian's allowance.

Social security.

[<sup>F133</sup>Independent Living Funds.

Motability.]

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.

The Children's Commissioner (established under the Children Act 2004 (c. 31)).

Family law and proceedings, apart from—

- (a) [<sup>F134</sup>welfare advice] to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and

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(b) Welsh family proceedings officers.

**Textual Amendments**

- F130** Words in Sch. 7 Pt. 1 para. 15 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), **8(1)(a)**
- F131** Words in Sch. 7 Pt. 1 para. 15 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), **8(1)(b)**
- F132** Sch. 7 Pt. 1 para. 15: exception "Child trust funds" 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), **8(2)(3)**
- F133** Sch. 7 Pt. 1: exceptions inserted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 9**
- F134** Sch. 7 Pt. 1 para. 15: words in exception titled "family law and proceedings" 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), **8(2)(4)**

*Sport and recreation*

16 Sport and recreational activities.

*Exception—*

Betting, gaming and lotteries.

*Tourism*

17 Tourism.

*Town and country planning*

18 Town and country planning, including listed buildings [<sup>F135</sup>and conservation areas]. Caravan sites. Spatial planning. Mineral workings. Urban development. New towns. Protection of visual amenity.

<sup>F136</sup>*Exception—*

Functions of the Infrastructure Planning Commission or any of its members under the Planning Act 2008.]

**Textual Amendments**

- F135** Words in Sch. 7 Pt. 1 substituted (26.7.2007) by The National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007 (S.I. 2007/2143), **art. 10**
- F136** Words in Sch. 7 Pt. 1 para. 18 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), **9**

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### *Water and flood defence*

- 19 Water supply<sup>F137</sup>, water resources management (including reservoirs), water quality and representation of consumers of water and sewerage services. Flood risk management and coastal protection.

*Exceptions—*

Appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales.

Licensing and regulation of any licensed water supplier within the meaning of the Water Industry Act 1991 (c. 56), apart from regulation in relation to licensed activities using the supply system of a water undertaker whose area is wholly or mainly in Wales.]

#### **Textual Amendments**

**F137** Words in *Sch. 7 Pt. 1* substituted (26.7.2007) by [The National Assembly for Wales \(Legislative Competence\) \(Amendment of Schedule 7 to the Government of Wales Act 2006\) Order 2007 \(S.I. 2007/2143\)](#), **art. 11**

### *Welsh language*

- 20 Welsh language

*Exception—*

Use of the Welsh language in courts.

## **PART 2**

### **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 <sup>F138</sup>(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—

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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

[<sup>F139</sup>(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.]

[<sup>F140</sup>(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

**F138** 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)**

**F139** 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)**

**F140** 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.

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- 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.

*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.
- [<sup>F141</sup>(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, 146, 147, 148 and 156(2) to (5);
  - (b) paragraph 8(3) of Schedule 2.]
- [<sup>F142</sup>(c) any provision of Schedule 8, 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
  - (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.
- [<sup>F143</sup>(4) Sub-paragraph (1) does not apply in relation to a provision to which paragraph 2(4) applies.
- (5) 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) 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**

**F141** 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**

**F142** Sch. 7 Pt. 2 para. 5(2)(c) inserted (22.5.2011) by [2011 c. 4, s. 29, Sch. 6 para. 7\(3\)\(a\)](#)

**F143** Sch. 7 Pt. 2 para. 5(4)-(6) inserted (22.5.2011) by [2011 c. 4, s. 29, Sch. 6 para. 7\(3\)\(b\)](#)

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### PART 3

#### EXCEPTIONS FROM PART 2

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

- 6 (1) Part 2 does not prevent a provision of an Act of the Assembly removing or modifying, or conferring power by subordinate legislation to remove or modify, any pre-commencement function of a Minister of the Crown if—
- (a) the Secretary of State consents to the provision, or
  - (b) the provision is incidental to, or consequential on, any other provision contained in the Act of the Assembly.
- (2) Part 2 does not prevent a provision of an Act of the Assembly conferring or imposing, or conferring power by subordinate legislation to confer or impose, any function on a Minister of the Crown if the Secretary of State consents to the provision.

##### *Comptroller and Auditor General*

- 7 Part 2 does not prevent a provision of an Act of the Assembly 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.

##### *Restatement*

- 8 Part 2 does not prevent an Act of the Assembly—
- (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*

- 9 Part 2 does not prevent an Act of the Assembly 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 Act of the Assembly relating to the documents by which such powers may be exercised.

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## SCHEDULE 8

Section 145

### AUDITOR GENERAL FOR WALES

#### *Appointment*

- 1 (1) The Auditor General is to be appointed by Her Majesty on the nomination of the Assembly.
- (2) No nomination is to be made until the Assembly is satisfied that reasonable consultation has been undertaken with such bodies as appear to the Assembly to represent the interests of local government bodies in Wales.
- (3) For the purposes of sub-paragraph (2) a body is a local government body in Wales at any time if at that time it is specified in section 12(1) of the Public Audit (Wales) Act 2004 (c. 23).
- (4) The validity of any act of a person appointed as Auditor General is not affected by any defect in the person's nomination by the Assembly.

#### **Commencement Information**

**I41** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Tenure*

- 2 (1) Subject as follows, a person appointed as Auditor General holds office until the end of the period for which the person was appointed.
- (2) Her Majesty may relieve a person from office as Auditor General before the end of the period for which the person was appointed—
  - (a) at the person's request, or
  - (b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office and of requesting to be relieved of it.
- (3) Her Majesty may remove a person from office as Auditor General before the end of the period for which the person was appointed on the making of a recommendation, on the ground of the person's misbehaviour, that Her Majesty should do so.
- (4) A recommendation for the removal of a person from office as Auditor General may not be made unless—
  - (a) the Assembly has resolved that the recommendation should be made, and
  - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.

#### **Commencement Information**

**I42** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Independence and status*

- 3 (1) The Auditor General is not, in the exercise of any functions, subject to the direction or control of the Assembly or the Welsh Assembly Government.
- (2) The Auditor General is not to be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but the Auditor General is to be taken to be a Crown servant for the purposes of the Official Secrets Act 1989 (c. 6).

#### **Commencement Information**

**I43** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Corporation sole*

- 4 The person for the time being holding the office of Auditor General shall by the name of that office be a corporation sole.

#### **Commencement Information**

**I44** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Documents*

- 5 (1) The application of the seal of the Auditor General is to be authenticated by the signature of—
- (a) the Auditor General, or
  - (b) any member of the Auditor General's staff authorised by the Auditor General (generally or specially) for that purpose.
- (2) A document purporting to be duly executed under the seal of the Auditor General or to be signed on the Auditor General's behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.

#### **Commencement Information**

**I45** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Remuneration*

- 6 (1) The Assembly must—
- (a) pay the Auditor General such salary and any such allowances, and
  - (b) make any such payments towards the provision of superannuation benefits for or in respect of the Auditor General,
- as may be provided for by or under the terms of the Auditor General's appointment.
- (2) The Assembly must pay to or in respect of a person who has ceased to hold office as Auditor General such amounts (if any) by way of—
- (a) pension or gratuities, or
  - (b) provision for those benefits,



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as may have been provided for by or under the terms of the Auditor General's appointment.

- (3) Schedule 1 to the Superannuation Act 1972 (c. 11) (offices to which section 1 of that Act applies) is to continue to have effect with the insertion in the list of “ Offices ” of the entry relating to the Auditor General (originally made by section 91(3) of the Government of Wales Act 1998 (c. 38)).
- (4) The Assembly must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of any person who holds or has ceased to hold office as Auditor General, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (5) Sums required for the making of payments under sub-paragraphs (1), (2) and (4) are to be charged on the Welsh Consolidated Fund.

#### **Commencement Information**

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

#### *Staff*

- 7 (1) The Auditor General may appoint such staff or secure the provision of such services as the Auditor General considers necessary for assisting in the exercise of the Auditor General's functions.
- (2) The staff of the Auditor General are to be appointed on such terms and conditions as the Auditor General may determine.
- (3) The Auditor General must pay the staff such remuneration as may be provided for by or under the terms of their appointment.
- (4) Schedule 1 to the Superannuation Act 1972 (offices to which section 1 of that Act applies) is to continue to have effect with the insertion in the list of “ Other bodies ” of the entry relating to Employment as a member of the staff of the Auditor General (originally made by section 92(5) of the Government of Wales Act 1998).
- (5) The Auditor General must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of any persons who are or have been members of the staff of the Auditor General, and
  - (b) the expenses incurred in administering those pensions, allowances and gratuities.
- (6) No member of the staff of the Auditor General is to be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but each member of the staff of the Auditor General is to be taken to be a Crown servant for the purposes of the Official Secrets Act 1989 (c. 6)

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#### Commencement Information

**I47** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Exercise of functions by staff etc.*

- 8 (1) Any function of the Auditor General may be exercised by—
- (a) a member of the Auditor General's staff, or
  - (b) a person providing services to the Auditor General, who is authorised by the Auditor General for that purpose.
- (2) Any function of the Auditor General may be exercised jointly by the Auditor General and a person providing services to the Auditor General who is authorised by the Auditor General for that purpose.
- (3) Any provision made under sub-paragraph (1) for the exercise of any function does not affect the responsibility of the Auditor General on whose behalf the function is exercised.
- (4) An authority under sub-paragraph (1) to certify or report on accounts (or statements of accounts) within sub-paragraph (5)—
- (a) extends only to accounts (or statements) which the Presiding Officer has certified to the Assembly are accounts (or statements) which the Auditor General is unable to certify, or on which the Auditor General is unable to report, in person, and
  - (b) ceases when the office of Auditor General becomes vacant.
- (5) Accounts (or statements of accounts) are within this sub-paragraph if, in accordance with provision made by or under this or any other Act, they—
- (a) fall to be examined by the Auditor General, and
  - (b) are required to be laid before the Assembly.

#### Commencement Information

**I48** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Special finance provisions*

- 9 (1) Any sums payable by the Auditor General in consequence of a breach, in the performance of any of the Auditor General's functions, of any contractual or other duty are to be charged on the Welsh Consolidated Fund.
- (2) And sub-paragraph (1) applies whether the breach occurs by reason of an act or omission of—
- (a) the Auditor General,
  - (b) a member of the Auditor General's staff, or
  - (c) any other person assisting the Auditor General in the exercise of the Auditor General's functions.

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- (3) The Auditor General may retain income within sub-paragraph (4) (rather than pay it into the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by—
- (a) Part 1 of the Local Government Act 1999 (c. 27) (best value audits and inspections),<sup>F144</sup> . . .
  - (b) Part 2 of the Public Audit (Wales) Act 2004 (c. 23) (local government audit) [<sup>F145</sup>or, so far as the functions relate to local government bodies in Wales, Part 3A of that Act (data matching)]<sup>F146</sup>, or
  - (c) Part 1 of the Local Government (Wales) Measure 2009.]
- (4) The following income is within this sub-paragraph—
- (a) fees charged by the Auditor General by virtue of Part 1 of the Local Government Act 1999 (c. 27),
  - (b) grants made to the Auditor General under section 33(3)(b) of that Act,<sup>F147</sup> . . .
  - (c) fees charged by the Auditor General by virtue of [<sup>F148</sup>the following provisions of the Public Audit (Wales) Act 2004 (c. 23)—
    - (i) Part 2 (including those charged as a result of paragraph 11(3)(c)),
    - (ii) Part 3A (but only those charged to a local government body in Wales)]<sup>F149</sup>, and
  - (d) fees charged by the Auditor General by virtue of Part 1 of the Local Government (Wales) Measure 2009]

<sup>F150</sup>(5) “Local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004.]

#### Textual Amendments

- F144** Word in Sch. 8 para. 9(3)(a) omitted (1.4.2010) by virtue of [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), [art. 2\(2\)\(a\)](#)
- F145** Words in Sch. 8 para. 9(3)(b) inserted (E.W.) (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 74(2), 94, [Sch. 7 para. 5\(2\)](#); S.I. 2008/755, [art. 16](#) (subject to arts. 3-14)
- F146** Sch. 8 para. 9(3)(c) and preceding word inserted (1.4.2010) by [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), [art. 2\(2\)\(b\)](#)
- F147** Word in Sch. 8 para. 9(4)(b) omitted (1.4.2010) by virtue of [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), [art. 2\(2\)\(c\)](#)
- F148** Words in Sch. 8 para. 9(4)(c) substituted (E.W.) (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 74(2), 94, [Sch. 7 para. 5\(3\)](#); S.I. 2008/755, [art. 16](#) (subject to arts. 3-14)
- F149** Sch. 8 para. 9(4)(d) and preceding word inserted (1.4.2010) by [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), [art. 2\(2\)\(d\)](#)
- F150** Words in Sch. 8 para. 9(3)(b) inserted (E.W.) (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 74(2), 94, [Sch. 7 para. 5\(4\)](#); S.I. 2008/755, [art. 16](#) (subject to arts. 3-14)

#### Commencement Information

- I49** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Borrowing*

- 10 The Auditor General may borrow sums in sterling (by way of overdraft or otherwise) to be applied for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet it.

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#### Commencement Information

**I50** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Fees*

- 11 (1) The Auditor General may charge a fee for auditing a person's accounts.
- (2) Where the Auditor General—
- (a) provides services under paragraph 18(3)(b) by carrying out an examination in relation to a person, or
  - (b) provides services under section 145A of the Government of Wales Act 1998 (c. 38) (studies for improving economy etc. in services) at the request of a person,
- the Auditor General may charge the person a fee not exceeding the full cost of providing those services.
- (3) Where the Auditor General—
- (a) provides services to a body under paragraph 20,
  - (b) provides services at the request of a body under section 145B of the Government of Wales Act 1998 (studies at request of educational bodies), or
  - (c) provides services at the request of a body under section 44 of the Public Audit (Wales) Act 2004 (studies at request of local government bodies in Wales),
- the Auditor General must charge that body a fee which covers the full cost of providing those services.

#### Commencement Information

**I51** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Estimates*

- 12 (1) For each financial year the Auditor General must—
- (a) prepare an estimate of the income and expenses of the office of Auditor General, and
  - (b) submit the estimate to the Audit Committee.
- (2) Each estimate must be submitted to the Audit Committee at least five months before the beginning of the financial year to which it relates.
- (3) The Audit Committee must—
- (a) examine each estimate submitted to it, and
  - (b) (having done so) lay the estimate before the Assembly with any modifications which the Audit Committee considers appropriate.
- (4) Before laying an estimate before the Assembly with modifications the Audit Committee must—
- (a) consult the Auditor General, and
  - (b) take into account any representations which the Auditor General may make.

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- (5) Nothing in this paragraph authorises the Audit Committee—
- (a) to examine that part of any estimate which relates to estimated income or expenses of the office of Auditor General to which sub-paragraph (6) applies, or
  - (b) to lay an estimate before the Assembly with modifications relating to such estimated income or expenses.
- (6) This sub-paragraph applies to estimated income or expenses relating to—
- (a) Part 1 of the Local Government Act 1999 (c. 27) (best value audits and inspections),
  - (b) section 33(3)(b) of that Act (grants to the Auditor General),<sup>F151</sup> . . .
  - (c) Part 2 of the Public Audit (Wales) Act 2004 (c. 23) (local government audit), apart from section 44<sup>F152</sup>, or
  - (d) Part 1 of the Local Government (Wales) Measure 2009]

#### Textual Amendments

**F151** Word in Sch. 8 para. 12(6)(b) omitted (1.4.2010) by virtue of [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), **art. 2(3)(a)**

**F152** Sch. 8 para. 12(6)(d) and preceding word inserted (1.4.2010) by [The Local Government \(Wales\) Measure 2009 \(Consequential Modifications\) Order 2010 \(S.I. 2010/212\)](#), **art. 2(3)(b)**

#### Commencement Information

**I52** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### Accounts

- 13 (1) The Auditor General must, for each financial year, prepare accounts in accordance with directions given to the Auditor General by the Treasury.
- <sup>F153</sup>(1A) The directions which the Treasury may give under sub-paragraph (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Auditor General.]
- (2) The directions which the Treasury may give under sub-paragraph (1) include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the accounts are to be prepared, and
  - (c) the additional information (if any) that is to accompany the accounts.

#### Textual Amendments

**F153** Sch. 8 para. 13(1A) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), **ss. 44(4), 52(2)**; S.I. 2010/2703, **art. 2(c)**

#### Commencement Information

**I53** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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### *Auditor*

- 14 (1) The Assembly must appoint an auditor of the accounts of the Auditor General.
- (2) A person is eligible for appointment under this paragraph only if the person—
- (a) is eligible for appointment as a [<sup>F154</sup>statutory auditor under Part 42 of the Companies Act 2006], or
  - (b) is a member of an approved European body of accountants.
- (3) An “approved European body of accountants” is a body of accountants which—
- (a) is established in the United Kingdom or another state which is either a member State or a non-member EEA State, and
  - (b) is for the time being approved by the Welsh Ministers by order.
- (4) “Non-member EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as adjusted by the Protocol signed at Brussels on 17th March 1993) but which is not a member State.
- (5) If a person appointed as the auditor ceases to be a person who could be so appointed—
- (a) the person's appointment is ended, and
  - (b) the person ceases to be the auditor.
- (6) The auditor is to be appointed on such terms and conditions as the Assembly may determine.
- (7) The Auditor General must pay the auditor such remuneration as may be provided for by or under the terms of the auditor's appointment.
- (8) A statutory instrument containing an order under sub-paragraph (3)(b) is subject to annulment in pursuance of a resolution of the Assembly.

#### **Textual Amendments**

**F154** Words in Sch. 8 para. 14(2)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), **Sch. 1 para. 1(vv)** (with arts. 6, 11, 12)

#### **Commencement Information**

**I54** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

### *Audit of accounts*

- 15 (1) The accounts which the Auditor General is required to prepare under paragraph 13 for a financial year must be submitted by the Auditor General (after having signed them) to the auditor appointed under paragraph 14 no later than five months after the end of that financial year.
- (2) The auditor must carry out an audit of any accounts submitted to the auditor under sub-paragraph (1).
- (3) On completing the audit the auditor must—
- (a) certify the accounts, and
  - (b) lay the accounts and the auditor's report on them before the Assembly.

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- (4) The auditor has a right of access at all reasonable times to every document which appears to the auditor to be necessary for the purposes of the audit of the accounts.
- (5) The auditor may—
- (a) require any person holding or accountable for any of those documents to provide any assistance, information or explanation which the auditor reasonably thinks necessary for those purposes, and
  - (b) require [<sup>F155</sup>a relevant person] to provide the auditor, at times specified by the auditor, with accounts of such of the transactions of [<sup>F156</sup>the relevant person] as the auditor may specify.
- [<sup>F157</sup>(5A) In sub-paragraph (5)(b) “relevant person” means—
- (a) the Auditor General, or
  - (b) any person to whose financial affairs and transactions the accounts are to relate by virtue of paragraph 13(1A).]

(6) The auditor—

    - (a) may carry out examinations into the economy, efficiency and effectiveness with which the Auditor General has used resources in discharging the Auditor General's functions, and
    - (b) may lay before the Assembly a report of the results of any such examinations.

(7) For the purposes of carrying out such examinations, the auditor—

    - (a) has a right of access at all reasonable times to every document in the possession, or under the control, of the Auditor General which the auditor reasonably requires for that purpose, and
    - (b) may require any person holding or accountable for any of those documents to provide any assistance, information or explanation which the auditor reasonably thinks necessary for that purpose.

#### Textual Amendments

**F155** Words in Sch. 8 para. 15(5)(b) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 44\(5\)\(a\)\(i\), 52\(2\); S.I. 2010/2703, art. 2\(c\)](#)

**F156** Words in Sch. 8 para. 15(5)(b) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 44\(5\)\(a\)\(ii\), 52\(2\); S.I. 2010/2703, art. 2\(c\)](#)

**F157** Sch. 8 para. 15(5A) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\), ss. 44\(5\)\(b\), 52\(2\); S.I. 2010/2703, art. 2\(c\)](#)

#### Commencement Information

**I55** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Accounting officer*

- 16 (1) The accounting officer for the Wales Audit Office is the Auditor General.
- (2) “The Wales Audit Office” means the Auditor General and the members of the staff of the Auditor General.
- (3) But the Audit Committee may designate a member of the staff of the Auditor General to be the accounting officer if and for so long as —

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- (a) the Auditor General is incapable of discharging the responsibilities of the accounting officer, or
  - (b) the office of Auditor General is vacant.
- (4) The accounting officer for the Wales Audit Office has, in relation to the accounts of the Auditor General and the finances of the Wales Audit Office, the responsibilities which are from time to time specified by the Audit Committee.
- (5) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Wales Audit Office, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

#### **Commencement Information**

**I56** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Access to documents*

- 17 (1) The Auditor General has a right of access at all reasonable times to every document relating to a relevant person which appears to the Auditor General necessary—
- (a) for the purposes of the Auditor General's examination of any auditable accounts,
  - (b) for the purposes of undertaking studies under section 145A (studies for improving economy etc. in services provided by relevant bodies) or 145C (studies relating to registered social landlords) of the Government of Wales Act 1998 (c. 38), or
  - (c) for the purposes of carrying out, in accordance with any provision made by or by virtue of this or any other Act, other examinations or studies into the economy, efficiency and effectiveness with which a person has used resources in discharging the person's functions.
- (2) The documents relating to a relevant person to which the right conferred by sub-paragraph (1) applies include (in particular)—
- (a) a document which is in the possession, or under the control, of a person who has received financial assistance from the relevant person by means of a grant, loan or guarantee or as a result of the taking of an interest in any property or body corporate,
  - (b) a document which is in the possession, or under the control, of a person who has supplied goods or services to the relevant person in pursuance of a contract to which the relevant person was party or has supplied goods or services in pursuance of a relevant sub-contract, and
  - (c) a document of a description specified in an order made by the Welsh Ministers.
- (3) The Auditor General may require a person whom the Auditor General thinks has information of the kind mentioned in sub-paragraph (4)—



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- (a) to give the Auditor General any assistance, information and explanation which the Auditor General thinks necessary for any of the purposes mentioned in sub-paragraph (1),
  - (b) to attend before the Auditor General in person to give the assistance, information or explanation, or to produce any document which is in the possession, or under the control, of the person and to which the right conferred by that sub-paragraph applies, or
  - (c) to provide any facility which the Auditor General may reasonably require for any of the purposes mentioned in that sub-paragraph.
- (4) The information referred to in sub-paragraph (3) is information which relates to—
- (a) a relevant person,
  - (b) a document to which the right conferred by sub-paragraph (1) applies, or
  - (c) a person who possesses or controls such a document.
- (5) The Auditor General may, for the purposes of an examination of any auditable accounts, require a relevant person to provide the Auditor General, at times specified by the Auditor General, with accounts of such of the person's transactions as the Auditor General may specify.
- (6) For the purposes of sub-paragraph (2)(b), a contract is a relevant sub-contract if its performance fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the relevant person in another contract.
- (7) In this paragraph “auditable accounts” means any accounts or statement of accounts falling to be examined by the Auditor General in accordance with any provision made by or by virtue of this or any other Act.
- (8) In this paragraph “relevant person” means—
- (a) in a case within paragraph (a) of sub-paragraph (1) relating to any accounts which the Welsh Ministers are directed to prepare under section 131, the Welsh Ministers, the Counsel General and any person to whose financial affairs and transactions the accounts are to relate by virtue of subsection (3) of that section,
  - (b) in a case within that paragraph relating to any accounts which the Assembly Commission is directed to prepare under section 137, the Assembly Commission and any person to whose financial affairs and transactions the accounts are to relate by virtue of subsection (2) of that section,
  - [<sup>F158</sup>(ba) in a case within that paragraph relating to any accounts which the Public Services Ombudsman for Wales is directed to prepare under paragraph 16 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, the Ombudsman and any person to whose financial affairs and transactions the accounts are to relate by virtue of sub-paragraph (1A) of that paragraph,]
  - (c) in a case within that paragraph relating to any other auditable accounts, the person by whom the accounts are prepared, and
  - (d) in any other case, a person to whom the study or examination relates.
- (9) No order may be made under sub-paragraph (2)(c) unless the Welsh Ministers have consulted—
- (a) the Treasury, and
  - (b) the Auditor General.

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- (10) A statutory instrument containing an order under sub-paragraph (2)(c) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

**F158** Sch. 8 para. 17(8)(ba) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), [ss. 44\(6\), 52\(2\)](#); S.I. 2010/2703, [art. 2\(c\)](#)

#### Commencement Information

**I57** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Other powers*

- 18 (1) Where—
- (a) the Welsh Ministers are entitled to appoint the auditor of the accounts of any person (other than the Auditor General), and
  - (b) the Auditor General would not otherwise be eligible to be appointed as auditor of those accounts,
- the Welsh Ministers may appoint the Auditor General to be auditor of those accounts.
- (2) If in such a case the auditor is to be appointed annually, the Welsh Ministers may appoint the Auditor General—
- (a) for a year,
  - (b) for two or more years, or
  - (c) indefinitely until further exercise of the power of appointment.
- (3) The Auditor General may—
- (a) examine, certify or report on a person's accounts, or
  - (b) carry out examinations into the economy, efficiency and effectiveness with which a person has used resources in discharging the person's functions,
- if provision is made for the Auditor General to do so by an agreement entered into by the person with either the Welsh Ministers or a Minister of the Crown.
- (4) In determining how to exercise functions under paragraph (b) of sub-paragraph (3) the Auditor General must take into account the Audit Committee's views as to the examinations which the Auditor General should carry out under that paragraph.
- (5) If an Order in Council under section 58 transfers a function of preparing accounts to the Welsh Ministers, the Secretary of State may by order provide for the transfer to the Auditor General of any function of the Comptroller and Auditor General in relation to those accounts.
- (6) An order under sub-paragraph (5) 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 in connection with the provision made by the order.
- (7) An Order in Council under section 58 may include any provision that may be included in an order under sub-paragraph (5).

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- (8) If the Treasury designate the Welsh Ministers in respect of a financial year for the purposes of section 10 of the Government Resources and Accounts Act 2000 (c. 20) (whole of government accounts), the Auditor General must carry out the audit required by subsection (2)(c) of that section.
- (9) Where the Treasury make arrangements with the Welsh Ministers under subsection (8) of that section, the Auditor General must carry out the audit required by paragraph (c) of that subsection.
- (10) No order under sub-paragraph (5) 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.
- (11) A statutory instrument containing an order under sub-paragraph (5) 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**

**I58** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Reports in public interest*

- 19 (1) If the Auditor General thinks that it would be in the public interest to bring to the public's attention a matter coming to the Auditor General's notice in the course of an examination or study to which sub-paragraph (2) applies, the Auditor General may prepare a report on that matter.
- (2) This sub-paragraph applies to—
  - (a) an examination of auditable accounts (other than accounts falling to be examined under paragraph 18(3)(a)), and
  - (b) an examination or study under section 135 or 140 of this Act, section 145 of the Government of Wales Act 1998 (c. 38) (examinations into use of resources by body specified in Schedule 17 to that Act) or section 145A of that Act (studies for improving economy etc. in services provided by relevant bodies), except one undertaken at the request of the body or bodies to which it relates.
- (3) The Auditor General must, as soon as practicable after preparing a report under sub-paragraph (1), lay the report before the Assembly.
- (4) In this paragraph "auditable accounts" has the same meaning as in paragraph 17.

#### **Commencement Information**

**I59** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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*Certification of claims, returns etc.*

- 20 (1) The Auditor General must, if so required by a relevant body, make arrangements for—
- (a) certifying any claim or return in respect of a grant made or subsidy paid to that body by the Welsh Ministers, any Minister of the Crown or any public authority,
  - (b) certifying any account submitted by that body to the Welsh Ministers, any Minister of the Crown or any public authority with a view to obtaining payment under a contract between that body and the Welsh Ministers, the Minister of the Crown or the public authority,
  - (c) certifying that body's calculation under paragraph 5(6)(a) of Schedule 8 to the Local Government Finance Act 1988 (c. 41) of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated, or
  - (d) certifying any return by that body which, by or under any enactment, is required or authorised to be certified by the body's auditor or under arrangements made by the Auditor General.
- (2) In this paragraph—
- “public authority” means a body established by or under [F<sup>5</sup>EU] Treaties or any enactment, and
- “relevant body” means at any time—
- (a) a body whose accounts, or statements of accounts, are auditable accounts within the meaning of paragraph 17(7), or
  - (b) a body which at that time is a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004 (c. 23)).

**Textual Amendments**

**F5** 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

**Commencement Information**

**I60** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Ancillary powers*

- 21 (1) Arrangements may be made between the Auditor General and a relevant authority—
- (a) for any function of the authority to be exercised by, or by a member of the staff of, the Auditor General, or
  - (b) for administrative, professional or technical services to be provided by the Auditor General to the authority or by the authority to the Auditor General.
- (2) Any arrangements under sub-paragraph (1)(a) for the exercise of any function of a relevant authority do not affect the responsibility of the relevant authority on whose behalf the function is exercised.
- (3) If the condition in sub-paragraph (4) is met, the Auditor General and—
- (a) a relevant authority,

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- (b) a qualified auditor, or
- (c) an accountancy body,

may make arrangements to co-operate with, and give assistance to, each other.

(4) The condition is that—

- (a) the Auditor General considers that to do so would facilitate, or be conducive to, the exercise of the Auditor General's functions, and
- (b) the relevant authority, qualified auditor or accountancy body in question considers that to do so would facilitate, or be conducive to, the exercise of the functions of that authority, person or body.

(5) The Auditor General may make arrangements under this paragraph on such terms and conditions, including conditions as to payment, as the Auditor General thinks fit.

(6) In this paragraph—

“accountancy body” means—

(a) a body which is a recognised supervisory body for the purposes of [F159Part 42 of the Companies Act 2006], or

(b) an approved European body of accountants,

“approved European body of accountants” means a body of accountants which—

(a) is established in the United Kingdom or another state which is either a member State or a non-member EEA State, and

(b) is for the time being approved by the Welsh Ministers by order,

“non-member EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as adjusted by the Protocol signed at Brussels on 17th March 1993) but which is not a member State,

“qualified auditor” means a person eligible to be appointed as an auditor under section 14 of the Public Audit (Wales) Act 2004 (c. 23) (auditor appointed in respect of local government bodies in Wales), and

“relevant authority” means any Minister of the Crown or government department, any public authority (including any local authority) or the holder of any public office.

(7) A statutory instrument containing an order under sub-paragraph (6) is subject to annulment in pursuance of a resolution of the Assembly.

#### Textual Amendments

**F159** Words in Sch. 8 para. 21(6) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), [Sch. 1 para. 34](#) (with arts. 6, 11, 12)

#### Commencement Information

**I61** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## SCHEDULE 9

Section 149

### DEVOLUTION ISSUES

#### PART 1

##### PRELIMINARY

- 1 (1) In this Schedule “devolution issue” means—
- (a) a question whether an Assembly Measure or Act of the Assembly, or any provision of an Assembly Measure or Act of the Assembly, is within the Assembly's legislative competence,
  - (b) a question whether any function (being a function which any person has purported, or is proposing, to exercise) is exercisable by the Welsh Ministers, the First Minister or the Counsel General,
  - (c) a question whether the purported or proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General is, or would be, within the powers of the Welsh Ministers, the First Minister or the Counsel General (including a question whether a purported or proposed exercise of a function is, or would be, outside those powers by virtue of section 80(8) or 81(1)),
  - (d) a question whether there has been any failure to comply with a duty imposed on the Welsh Ministers, the First Minister or the Counsel General (including any obligation imposed by virtue of section 80(1) or (7)), or
  - (e) a question of whether a failure to act by the Welsh Ministers, the First Minister or the Counsel General is incompatible with any of the Convention rights.
- (2) In this Schedule “civil proceedings” means proceedings other than criminal proceedings.

##### Commencement Information

**I62** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 A devolution issue is not to be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

##### Commencement Information

**I63** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## PART 2

### PROCEEDINGS IN ENGLAND AND WALES

#### *Application of Part 2*

- 3 This Part applies in relation to devolution issues in proceedings in England and Wales.

#### **Commencement Information**

**I64** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Institution of proceedings*

- 4 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General or the Counsel General.
- (2) The Counsel General may defend any such proceedings instituted by the Attorney General.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

#### **Commencement Information**

**I65** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Notice of devolution issue*

- 5 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Counsel General (unless a party to the proceedings).
- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

#### **Commencement Information**

**I66** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Reference of devolution issue to High Court or Court of Appeal*

- 6 A magistrates' court may refer any devolution issue which arises in civil proceedings before it to the High Court.

#### **Commencement Information**

**I67** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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- 7 (1) A court may refer any devolution issue which arises in civil proceedings before it to the Court of Appeal.
- (2) Sub-paragraph (1) does not apply—
- (a) to a magistrates' court, the Court of Appeal or the Supreme Court, or
  - (b) to the High Court if the devolution issue arises in proceedings on a reference under paragraph 6.

**Commencement Information**

**I68** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 8 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.

**Commencement Information**

**I69** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 9 A court, other than the Court of Appeal or the Supreme Court, may refer any devolution issue which arises in criminal proceedings before it to—
- (a) the High Court if the proceedings are summary proceedings, or
  - (b) the Court of Appeal if the proceedings are proceedings on indictment.

**Commencement Information**

**I70** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References from Court of Appeal to Supreme Court*

- 10 The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7, 8 or 9) to the Supreme Court.

**Commencement Information**

**I71** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Appeals from superior courts to Supreme Court*

- 11 An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 6, 7, 8 or 9 lies to the Supreme Court but only—
- (a) with permission of the court from which the appeal lies, or
  - (b) failing such permission, with permission of the Supreme Court.



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**Commencement Information**

**I72** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 3**

PROCEEDINGS IN SCOTLAND

*Application of Part 3*

12 This Part applies in relation to devolution issues in proceedings in Scotland.

**Commencement Information**

**I73** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Institution of proceedings*

- 13 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Scotland.
- (2) The Counsel General may defend any such proceedings instituted by the Advocate General for Scotland.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

**Commencement Information**

**I74** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Intimation of devolution issue*

- 14 (1) A court or tribunal must order intimation of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Scotland and the Counsel General (unless a party to the proceedings).
- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

**Commencement Information**

**I75** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Reference of devolution issue to higher court*

- 15 A court, other than any court consisting of three or more judges of the Court of Session or the Supreme Court, may refer any devolution issue which arises in civil proceedings before it to the Inner House of the Court of Session.

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**Commencement Information**

**I76** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 16 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.

**Commencement Information**

**I77** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 17 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

**Commencement Information**

**I78** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References from superior courts to Supreme Court*

- 18 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 15 or 16) to the Supreme Court.

**Commencement Information**

**I79** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 19 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 17) to the Supreme Court.

**Commencement Information**

**I80** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Appeals from superior courts to Supreme Court*

- 20 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 15 or 16 lies to the Supreme Court.

**Commencement Information**

**I81** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 21 An appeal against a determination of a devolution issue by—

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- (a) a court consisting of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 17), or
- (b) a court consisting of three or more judges of the Court of Session from which there is no appeal to the Supreme Court apart from this paragraph, lies to the Supreme Court, but only with permission of the court from which the appeal lies or, failing such permission, with permission of the Supreme Court.

**Commencement Information**

**I82** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

**PART 4**

PROCEEDINGS IN NORTHERN IRELAND

*Application of Part 4*

- 22 This Part applies in relation to devolution issues in proceedings in Northern Ireland.

**Commencement Information**

**I83** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Institution of proceedings*

- 23 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Northern Ireland.
- (2) The Counsel General may defend any such proceedings instituted by the Advocate General for Northern Ireland.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

**Commencement Information**

**I84** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Notice of devolution issue*

- 24 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Northern Ireland and the Counsel General (unless a party to the proceedings).
- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

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**Commencement Information**

**I85** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Reference of devolution issue to Court of Appeal*

- 25 A court, other than the Court of Appeal in Northern Ireland or the Supreme Court, may refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.

**Commencement Information**

**I86** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 26 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference.

**Commencement Information**

**I87** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References from Court of Appeal to Supreme Court*

- 27 The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the Supreme Court.

**Commencement Information**

**I88** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Appeals from Court of Appeal to Supreme Court*

- 28 An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 25 or 26 lies to the Supreme Court but only—
- (a) with permission of the Court of Appeal in Northern Ireland, or
  - (b) failing such permission, with permission of the Supreme Court.

**Commencement Information**

**I89** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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## PART 5

### GENERAL

#### *Direct references to Supreme Court*

- 29 (1) The relevant officer may require any court or tribunal to refer to the Supreme Court any devolution issue which has arisen in any proceedings before it to which that person is a party.
- (2) In sub-paragraph (1) “the relevant officer” means—
- (a) in relation to proceedings in England and Wales, the Attorney General or 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.

#### **Commencement Information**

**I90** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 30 (1) The Attorney General or the Counsel General may refer to the Supreme Court any devolution issue which is not the subject of proceedings.
- (2) Where a reference is made under sub-paragraph (1) by the Attorney General in relation to a devolution issue which relates to the proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General—
- (a) the Attorney General must notify the Counsel General of that fact, and
  - (b) the function must not be exercised by the Welsh Ministers, the First Minister or the Counsel General in the manner proposed during the period beginning with the receipt of the notification and ending with the reference being decided or otherwise disposed of.

#### **Commencement Information**

**I91** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

#### *Costs*

- 31 (1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.
- (2) In deciding any such question the court or tribunal may award the whole or part of the additional expense as costs or expenses to the party who incurred it (whatever the decision on the devolution issue).
- (3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 5, 14 or 24.

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**Commencement Information**

**I92** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Procedure of courts and tribunals*

- 32 Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this Schedule including, in particular, provision—
- (a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred,
  - (b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule, and
  - (c) for determining the manner in which and the time within which any notice or intimation is to be given.

**Commencement Information**

**I93** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*References to be for decision*

- 33 Any function conferred by this Schedule to refer a devolution issue to a court is to be construed as a function of referring the issue to the court for decision.

**Commencement Information**

**I94** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

SCHEDULE 10

Section 160

MINOR AND CONSEQUENTIAL AMENDMENTS

*Statutory Instruments Act 1946 (c. 36)*

- 1 The Statutory Instruments Act 1946 is amended as follows.

**Commencement Information**

**I95** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 In section 1 (definition of “statutory instrument”), for subsection (1A) substitute—
- “(1A) Where by any Act power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on the Welsh Ministers and the power is expressed to be exercisable by statutory instrument, any document by which that power is exercised shall be known

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as a “statutory instrument” and the provisions of this Act shall apply to it accordingly.”

#### Commencement Information

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

3 After section 11 insert—

#### “11A Application in relation to Wales

- (1) References in this Act to any Act include references to any Measure or Act of the National Assembly for Wales.
- (2) Sections 4 to 7 and 8(1)(b) apply as if the references in them to—
  - (a) Parliament,
  - (b) either or each House of Parliament, or
  - (c) both Houses of Parliament,include references to the National Assembly for Wales.
- (3) In the application of subsection (1) of section 4 by virtue of subsection (2), the reference to the Speaker of the House of Commons and the Speaker of the House of Lords is to the Presiding Officer of the National Assembly for Wales.
- (4) Where—
  - (a) by any Act it is provided that any statutory instrument shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales, and
  - (b) a copy of the instrument is not laid before that Assembly at least 21 days before the instrument comes into operation,notification shall be sent to the Presiding Officer of that Assembly when a copy of the instrument is laid before that Assembly drawing attention to the fact that a copy of it has not been laid before that Assembly at least 21 days before it comes into operation and explaining why.
- (5) In the application of section 5 by virtue of subsection (2)—
  - (a) the reference in subsection (1) of that section to a resolution that an Address be presented praying that the instrument be annulled is to a resolution that the instrument be annulled,
  - (b) in a case where the instrument was made by the Welsh Ministers alone, the power in that subsection of Her Majesty to revoke the instrument by Order in Council is a power of the Welsh Ministers to revoke it by order made by statutory instrument which is to be laid before the National Assembly for Wales after being made, and
  - (c) the reference in subsection (2) of that section to an Act containing provisions of the kind mentioned in that subsection is to an Act which contains a power in relation to which such provisions apply by virtue of the Government of Wales Act 2006.
- (6) In the application of section 6 by virtue of subsection (2) the reference in subsection (2) of that section to an Act which contains provisions of the kind

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mentioned in that subsection is to an Act which contains a power in relation to which such provisions apply by virtue of the Government of Wales Act 2006.

(7) In the application of section 7 by virtue of subsection (2) the reference in subsection (1) of that section to any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days is to any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.

(8) References in this Act to the Welsh Ministers, other than the second reference in subsection (5)(b), include the First Minister for Wales and the Counsel General to the Welsh Assembly Government.”

#### Commencement Information

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

#### *Laying of Documents before Parliament (Interpretation) Act 1948 (c. 59)*

4 In section 1 of the Laying of Documents before Parliament (Interpretation) Act 1948 (meaning of references to laying before Parliament), after subsection (1) insert—

“(1A) A reference in any enactment to laying any document before the National Assembly for Wales is (unless the contrary intention appears) to be construed as a reference to the taking, during any time when that Assembly is not dissolved, of such action as is specified in the standing orders of that Assembly as constituting the laying of a document before that Assembly, even if the action so specified consists (wholly or partly) of action capable of being taken when that Assembly is in recess.”

#### Commencement Information

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

#### *Defamation Act 1952 (c. 66)*

5 In section 10 of the Defamation Act 1952 (limitation on privilege at elections), after “local government authority” insert “, to the National Assembly for Wales,”.

#### Commencement Information

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

#### *Defamation Act (Northern Ireland) 1955 (c. 11 (N.I.))*

6 In section 10(1) of the Defamation Act (Northern Ireland) 1955 (limitation on privilege at elections), after “Scottish Parliament” insert “ or to the National Assembly for Wales ”.



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**Commencement Information**

**I100** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Public Records Act 1958 (c. 51)*

- 7 In the First Schedule to the Public Records Act 1958 (definition of “public records”), in the following provisions, for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”
- (a) paragraph 2(2)(e),
  - (b) paragraph 5,
  - (c) paragraph 6, and
  - (d) paragraph 7(1).

**Commencement Information**

**I101** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Parliamentary Commissioner Act 1967 (c. 13)*

- 8 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), in the Note relating to the Environment Agency and the Note relating to the Forestry Commission, for “the Government of Wales Act 1998” substitute “ the Government of Wales Act 2006 ”.

**Commencement Information**

**I102** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Pensions (Increase) Act 1971 (c. 56)*

- 9 In Part 2 of Schedule 2 to the Pensions (Increase) Act 1971 (official pensions), in paragraph 38B, for “section 18(2)(b) of the Government of Wales Act 1998” substitute “ section 20(4)(b) or section 53(4)(b) of the Government of Wales Act 2006 ”.

**Commencement Information**

**I103** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Local Government Act 1974 (c. 7)*

- 10 In section 27(1) of the Local Government Act 1974 (provisions relating to complaints)—
- (a) in paragraph (a), after “including” insert “ the Welsh Ministers, the National Assembly for Wales Commission or the ”, and
  - (b) in paragraph (b), for “National Assembly for Wales” (in both places) substitute “ Welsh Ministers ”.

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**Commencement Information**

**I104** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Interpretation Act 1978 (c. 30)*

11 In the Interpretation Act 1978, after section 23A insert—

**“23B Measures and Acts of the National Assembly for Wales etc.**

- (1) Subject as follows, the provisions of this Act—
  - (a) apply to a Measure or Act of the National Assembly for Wales as they apply to an Act, and
  - (b) apply to an instrument made under a Measure or Act of the National Assembly for Wales as they apply to other subordinate legislation.
- (2) Sections 1 to 3 do not apply to a Measure or Act of the National Assembly for Wales.
- (3) In this Act references to an enactment include an enactment comprised in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.
- (4) In the application of this Act to a Measure or Act of the National Assembly for Wales, references to the passing of an Act or an enactment are to be read as references to the enactment of the Measure or Act.
- (5) Section 4(b) does not apply to a Measure of the National Assembly for Wales; but where such a Measure makes no provision for the coming into force of a provision contained in it, that provision comes into force at the beginning of the day on which the Measure is approved by Her Majesty in Council.”

**Commencement Information**

**I105** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Local Government, Planning and Land Act 1980 (c. 65)*

12 In paragraph 5 of Schedule 31 to the Local Government, Planning and Land Act 1980 (financial provisions relating to urban development corporations: guarantees), for sub-paragraph (3) substitute—

- “(3) Any sums required for fulfilling a guarantee under this paragraph shall be charged on and issued out of—
- (a) the Consolidated Fund, if required by the Treasury, or
  - (b) the Welsh Consolidated Fund, if required by the Welsh Ministers.”

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*Mental Health Act 1983 (c. 20)*

- 13 In section 141(9)(b) of the Mental Health Act 1983 (application to the National Assembly for Wales), after “National Assembly for Wales” insert “ Commission ”.

**Commencement Information**

**I106** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*National Audit Act 1983 (c. 44)*

- 14 The National Audit Act 1983 is amended as follows.

**Commencement Information**

**I107** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 15 (1) Section 6 (departments, authorities and bodies subject to examinations by the Comptroller and Auditor General) is amended as follows.

- (2) In subsection (3), for paragraph (aa) substitute—

“(aa) the Welsh Ministers;  
(ab) the National Assembly for Wales Commission;”.

- (3) After that subsection insert—

“(3A) Before carrying out an examination under this section in respect of the Welsh Ministers or the National Assembly for Wales Commission, the Comptroller and Auditor General shall—

- (a) consult the Auditor General for Wales, and  
(b) take into account any relevant work done or being done by the Auditor General for Wales.”

**Commencement Information**

**I108** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 16 (1) Section 8 (right to obtain documents and information) is amended as follows.

- (2) In subsection (1), after “below” insert “ and except in relation to an examination under section 6 above in respect of the Welsh Ministers or the National Assembly for Wales Commission ”.

- (3) After subsection (2) insert—

“(3) For the purpose of enabling an examination under section 6 above to be carried out in respect of the Welsh Ministers or the National Assembly for Wales Commission the Comptroller and Auditor General—

- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of any of the persons mentioned in subsection (4) below as may be reasonably required for that purpose, and

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- (b) shall be entitled to require from any person holding or accountable for any of those documents such information and explanation as are reasonably necessary for that purpose.
- (4) The persons referred to in subsection (3)(a) above are—
  - (a) the Welsh Ministers,
  - (b) the National Assembly for Wales Commission,
  - (c) any other person audited by the Auditor General for Wales other than a Welsh NHS body (within the meaning given in section 60 of the Public Audit (Wales) Act 2004 (c. 23)), and
  - (d) the Auditor General for Wales.
- (5) Before acting in reliance on subsection (3) above the Comptroller and Auditor General shall—
  - (a) consult the Auditor General for Wales, and
  - (b) take into account any relevant work done or being done by the Auditor General for Wales.”

**Commencement Information**

**I109** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 17 (1) Section 9 (reports to House of Commons) is amended as follows.
- (2) The existing provision is re-numbered as subsection (1).
- (3) After that subsection insert—

“(2) If the Comptroller and Auditor General reports the results of an examination carried out under section 6 above in respect of the Welsh Ministers or the National Assembly for Wales Commission to the House of Commons, the Comptroller and Auditor General shall at the same time lay a report of the results of the examination before the National Assembly for Wales.”

**Commencement Information**

**I110** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Insolvency Act 1986 (c. 45)*

- 18 In section 427(6B)(b) of the Insolvency Act 1986 (application to the National Assembly for Wales), for “section 12(2) of the Government of Wales Act 1998” substitute “ section 16(2) of the Government of Wales Act 2006 ”.

**Commencement Information**

**I111** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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*Public Order Act 1986 (c. 64)*

- 19 In section 26(1) of the Public Order Act 1986 (saving for reports of parliamentary proceedings), after “Scottish Parliament” insert “ or in the National Assembly for Wales ”.

**Commencement Information**

**I112** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Finance Act 1987 (c. 16)*

- 20 In section 55(1)(c) of the Finance Act 1987 (exemption from stamp duty for the National Assembly for Wales), for “National Assembly for Wales” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government or the National Assembly for Wales Commission ”.

**Commencement Information**

**I113** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Local Government Finance Act 1988 (c. 41)*

- 21 In Schedule 8 to the Local Government Finance Act 1988 (non-domestic rating: pooling), after paragraph 15 insert—

*“Source of payments by Welsh Ministers*

- 16 Sums required for the making of payments by the Welsh Ministers under this Part of this Schedule are to be charged on the Welsh Consolidated Fund.”

**Commencement Information**

**I114** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Copyright, Designs and Patents Act 1988 (c. 48)*

- 22 The Copyright, Designs and Patents Act 1988 is amended as follows.

**Commencement Information**

**I115** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 23 In section 12(9) (duration of copyright in literary, dramatic, musical or artistic works), for “166B” substitute “ 166D ”.

**Commencement Information**

**I116** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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- 24 In section 49 (public records), for “the Government of Wales Act 1998” substitute “the Government of Wales Act 2006”.

**Commencement Information**

**I117** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

- 25 In section 153(2) (qualification for copyright protection), for “166B” substitute “166D”.

**Commencement Information**

**I118** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

- 26 (1) Section 163 (Crown copyright) is amended as follows.  
 (2) Omit subsection (1A).  
 (3) In subsection (6), for “166B” substitute “166D”.

**Commencement Information**

**I119** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

- 27 (1) Section 164 (copyright in Acts and Measures) is amended as follows.  
 (2) In subsection (1), after “Scottish Parliament,” insert “ Measure of the National Assembly for Wales, Act of the National Assembly for Wales, ”.  
 (3) In subsection (2), for the words after “subsists” substitute—  
     “(a) in the case of an Act or a Measure of the General Synod of the Church of England, until the end of the period of 50 years from the end of the calendar year in which Royal Assent was given, and  
     (b) in the case of a Measure of the National Assembly for Wales, until the end of the period of 50 years from the end of the calendar year in which the Measure was approved by Her Majesty in Council.”

**Commencement Information**

**I120** This provision in force immediately after “the 2007 election” by s. 161(1) (subject to s. 161(4)(5))

- 28 After section 166B insert—

**“166C Copyright in proposed Measures of the National Assembly for Wales**

- (1) Copyright in every proposed Assembly Measure introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.  
 (2) Copyright under this section subsists from the time when the text of the proposed Assembly Measure is handed in to the Assembly for introduction—

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- (a) until the proposed Assembly Measure is approved by Her Majesty in Council, or
  - (b) if the proposed Assembly Measure is not approved by Her Majesty in Council, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.
- (3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.
- (4) No other copyright, or right in the nature of copyright, subsists in a proposed Assembly Measure after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a proposed Assembly Measure which, not having been approved by Her Majesty in Council, is later reintroduced into the Assembly.

#### **166D Copyright in Bills of the National Assembly for Wales**

- (1) Copyright in every Bill introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.
- (2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—
- (a) until the Bill receives Royal Assent, or
  - (b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.
- (3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.
- (4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly.”

#### **Commencement Information**

**I121** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 29 (1) Section 178 (minor definitions) is amended as follows.
- (2) In the definition of “the Crown”, after “the Scottish Administration” insert “, of the Welsh Assembly Government”.
- (3) In the definition of “parliamentary proceedings”, after “European Parliament” insert “ and Assembly proceedings within the meaning of section 1(5) of the Government of Wales Act 2006 ”.

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**Commencement Information**

**I122** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 30 In section 179 (index of defined expressions), in column 2 of the entry for "Parliamentary copyright", for "and 166B(3)" substitute " 166B(3) 166C(3) and 166D(3) ".

**Commencement Information**

**I123** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 31 (1) Section 263(1) (Part 3: minor definitions) is amended as follows.
- (2) In the definition of "the Crown", insert at the end " and the Crown in right of the Welsh Assembly Government ".
- (3) In the definition of "government department", insert at the end " and any part of the Welsh Assembly Government ".

**Commencement Information**

**I124** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 32 In paragraph 10(1) of Schedule 2 (public records), for "the Government of Wales Act 1998" substitute " the Government of Wales Act 2006 ".

**Commencement Information**

**I125** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Housing Act 1988 (c. 50)*

- 33 In paragraph 5 of Schedule 8 to the Housing Act 1988 (financial provisions relating to housing action trusts: guarantees), for sub-paragraph (3) substitute—
- “(3) Any sums required for fulfilling a guarantee under this paragraph shall be charged on and issued out of—
- (a) the Consolidated Fund, if required by the Treasury, or
- (b) the Welsh Consolidated Fund, if required by the Welsh Ministers.”

*Official Secrets Act 1989 (c. 6)*

- 34 In section 12 of the Official Secrets Act 1989 (meaning of "Crown servant" and "government contractor")—
- (a) in subsection (1), after paragraph (aa) insert—
- “(ab) the First Minister for Wales, a Welsh Minister appointed under section 48 of the Government of Wales Act 2006, the Counsel General to the Welsh Assembly Government or a Deputy Welsh Minister;”, and



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- (b) in subsection (2), in paragraph (a), after “(a)” insert “, (ab)” and omit paragraph (aa).

**Commencement Information**

**I126** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Town and Country Planning Act 1990 (c. 8)*

- 35 In section 321B of the Town and Country Planning Act 1990 (planning inquiries relating to Wales: national security)—
- (a) in subsection (2), for “National Assembly for Wales” substitute “ Welsh Assembly Government ”, and
- (b) omit subsection (5).

**Commencement Information**

**I127** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

- 36 In paragraph 8 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990 (local inquiries relating to Wales: national security)—
- (a) in sub-paragraph (2), for “National Assembly for Wales” substitute “ Welsh Assembly Government ”, and
- (b) omit sub-paragraph (5).

**Commencement Information**

**I128** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 37 In paragraph 8 of the Schedule to the Planning (Hazardous Substances) Act 1990 (local inquiries relating to Wales: national security)—
- (a) in sub-paragraph (2), for “National Assembly for Wales” substitute “ Welsh Assembly Government ”, and
- (b) omit sub-paragraph (5).

**Commencement Information**

**I129** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Tribunals and Inquiries Act 1992 (c. 53)*

- 38 In section 16(1) of the Tribunals and Inquiries Act 1992 (interpretation), in the definition of “Minister”, for “National Assembly for Wales” substitute “ Welsh Ministers ”.

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**Commencement Information**

**I130** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Value Added Tax Act 1994 (c. 23)*

- 39 In section 41(6) of the Value Added Tax Act 1994 (meaning of "Government department"), for "National Assembly for Wales" substitute " Welsh Assembly Government ".

**Commencement Information**

**I131** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Defamation Act 1996 (c. 31)*

- 40 In paragraph 11(1)(c) of Schedule 1 to the Defamation Act 1996 (qualified privilege: accurate reports of proceedings of inquiries etc.), after "Scottish Executive" insert " , the Welsh Ministers or the Counsel General to the Welsh Assembly Government ".

**Commencement Information**

**I132** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Government of Wales Act 1998 (c. 38)*

- 41 The Government of Wales Act 1998 is amended as follows.

**Commencement Information**

**I133** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 42 (1) Section 28 (reform of other Welsh public bodies) is amended as follows.

(2) For "Assembly" (in each place) substitute " Welsh Ministers ".

(3) In subsection (2), for "considers" substitute " consider ".

(4) After subsection (7) insert—

“(7A) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the Assembly.”

**Commencement Information**

**I134** [Sch. 10 paras. 42-55](#) in force immediately after the end of "the initial period" by s. 161(4)(d)

- 43 (1) Section 104 (Her Majesty's Chief Inspector of Education and Training in Wales) is amended as follows.

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- (2) For “Assembly” (in each place) substitute “ Welsh Ministers ”.
- (3) In subsection (2)—
  - (a) for “it”, in the first place, substitute “ they ”, and
  - (b) for “it considers” substitute “ they consider ”.
- (4) In subsection (3), for “it considers” (in both places) substitute “ they consider ”.
- (5) In subsection (4), for “it is” substitute “ they are ”.
- (6) In subsection (4A)—
  - (a) for “it”, in the first and third places, substitute “ them ”, and
  - (b) for “it is” substitute “ they are ”.
- (7) In subsection (4B), for “it gives its” substitute “ they give their ”.
- (8) Omit subsection (5).

**Commencement Information**

**I135** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 44
- (1) Section 105 (Forestry Commissioners) is amended as follows.
  - (2) For “Assembly” (in each place) substitute “ Welsh Ministers ”.
  - (3) In subsection (2)—
    - (a) for “it”, in the first place, substitute “ they ”, and
    - (b) for “considers” substitute “ consider ”.
  - (4) In subsection (3), for “it considers” (in both places) substitute “ they consider ”.
  - (5) In subsection (4), for “it is” substitute “ they are ”.

**Commencement Information**

**I136** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 45
- (1) Section 144 (power of Secretary of State by order to make provision about accounts etc. of bodies specified in Schedule 17) is amended as follows.
  - (2) In subsection (1), for “Secretary of State” substitute “ Welsh Ministers ”.
  - (3) In subsection (3)—
    - (a) for paragraph (a) substitute—
      - “(a) the Permanent Secretary to the Welsh Assembly Government to designate accounting officers and to specify their responsibilities,”, and
    - (b) in paragraph (d), for “Assembly (or, before the first ordinary election, by the Secretary of State)” substitute “ Welsh Ministers ”.
  - (4) For subsection (4) substitute—
    - “(4) The Welsh Ministers may by order make provision for the Permanent Secretary to the Welsh Assembly Government to designate accounting

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officers of any body specified in Part 3 of Schedule 17 and to specify their responsibilities.

(4A) An order under subsection (1) or (4) may not remove or restrict any function of the Comptroller and Auditor General.”

(5) After subsection (5) insert—

“(5A) A statutory instrument containing an order under subsection (1) or (4), other than an order to which subsection (5B) applies, is subject to annulment in pursuance of a resolution of the Assembly.

(5B) No order to which this subsection applies may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

(5C) Subsection (5B) applies to an order under subsection (1) or (4) which contains provisions in the form of amendments or repeals of enactments contained in an Act of Parliament, Assembly Measure or Act of the Assembly.”

(6) Omit subsection (6).

(7) In subsection (8)—

- (a) for “Secretary of State” substitute “ Welsh Ministers ”, and
- (b) in paragraph (a), after “other than” insert “ the National Assembly for Wales Commission, ”.

(8) After that subsection insert—

“(8ZA) No order under subsection (8) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

(9) Omit subsection (8A).

(10) In subsection (9), before the word “and” at the end of paragraph (b) insert—

“(ba) “Permanent Secretary to the Welsh Assembly Government” means the person appointed in accordance with section 52 of the Government of Wales Act 2006 to be the head of the staff of the Welsh Assembly Government (whether or not that person is known by the title of Permanent Secretary to the Welsh Assembly Government),”.

#### **Commencement Information**

**1137** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 46 (1) Section 145 (examinations by Auditor General into discharge of functions by bodies and offices specified in Schedule 17) is amended as follows.
- (2) In subsection (3), omit “(or, before the first ordinary election, the views of the Secretary of State)”.
- (3) In subsection (7), for “section 96(3)(b)” substitute “ paragraph 18(3)(b) of Schedule 8 to the Government of Wales Act 2006 (agreement between a person and the Welsh

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Ministers etc. to permit the Auditor General to carry out an examination into the discharge of functions by that person) ”.

**Commencement Information**

**I138** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 47 In section 145A(5) (studies by Auditor General into discharge of functions by relevant bodies: meaning of “relevant body”), for paragraph (a) substitute—
- “(a) a person who prepares accounts or statements of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or under this or any other Act;”.

**Commencement Information**

**I139** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 48 (1) Section 145C (studies by Auditor General into discharge of functions by registered social landlords) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (4) In subsection (6), for “section 95(3)(a) or (b)” substitute “ paragraph 17(3)(a) or (b) of Schedule 8 to the Government of Wales Act 2006 (requirement to give assistance, information or explanation to the Auditor General for Wales) ”.
- (5) In subsection (8), for “Assembly” substitute “ Welsh Ministers ”.

**Commencement Information**

**I140** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 49 In section 146(4) (power of Secretary of State by order to transfer etc. functions from the Comptroller and Auditor General to the Auditor General), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.

**Commencement Information**

**I141** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 50 (1) Section 146A (transfer etc. of supervisory functions from the Assembly to the Auditor General) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “its” (in both places) substitute “ their ”.
- (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
- (4) After subsection (5) insert—

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“(6) No order under subsection (1) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by resolution of, the Assembly.”

(5) In the heading, for “Assembly” substitute “ Welsh Ministers ”.

#### Commencement Information

**I142** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

51 (1) Section 147 (power of Secretary of State by order to make provision about Environment Agency's Welsh functions) is amended as follows.

(2) In subsection (1)(a), for “Assembly” substitute “ Welsh Ministers ”.

(3) In subsection (3), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.

(4) In subsection (4), for “Assembly” (in each place) substitute “ Welsh Ministers ”.

#### Commencement Information

**I143** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

52 In section 151(2) (power to make consequential amendments), for “22” substitute “ 58 of the Government of Wales Act 2006 ”.

#### Commencement Information

**I144** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

53 (1) Section 154 (orders and directions) is amended as follows.

(2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.

(3) In subsection (3)—

(a) omit paragraph (a), and

(b) in paragraph (b)—

(i) omit “96(5), 117,”, and

(ii) omit “144(1) or (4),”.

(4) Omit subsection (4).

(5) In subsection (6)—

(a) in paragraph (a)—

(i) omit from “3” to “118(1)(f),”

(ii) omit “144(1) or (4),” and

(iii) omit “or paragraph 17(9) of Schedule 9”, and

(b) omit paragraph (b).

(6) Omit subsection (7).

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#### Commencement Information

**I145** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 54 (1) Section 155 (interpretation) is amended as follows.
- (2) In subsection (1), insert the following definitions in the appropriate places—
- ““the Assembly” means the National Assembly for Wales,”,
- ““Audit Committee” has the meaning given by section 30 of the Government of Wales Act 2006,”,
- ““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,” and
- ““English border area” means a part of England adjoining Wales (but not the whole of England).”.
- (3) In that subsection, omit the definitions of “Community law” and “delegate”.
- (4) In that subsection, for the definition of “Wales” substitute—
- ““Wales” has the same meaning as in the Government of Wales Act 2006;”.
- (5) Omit subsection (2).
- (6) In subsection (3), omit the words from “; and the” to the end.

#### Commencement Information

**I146** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

- 55 (1) Schedule 7 (Forestry Commissioners) is amended as follows.
- (2) In paragraph 2 (functions of making subordinate legislation), for sub-paragraphs (2) to (8) substitute—
- “(2) No provision—
- (a) requiring the statutory instrument, or a draft of the statutory instrument, to be laid before Parliament or either House of Parliament,
- (b) for the annulment or approval of the statutory instrument, or a draft of the statutory instrument, by or in pursuance of a resolution of either House of Parliament or of both Houses, or
- (c) prohibiting the making of the statutory instrument without such approval,
- has effect in relation to the function.
- (3) But the subordinate legislation may not be made without the consent of the Welsh Ministers.”
- (3) In paragraph 4(3) (receipts)—
- (a) for “The Assembly” substitute “ The Welsh Ministers ”, and

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(b) for “the Assembly” substitute “ them ”.

(4) In paragraph 10(1) (reports), for “Assembly directs” (in both places) substitute “ Welsh Ministers direct ”.

**Commencement Information**

**I147** Sch. 10 paras. 42-55 in force immediately after the end of "the initial period" by s. 161(4)(d)

*Human Rights Act 1998 (c. 42)*

56 (1) Section 21(1) of the Human Rights Act 1998 (interpretation) is amended as follows.

(2) In the definition of “primary legislation”, for “National Assembly for Wales” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government, ”.

(3) In the definition of “subordinate legislation”, after paragraph (b) insert—  
“(ba) Measure of the National Assembly for Wales;  
(bb) Act of the National Assembly for Wales;”.

(4) In paragraph (h) of that definition, after “Executive” insert “ , Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government, ”.

**Commencement Information**

**I148** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Government Resources and Accounts Act 2000 (c. 20)*

57 In section 10 of the Government Resources and Accounts Act 2000 (designation of body by Treasury for purposes of preparing whole of government accounts), in—

- (a) subsection (7) (duty to consult with Assembly), and
- (b) subsection (8) (power to make arrangements with Assembly),

for “National Assembly for Wales” substitute “ Welsh Ministers ”.

**Commencement Information**

**I149** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Political Parties, Elections and Referendums Act 2000 (c. 41)*

58 The Political Parties, Elections and Referendums Act 2000 is amended as follows.

**Commencement Information**

**I150** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))



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- 59 In section 8(3)(b) (functions exercisable only on recommendation of Electoral Commission), for “11 of the Government of Wales Act 1998” substitute “ 13 of the Government of Wales Act 2006 ”.

**Commencement Information**

**I151** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 60 In section 10(6) (bodies to which Electoral Commission may give advice and assistance), after paragraph (c) insert—  
“(ca) the National Assembly for Wales Commission;”.

**Commencement Information**

**I152** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 61 In section 13 (power of Electoral Commission to promote public awareness of electoral and democratic systems), after subsection (11) insert—  
“(12) Subsection (6) shall not apply to the expenditure incurred by the Commission to the extent that it is, or is to be, met under paragraph 6 of Schedule 2 to the Government of Wales Act 2006.”

*Finance Act 2003 (c. 14)*

- 62 The Finance Act 2003 is amended as follows.

**Commencement Information**

**I153** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 63 In section 61(3) (stamp duty land tax: compliance with planning obligations), for the entry relating to the National Assembly for Wales substitute— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government ”.

**Commencement Information**

**I154** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 64 In section 66(4) (stamp duty land tax: transfers involving public bodies)—  
(a) for the entry relating to the National Assembly for Wales substitute— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government ”, and  
(b) after the entry relating to the Northern Ireland Assembly Commission insert — “ The National Assembly for Wales Commission ”.

**Commencement Information**

**I155** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Status: Point in time view as at 24/05/2011.*

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- 65 In section 107(2) (stamp duty land tax: Crown application)—
- (a) after the entry relating to a Northern Ireland department insert— “ The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government ”, and
  - (b) for the entry relating to the National Assembly for Wales substitute— “ The National Assembly for Wales Commission ”.

**Commencement Information**

**I156** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Planning and Compulsory Purchase Act 2004 (c. 5)*

- 66 (1) Section 60 of the Planning and Compulsory Purchase Act 2004 (Wales Spatial Plan) is amended as follows.
- (2) In subsection (2)—
    - (a) for “National Assembly for Wales” substitute “ Welsh Ministers ”, and
    - (b) for “it thinks” substitute “ they think ”.
  - (3) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.
  - (4) In subsection (4), for the words from “Assembly” to “appropriate)” substitute “ Welsh Ministers revise the Plan, they must publish (as they consider appropriate) ”.
  - (5) In subsection (5)—
    - (a) for “Assembly” substitute “ Welsh Ministers ”, and
    - (b) for “it considers” substitute “ they consider ”.
  - (6) For subsection (6) substitute—
 

“(6) The Welsh Ministers may not publish the Plan as revised or the revised parts of the Plan unless the Plan or the revised parts have been laid before, and approved by a resolution of, the National Assembly for Wales.”
  - (7) Omit subsection (7).

**Commencement Information**

**I157** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

- 67 The Public Services Ombudsman (Wales) Act 2005 is amended as follows.

**Commencement Information**

**I158** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 68 In section 7(3)(b) (relevant action: Welsh health service bodies), for “Assembly” substitute “ Welsh Ministers ”.

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**Commencement Information**

**I159** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 69 In section 8(2) (exclusion from investigation for matters not relating to Wales: exception for Assembly), for “Assembly” substitute “ Welsh Assembly Government ”.

**Commencement Information**

**I160** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 70 In section 9(1)(b) (exclusion from investigation of matters: right of appeal to Assembly), for “or the Assembly” substitute “ , the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government ”.

**Commencement Information**

**I161** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 71 (1) Section 10 (other excluded matters) is amended as follows.
- (2) For “Assembly” (in both places) substitute “ Welsh Ministers ”.
- (3) After subsection (3) insert—
- “(3A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

**Commencement Information**

**I162** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 72 In section 12 (decisions not to investigate etc.), omit subsection (9).

**Commencement Information**

**I163** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 73 (1) Section 16 (reports of investigations) is amended as follows.
- (2) In subsection (2)(f)—
- (a) for “Assembly First Secretary” substitute “ First Minister for Wales ”, and
- (b) for “Assembly” substitute “ Welsh Assembly Government ”.
- (3) Omit subsection (9).

**Commencement Information**

**I164** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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74 In section 21 (reports: alternative procedure), omit subsection (11).

**Commencement Information**

**I165** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

75 In section 23 (special reports: supplementary), omit subsection (6).

**Commencement Information**

**I166** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 76 (1) Section 24 (special reports relating to the Assembly) is amended as follows.
- (2) In subsection (1), for “Assembly” substitute “ Welsh Assembly Government or the National Assembly for Wales Commission ”.
- (3) In subsection (2)—
- (a) for “Assembly First Secretary” substitute “ relevant person ”, and
  - (b) omit paragraph (b).
- (4) After that subsection insert—
- “(2A) In subsection (2) “the relevant person” means—
- (a) if the complaint was made in respect of the Welsh Assembly Government, the First Minister for Wales, and
  - (b) if the complaint was made in respect of the National Assembly for Wales Commission, a member of that Commission.”
- (5) Omit subsection (3).
- (6) In the side-note, for “Assembly” substitute “ Welsh Assembly Government etc. ”.

**Commencement Information**

**I167** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 77 (1) Section 25 (consultation and co-operation with other ombudsmen) is amended as follows.
- (2) In subsections (8) and (9), for “Assembly” substitute “ Welsh Ministers ”.
- (3) After subsection (9) insert—
- “(10) No order is to be made under subsection (8) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

**Commencement Information**

**I168** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

78 (1) Section 28 (listed authorities) is amended as follows.

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- (2) In subsections (2) and (4), for “Assembly” substitute “ Welsh Ministers ”.
- (3) After subsection (4) insert—
  - “(4A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

#### **Commencement Information**

**I169** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 79
- (1) Section 29 (restrictions on power to amend Schedule 3) is amended as follows.
  - (2) In subsection (1), for “Assembly” substitute “ Welsh Assembly Government or the National Assembly for Wales Commission ”.
  - (3) In subsection (2)(b), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”.
  - (4) In subsection (3)—
    - (a) in paragraphs (a) and (b), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ”, and
    - (b) in paragraph (c), for “directly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities ”.
  - (5) In subsection (5)—
    - (a) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ”, and
    - (b) in paragraph (b), for “directly or indirectly from payments made by the Assembly or other listed authorities” substitute “ out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities ”.

#### **Commencement Information**

**I170** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 80
- (1) Section 30 (provisions in orders adding persons to Schedule 3) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “Assembly proposes” substitute “ Welsh Ministers propose ”, and
    - (b) for “it must” substitute “ they must ”.
  - (3) In subsection (2), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”.
  - (4) In subsection (3)—
    - (a) in paragraph (a), for “Assembly has” substitute “ Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has, ”, and

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(b) in paragraph (b), for “Assembly” substitute “ Welsh Ministers ”.

**Commencement Information**

**I171** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

81 In section 40 (commencement), for “Assembly” substitute “ Welsh Ministers ”.

**Commencement Information**

**I172** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

82 (1) Section 41 (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “Assembly Cabinet”,
- (b) in the definition of “relevant tribunal”, for “Assembly” substitute “ Welsh Ministers ”,
- (c) in the definition of “social landlord in Wales”—
  - (i) in paragraph (a), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
  - (ii) in paragraph (b), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”, and
- (d) in the definition of “Welsh health service body”, for “Assembly” substitute “ Welsh Ministers ”.

(3) In subsection (2), for “Assembly” (in both places) substitute “ Welsh Ministers ”.

(4) After that subsection insert—

“(2A) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Assembly.”

(5) In subsection (3), for “Assembly” substitute “ Welsh Ministers ”.

(6) In subsection (4)—

- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “it thinks” substitute “ they think ”.

(7) After that subsection insert—

“(4A) 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, the Assembly.”

**Commencement Information**

**I173** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

83 (1) Section 42 (former health care providers and social landlords) is amended as follows.

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- (2) In subsection (1), for “Assembly” substitute “ Welsh Ministers ”.
- (3) In subsection (4)(a)—
- (a) in sub-paragraph (i), for “Assembly” substitute “ Welsh Ministers ” and after “section by” insert “ the Assembly constituted by the Government of Wales Act 1998, ”, and
- (b) in sub-paragraph (ii), for “or the Assembly” substitute “ , the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers ”.
- (4) After subsection (5) insert—
- “(6) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.”

**Commencement Information**

**I174** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 84 (1) Section 43 (consequential and transitional provision) is amended as follows.
- (2) In subsection (1)—
- (a) for “Assembly” substitute “ Welsh Ministers ”, and
- (b) for “it thinks” substitute “ they think ”.
- (3) After subsection (3) insert—
- “(4) No order is to be made under subsection (1) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.”

**Commencement Information**

**I175** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 85 (1) Section 44 (orders, regulations and directions) is amended as follows.
- (2) In subsections (1) and (2), for “Assembly” substitute “ Welsh Ministers ”.
- (3) Omit subsection (3).

**Commencement Information**

**I176** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 86 (1) Schedule 1 (Public Service Ombudsman for Wales: appointment etc.) is amended as follows.
- (2) For paragraph 1 (appointment) substitute—
- “1 The Ombudsman is to be appointed by Her Majesty on the nomination of the Assembly.”
- (3) In paragraph 3 (term of office)—

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- (a) in sub-paragraph (3), for paragraph (b) substitute—
  - “(b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office.”,
- (b) in sub-paragraph (4), for the words following “Ombudsman” substitute “ on the making of a recommendation, on the ground of the person's misbehaviour, that Her Majesty should do so. ”, and
- (c) for sub-paragraph (5) substitute—
  - “(5) A recommendation for the removal of a person from office as the Ombudsman may not be made unless—
    - (a) the Assembly has resolved that the recommendation should be made, and
    - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.”
- (4) In paragraph 4 (acting Public Service Ombudsman for Wales), for sub-paragraphs (1) and (2) substitute—
  - “(1) If the office of the Ombudsman becomes vacant, Her Majesty may, on the nomination of the Assembly, appoint a person to act as the Ombudsman.”
- (5) In paragraph 5(1)(d) (disqualification from being Ombudsman or acting Ombudsman), for “section 12(1)(ca) of the Government of Wales Act 1998 (c. 38)” substitute “ section 16(1)(d) of the Government of Wales Act 2006 ”.
- (6) In paragraph 7(3) (exceptions from disqualifications applying to former Ombudsman or acting Ombudsman)—
  - (a) in paragraph (a), after “Assembly” insert “ or the National Assembly for Wales Commission ”, and
  - (b) in paragraph (b), for “Assembly First Secretary or Assembly Secretary” substitute “ First Minister for Wales, Welsh Minister appointed under section 48 of the Government of Wales Act 2006, Counsel General to the Welsh Assembly Government or Deputy Welsh Minister ”.
- (7) In paragraph 9 (remuneration etc.), after sub-paragraph (5) insert—
  - “(6) Sums required for the making of payments under sub-paragraphs (1), (2) and (5) are to be charged on the Welsh Consolidated Fund.”
- (8) For paragraph 10 (expenses) substitute—

*“ Special financial provisions*

- 10 (1) Any sums payable by the Ombudsman in consequence of a breach, in the performance of any of the Ombudsman's functions, of any contractual or other duty are to be charged on the Welsh Consolidated Fund.
- (2) And sub-paragraph (1) applies whether the breach occurs by reason of an act or omission of—
  - (a) the Ombudsman,
  - (b) a member of the Ombudsman's staff, or



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- (c) any other person acting on the Ombudsman's behalf or assisting the Ombudsman in the exercise of functions.
- (3) The Ombudsman may retain income derived from fees charged by virtue of sections 12(6), 16(6), 21(8) and 23(2) (rather than pay it into the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by this Act.”
- (9) In paragraph 11(5) (payments by Assembly to Minister for the Civil Service in respect of superannuation benefits for Ombudsman's staff)—
- (a) for “Assembly” substitute “ Ombudsman ”, and
  - (b) for “he” (in both places) substitute “ the Minister ”.
- (10) In paragraph 13 (delegation), for sub-paragraph (4) substitute—
- “(4) No arrangements may be made between the Ombudsman, on the one hand, and the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Assembly Government), on the other, for—
- (a) any functions of one of them to be exercised by the other,
  - (b) any functions of the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Assembly Government) to be exercised by members of staff of the Ombudsman,
  - (c) any functions of the Ombudsman to be exercised by members of the staff of the Welsh Assembly Government, or
  - (d) the provision of administrative, professional or technical services by one of them for the other.”
- (11) In paragraph 14(3) (duty to send copy of extraordinary report to listed authorities other than the Assembly)—
- (a) after “time” insert “ send a copy to the Welsh Assembly Government and ”, and
  - (b) for “than the Assembly” substitute “ than the Welsh Assembly Government ”.
- (12) In paragraph 15 (estimates)—
- (a) in sub-paragraph (2), for the words following “estimate” substitute “ at least five months before the beginning of the financial year to which it relates to the committee or committees of the Assembly specified in the standing orders of the Assembly. ”,
  - (b) in sub-paragraph (3)—
    - (i) for “Assembly Cabinet” substitute “ committee or committees ”,
    - (ii) omit “to it”, and
    - (iii) for “it thinks” substitute “ thought ”, and
  - (c) for sub-paragraph (4) substitute—
- “(4) Before laying before the Assembly with modifications an estimate submitted in accordance with sub-paragraph (2), the committee or committees must—
- (a) consult the Ombudsman, and
  - (b) take into account any representations which the Ombudsman may make.”
- (13) In paragraph 18 (accounting officer)—

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- (a) for “Treasury” (in each place) substitute “ Audit Committee ”, and
- (b) in sub-paragraph (6)(a), for “Assembly Cabinet” substitute “ Welsh Ministers ”.

**Commencement Information**

**I177** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 87 In paragraph 1 of Schedule 2 (excluded matters), for “Assembly” substitute “ Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government ”.

**Commencement Information**

**I178** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 88 In Schedule 3 (listed authorities), under the heading “Government of Wales”, for the entry relating to the Assembly substitute—

“The Welsh Assembly Government.

The National Assembly for Wales Commission.”

**Commencement Information**

**I179** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Inquiries Act 2005 (c. 12)*

- 89 The Inquiries Act 2005 is amended as follows.

**Commencement Information**

**I180** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 90 In section 1(2) (“Ministers” who may cause inquiries to be held), after paragraph (b) insert—
- “(ba) the Welsh Ministers;”, and omit the words following paragraph (c).

**Commencement Information**

**I181** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 91 (1) Section 27 (United Kingdom inquiries) is amended as follows.
- (2) In subsection (3)(b), for “National Assembly for Wales” substitute “ Welsh Ministers ”.
- (3) In subsection (7), in the definitions of “the relevant administration” and “Welsh matter”, for “National Assembly for Wales has” substitute “ Welsh Ministers have ”.

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**Commencement Information**

**I182** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 92 In section 28(4) (Scottish inquiries), for “National Assembly for Wales” substitute “Welsh Ministers”.

**Commencement Information**

**I183** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 93 (1) Section 29 (Welsh inquiries) is amended as follows.
- (2) In subsection (1), for “National Assembly for Wales is” substitute “Welsh Ministers are”.
- (3) In subsection (5), for “National Assembly for Wales has” substitute “Welsh Ministers have”.

**Commencement Information**

**I184** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 94 In section 30(5) (Northern Ireland inquiries), for “National Assembly for Wales” substitute “Welsh Ministers”.

**Commencement Information**

**I185** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 95 (1) Section 41 (rules) is amended as follows.
- (2) In subsection (3)(c)—
- (a) for “National Assembly for Wales” substitute “Welsh Ministers”, and
- (b) for “that Assembly is” substitute “they are”.
- (3) In subsection (4)(a), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In subsection (5), after paragraph (a) insert—
- “(aa) if made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales;”.

**Commencement Information**

**I186** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 96 In section 43(1) (interpretation), in the definition of “the relevant Parliament or Assembly”, for “National Assembly for Wales is responsible, that Assembly” substitute “Welsh Ministers are responsible, the National Assembly for Wales”.

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#### Commencement Information

**I187** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

97 In section 51(2) (commencement), for “National Assembly for Wales” substitute “Welsh Ministers”.

#### Commencement Information

**I188** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

## SCHEDULE 11

Section 162

### TRANSITIONAL PROVISIONS

#### *Alteration of Assembly electoral regions*

**F160**<sup>1</sup> .....

#### Textual Amendments

**F160** Sch. 11 para. 1 repealed (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. 13(2)(c), 19(1), [Schs. 12](#)

#### *2007 election to be election to Assembly constituted by this Act*

2 The 2007 election is an election to the Assembly constituted by this Act (and not that constituted by the Government of Wales Act 1998 (c. 38)).

#### *First meeting after 2007 election*

3 The first meeting of the Assembly constituted by this Act after the 2007 election is to be held on the day specified by or in accordance with an order made by statutory instrument by the Assembly constituted by the Government of Wales Act 1998 (c. 38); and that day must be within the period of seven days beginning immediately after the day of the poll at the 2007 election.

#### *Date of 2011 election*

4 Until the first ordinary general election (or any extraordinary general election the poll for which is held as mentioned in section 5(5)), section 3(1) has effect as if the reference to the previous ordinary general election were to the 2007 election.

#### *No dual constituency and regional candidacy*

5 (1) Section 5 of the Government of Wales Act 1998 (ordinary elections: party lists of candidates, and individual candidates, to be Assembly members for Assembly electoral regions) is amended as follows.

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- (2) In subsection (5) (those who may not be included on party list), for paragraphs (c) and (d) (candidate to be Assembly member for Assembly constituency outside electoral region and candidate of different party to be Assembly member for Assembly constituency within electoral region) substitute “or
- (c) who is a candidate to be the Assembly member for an Assembly constituency.”
- (3) In subsection (6) (those who may not be an individual candidate), for paragraphs (c) and (d) (candidate to be Assembly member for Assembly constituency outside electoral region and candidate of registered political party to be Assembly member for Assembly constituency within electoral region) substitute “or
- (c) a candidate to be the Assembly member for an Assembly constituency.”
- 6 (1) Section 7 of that Act (return of electoral region members) is amended as follows.
- (2) In subsection (6)(party to be disregarded once party list exhausted by return of all persons on it as constituency or electoral region members), omit “for Assembly constituencies or”.
- (3) Omit subsection (10) (person on party list returned as Assembly member to be treated as ceasing to be on list for purposes of drawing on list at ordinary election or in case of vacancy in electoral region seat).

*Electoral region vacancies before first general election etc.*

- 7 Section 11 has effect until the first general election as if—
- (a) the references in subsections (2) and (8) to section 9 were to section 7 of the Government of Wales Act 1998, and
- (b) the references to the last general election were to the 2007 election.

*Election orders*

- 8 An order under section 11 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if made under section 13 of this Act.

*Term of office of Assembly members*

- 9 Section 14 has effect until the first general election as if the reference in paragraph (a) to being declared to be returned included being declared to be returned at the 2007 election.

*Disqualification Orders*

- 10 An Order in Council under section 12(1)(b) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time as if made under section 16(1) (b) of this Act.

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*Disqualification of Lords of Appeal in Ordinary*

- 11 A Lord of Appeal in Ordinary is disqualified from being a member of the Assembly constituted by the Government of Wales Act 1998 or this Act.

*Remuneration of Assembly members etc.*

- 12 (1) This paragraph has effect in relation to a determination under section 16 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act.
- (2) So far as relating to the Assembly First Secretary elected under that Act and the Assembly Secretaries appointed under that Act, the determination has effect after that time as if made under section 53, and applies—
- (a) in relation to the First Minister as it applied before that time in relation to the Assembly First Secretary elected under that Act, and
  - (b) in relation to the Welsh Ministers appointed under section 48 of this Act as it applied before that time in relation to the Assembly Secretaries appointed under that Act.
- (3) Otherwise, the determination has effect after that time as if made under section 20, and applies—
- (a) in relation to the Presiding Officer as it applied before that time in relation to the presiding officer elected under the Government of Wales Act 1998,
  - (b) in relation to the Deputy Presiding Officer as it applied before that time in relation to the deputy presiding officer elected under that Act,
  - (c) in relation to the leader of the largest political group without an executive role as it applied before that time in relation to the leader of the largest political party not represented on the executive committee constituted by that Act, and
  - (d) in relation to any other Assembly member as it applied before that time in relation to members of the Assembly constituted by that Act.
- (4) For the purposes of sub-paragraph (3)(c) a political group is the largest political group without an executive role if—
- (a) it is not a political group with an executive role, and
  - (b) more Assembly members belong to it than to each other political group which is not a political group with an executive role.
- (5) This paragraph has effect in relation to determinations under section 18 of the Government of Wales Act 1998 (c. 38) as it has effect in relation to determinations under section 16 of that Act, but as if references in this paragraph to members of, or office-holders in connection with, the Assembly (as constituted by the Government of Wales Act 1998 or this Act) were references to persons who have ceased to be such members or office-holders.
- 13 An order under section 17 of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if made under section 21.

*Publication of information about remuneration of Assembly members*

- 14 (1) Section 22(2) does not apply in relation to the financial year ending with 31st March 2007.

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- (2) The Assembly constituted by this Act has the same duty in relation to that financial year as the Assembly constituted by the Government of Wales Act 1998 would have by virtue of section 19 of that Act but for this Act.
- (3) In relation to the financial year ending with 31st March 2008 the references in section 22(2) to salaries and allowances of the kind mentioned in section 20 include sums paid under sections 16 and 18 of the Government of Wales Act 1998.

*Assistance to groups of Assembly members*

- 15 (1) A determination under section 34A of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that section by this Act has effect after that time as if it were made in accordance with section 24.
- (2) In relation to the financial year ending with 31st March 2008 the reference in subsection (6)(b) of section 24 to sums paid under that section includes sums paid under section 34A of the Government of Wales Act 1998.

*First Presiding Officer*

- 16 The reference in subsection (1) of section 25 to the first meeting of the Assembly following a general election includes a reference to the first meeting of the Assembly following the 2007 election.

*First Clerk*

- 17 The member of the staff of the Assembly constituted by the Government of Wales Act 1998 who, immediately before the day of the poll at the 2007 election, holds the post referred to in the standing orders made under that Act as the Clerk to the Assembly is to be taken to be appointed under section 26(1) at the beginning of that day.

*Promotion of awareness of election system and devolved government*

- 18 Paragraphs 5 and 6 of Schedule 2 have effect until the end of the initial period as if for the references to the Assembly Commission there were substituted references to the Assembly constituted by the Government of Wales Act 1998 (c. 38).

*Crown status of Assembly Commission*

- 19 Sub-paragraph (4) of paragraph 12 of Schedule 2 has effect until the end of the initial period with the omission of paragraph (b) (and the word “or” before it).

*Standing orders*

- 20 (1) The Secretary of State must, no later than 31st March 2007, make the standing orders which are to have effect in relation to the proceedings of the Assembly following the 2007 election.
- (2) The standing orders made under this paragraph—
  - (a) must include provision as to the matters which this Act requires to be covered by the standing orders, and

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- (b) may include provision as to the matters which this Act provides may be so covered.
- (3) In making standing orders made under this paragraph the Secretary of State must give effect to any relevant Assembly proposals (but subject to sub-paragraph (5)).
- (4) For this purpose proposals are relevant Assembly proposals if—
- (a) they are proposals for the inclusion in the standing orders made under this paragraph of provision relating to any matters which must or may be covered by them,
  - (b) they are made by the Assembly constituted by the Government of Wales Act 1998 by a resolution passed by that Assembly,
  - (c) where the motion for the resolution is passed on a vote, at least two-thirds of the members of the Assembly voting support it,
  - (d) the proposals are made in both English and Welsh, and
  - (e) a copy of the proposals are sent to the Secretary of State no later than 28th February 2007.
- (5) The Secretary of State may make modifications of any relevant Assembly proposals—
- (a) in order to give full effect to what appears to the Secretary of State to be the policy contained in the proposals, or
  - (b) in consequence of other provision to be included in the standing orders made under this paragraph.
- (6) The Secretary of State must publish the standing orders made under this paragraph as soon as reasonably practicable after they are made and must do so in both English and Welsh.
- (7) The standing orders made under this paragraph have effect (subject to any revisions made by the Assembly under section 31) unless and until they are remade by the Assembly under that section.

*Witnesses and documents: penalties*

- 21 In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (c. 44) the references in section 39(4)(b) and 40(3)(b) to 51 weeks are to three months.

*Exercise of functions before appointment of first First Minister*

- 22 (1) Nothing in this Act (including in particular the repeal of section 1 of the Government of Wales Act 1998 (c. 38)), or in that Act, is to be taken to dissolve the Assembly constituted by that Act until the end of the initial period.
- (2) Despite this Act and section 2(5) of that Act, during the initial period the Assembly constituted by that Act is to be treated as consisting of the persons who—
- (a) immediately before the beginning of the initial period, hold office as the Assembly First Secretary, an Assembly Secretary or the presiding officer, and
  - (b) are candidates to be Assembly members at the 2007 election.
- (3) But a person ceases to be a member of that Assembly—



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- (a) if not returned as an Assembly member at that election, when the Assembly members for the Assembly constituency or Assembly electoral region for which that person is a candidate are returned, or
    - (b) if disqualified from being an Assembly member, when that disqualification takes effect.
  - (4) For so long as a person is a member of the Assembly constituted by the Government of Wales Act 1998 by virtue of this paragraph the person continues to be entitled to the same salary and allowances as the person was entitled to by virtue of section 16 of that Act immediately before the beginning of the initial period.
- 23
- (1) This paragraph and paragraph 24 have effect during the initial period.
  - (2) The functions of the Assembly constituted by the Government of Wales Act 1998, other than functions to which paragraph 24 applies, are exercisable—
    - (a) by the person who immediately before the beginning of the initial period held office as the Assembly First Secretary, if that person is a member of that Assembly, or
    - (b) by such of the persons who at that time held office as an Assembly Secretary and are members of that Assembly as those persons may designate, if that person is not a member of that Assembly (or if the office of Assembly First Secretary was vacant at that time).
  - (3) A person designated for the purposes of sub-paragraph (2)(b) must inform the Secretary of State of the designation as soon as is reasonably practicable.
  - (4) Functions which are exercisable by virtue of sub-paragraph (2) may be delegated by the person by whom they are exercisable (to such extent as that person may determine) to any other member of the Assembly constituted by the Government of Wales Act 1998 who immediately before the beginning of the initial period held office as an Assembly Secretary.
  - (5) Functions which—
    - (a) are exercisable by virtue of sub-paragraph (2), or
    - (b) are delegated under sub-paragraph (4),may be delegated by the person by whom they are exercisable or to whom they have been delegated (to such extent as that person may determine) to members of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38).
  - (6) Where a function is delegated under sub-paragraph (5), arrangements for the exercise of the function are to be made by the person who, immediately before the beginning of the initial period, was the Permanent Secretary to the Assembly for the purposes of section 63(2) of the Government of Wales Act 1998.
  - (7) The delegation of any function under this paragraph does not prevent the exercise of the function by the person by whom the delegation is made.
  - (8) The exercise of any function in accordance with this paragraph is subject to any condition, limitation or restriction which applied to the exercise of that function immediately before the beginning of the initial period.
- 24
- (1) This paragraph applies to functions of the Assembly constituted by the Government of Wales Act 1998 which, immediately before the beginning of the initial period, were delegated under section 62 of that Act to the committee of the Assembly referred to in the standing orders made under that Act as the House Committee.

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- (2) Functions to which this paragraph applies are exercisable—
- (a) by the person who, immediately before the beginning of the initial period, held office as the presiding officer of the Assembly constituted by the Government of Wales Act 1998, if that person is a member of that Assembly, or
  - (b) by the person who, at that time, held the post referred to in the standing orders made under that Act as the Clerk to the Assembly, if the person mentioned in paragraph (a) is not a member of that Assembly (or if the office of presiding officer was vacant at that time).
- (3) Functions which are exercisable by virtue of sub-paragraph (2) may be delegated by the person by whom they are exercisable (to such extent as that person may determine) to members of the staff of the Assembly constituted by the Government of Wales Act 1998.
- (4) Where a function is delegated under sub-paragraph (3), arrangements for the exercise of the function are to be made by the person who, immediately before the beginning of the initial period, held the post referred to in the standing orders made under the Government of Wales Act 1998 as the Clerk to the Assembly.
- (5) The delegation of any function under sub-paragraph (3) does not prevent the exercise of the function by the person by whom the delegation is made.
- (6) The exercise of any function in accordance with this paragraph is subject to any condition, limitation or restriction which applied to the exercise of that function immediately before the beginning of the initial period.
- 25 (1) Where a function of making, confirming or approving subordinate legislation is exercised during the initial period in accordance with paragraph 23, it is to be made, confirmed or approved by being signed by the person by whom the function is exercised.
- (2) Despite sub-paragraph (8) of paragraph 23, nothing contained in the following provisions of the Government of Wales Act 1998 (c. 38), or included in the standing orders of the Assembly constituted by that Act by virtue of the following provisions of that Act, applies to subordinate legislation made in accordance with that paragraph—
- (a) section 65 (regulatory appraisals),
  - (b) sections 66 and 67 (procedure), and
  - (c) section 68 (financial initiative).
- (3) But as soon as is reasonably practicable after the end of the initial period the Clerk must lay before the Assembly every statutory instrument containing subordinate legislation made, confirmed or approved in accordance with paragraph 23.

*Saving for existing instruments conferring or imposing functions*

- 26 (1) Any provision of an Order in Council under section 22 of the Government of Wales Act 1998 (whether included by virtue of that section or any other enactment apart from section 155(2) of that Act) which is in force immediately before the commencement of the repeal of that section by this Act continues to have effect after the commencement of that repeal as if it were a provision of an Order in Council under section 58.

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(2) Accordingly—

- (a) the reference in paragraph 7(2) of Schedule 3 to an Order in Council under section 58 of this Act which includes provision transferring a function to the Welsh Ministers, the First Minister or the Counsel General includes a reference to an Order in Council under section 22 of the Government of Wales Act 1998 which includes provision having that effect by virtue of this Schedule, and
- (b) the reference in paragraph 18(5) of Schedule 8 to an Order in Council under section 58 transferring a function of preparing accounts to the Welsh Ministers includes a reference to an Order in Council under section 22 of the Government of Wales Act 1998 which makes provision having that effect by virtue of this Schedule.

(3) Any provision which—

- (a) is included in an Order in Council under section 22 of the Government of Wales Act 1998 by virtue of section 155(2) of that Act (meaning of “Wales”), and
- (b) is in force at the time when this Act is passed,

is to be treated after that time as if it were also contained in an order under subsection (3) of section 158 of this Act (having effect for the purposes of the definition of “Wales” in subsection (1) of that section).

27 Orders under section 27 of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that section by this Act continue to have effect despite the commencement of that repeal.

28 (1) Designations made under section 2(2) of the European Communities Act 1972 (c. 68) by virtue of subsection (1) of section 29 of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that subsection by this Act continue to have effect after the commencement of that repeal as if made by virtue of subsection (1) of section 59 of this Act.

(2) Regulations made under section 56 of the Finance Act 1973 (c. 51) by virtue of subsection (4) of that section which are in force immediately before the commencement of the repeal of that subsection by this Act continue to have effect after the commencement of that repeal as if made by virtue of subsection (5) of section 59 of this Act.

*First nomination of First Minister*

29 The reference in section 47(2)(a) to the holding of a poll at a general election includes a reference to the holding of the poll at the 2007 election.

*Transfer of Assembly functions*

30 (1) Subject to paragraph 31, the relevant Assembly functions are transferred to the Welsh Ministers immediately after the end of the initial period.

(2) “The relevant Assembly functions” means functions exercisable by the Assembly constituted by the Government of Wales Act 1998 (c. 38)—

- (a) immediately before the end of the initial period, by virtue of an Order in Council under section 22 of the Government of Wales Act 1998,

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- (b) immediately before the end of that period, as a result of a designation made under section 2(2) of the European Communities Act 1972 (c. 68) by virtue of subsection (1) of section 29 of the Government of Wales Act 1998,
  - (c) immediately before the end of that period, as a result of having been conferred or imposed on it by an enactment contained in an Act, other than an enactment contained in the Government of Wales Act 1998, or by a prerogative instrument, or
  - (d) immediately before the end of that period, as a result of having been conferred or imposed on it by subordinate legislation (including subordinate legislation made under the Government of Wales Act 1998).
- (3) For the purposes of this paragraph a function is “exercisable” at any time even if the enactment transferring, conferring or imposing it has not come into force at that time.
- 31 (1) Her Majesty may by Order in Council provide for—
- (a) the transfer of any of the relevant Assembly functions to—
    - (i) the First Minister, or
    - (ii) the Counsel General,
  - (b) the transfer of any of the relevant Assembly functions, other than functions of making, confirming or approving subordinate legislation, to the Assembly Commission, or
  - (c) any of the relevant Assembly functions, other than functions of making, confirming or approving subordinate legislation, to be functions of the Assembly.
- (2) Her Majesty may by Order in Council provide for any relevant Assembly function that is a function of making, confirming or approving subordinate legislation in relation to any matter not to be transferred to the Welsh Ministers and, unless the Assembly already has power to pass Assembly Measures in relation to that matter, amend Part 1 of Schedule 5 to enable the Assembly to have instead power to pass Assembly Measures in relation to that matter—
- (a) in the same terms as the relevant Assembly function, or
  - (b) in terms differing from those terms to such extent as appears appropriate.
- (3) Her Majesty may by Order in Council—
- (a) direct that any function transferred by paragraph 30 is to be exercisable by any one or more of the First Minister, the Counsel General, the Assembly Commission and the Assembly concurrently with the Welsh Ministers,
  - (b) direct that any function in relation to which provision is made by virtue of sub-paragraph (1) for it to be transferred to, or continue to be a function of, any person or body is to be exercisable by any other person or body specified in that sub-paragraph concurrently with that person or body, or
  - (c) direct that any function transferred by paragraph 30, or transferred to the First Minister or the Counsel General by virtue of sub-paragraph (1), is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General only with the agreement of, or after consultation with, the Assembly Commission.
- (4) An Order in Council under sub-paragraph (1), (2) or (3) may make such modifications of—
- (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,  
as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (1) or (3) in relation to a function which has already been transferred to the Welsh Ministers, the First Minister or the Counsel General without the consent of those persons or that person to the recommendation.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (2) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly constituted by the Government of Wales Act 1998 (c. 38); and a statutory instrument containing an Order in Council under that sub-paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (1) or (3) 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.
- (8) But sub-paragraph (7) does not apply if the Assembly constituted by the Government of Wales Act 1998 or the Assembly constituted by this Act has resolved that a recommendation should be made to Her Majesty in Council to make the Order in Council.
- 32 (1) This paragraph applies so far as may be necessary for the purpose or in consequence of the exercise of any functions of—
- (a) the Welsh Ministers,
  - (b) the First Minister,
  - (c) the Counsel General,
  - (d) the Assembly Commission, or
  - (e) the Assembly constituted by this Act,
- which are made exercisable by them by or by virtue of paragraph 30 or 31.
- (2) Any relevant reference to the Assembly constituted by the Government of Wales Act 1998 (c. 38) is to be construed as being or including a reference to—
- (a) the Welsh Ministers,
  - (b) the First Minister,
  - (c) the Counsel General,
  - (d) the Assembly Commission, or
  - (e) the Assembly constituted by this Act,
- (according to by whom the function in question is, or is to be, exercised).
- (3) In sub-paragraph (2) “relevant reference to the Assembly constituted by the Government of Wales Act 1998” means—
- (a) a reference in any enactment, prerogative instrument or other document to that Assembly, or
  - (b) a reference in any enactment or other document which, immediately before the commencement of the repeal by this Act of section 43 of the Government of Wales Act 1998, had effect as a reference to that Assembly.

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

- C4 Sch. 11 para. 32 excluded (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 2](#)

*Functions transferred by Order in Council under section 22 of the Government of Wales Act 1998: Parliamentary and Assembly procedure*

- 33 (1) This paragraph applies where—
- (a) a function to make subordinate legislation was transferred to, or made exercisable by, the Assembly constituted by the Government of Wales Act 1998 by an Order in Council under section 22 of that Act, and
  - (b) the function has been transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31.
- (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 Assembly.
- (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,
  - (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 each House, 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 Assembly specified by the standing orders.
- (5) The descriptions of provision referred to in sub-paragraph (4) are—

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- (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 Assembly constituted by the Government of Wales Act 1998 (c. 38) 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 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.

*Functions conferred or imposed by pre-commencement  
enactment: Parliamentary and Assembly procedure*

- 34 (1) This paragraph applies where—
- (a) a function to make subordinate legislation was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 (c. 38) by a pre-commencement enactment (“the Welsh function”),
  - (b) the Welsh function has been transferred to the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31, and
  - (c) when the Welsh function was transferred, a Minister of the Crown had the same or substantially the same function exercisable in relation to England (“the corresponding function”).
- (2) If, immediately after the transfer of the Welsh function, a provision of any of the descriptions specified in sub-paragraph (4)—

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- (a) applied to the exercise of the corresponding function by the Minister of the Crown, but
- (b) did not apply to the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

the provision applies to any exercise of the Welsh function 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 a reference to the Assembly.

- (3) [<sup>F161</sup>Subject to sub-paragraphs (4A) and (4B),] If, immediately after the transfer of the Welsh function, a provision of any of the descriptions specified in sub-paragraph (4) applied to both—

- (a) the exercise of the corresponding function by the Minister of the Crown, and
- (b) the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

the provision applies to any exercise of the Welsh function 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 a reference both to the Assembly and to Parliament or either House of Parliament.

- (4) The descriptions of provision referred to in sub-paragraphs (2) and (3) 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,
  - (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.

[<sup>F162</sup>(4A) Section 1(5) of the Travel Concessions (Eligibility) Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 1(4) of that Act (order changing minimum age for the purposes of eligibility for travel concessions) as if the reference to either House of Parliament were a reference to the Assembly.

(4B) Section 268(13) of the Enterprise Act 2002 (parliamentary procedure) applies to an order made by the Welsh Ministers under section 268(1) of that Act (order in relation to disqualification from office) as if the reference to each House of Parliament were a reference to the Assembly.]

- (5) If, immediately after the transfer of the Welsh function, a provision of either of the descriptions specified in sub-paragraph (7)—

- (a) applied to the exercise of the corresponding function by the Minister of the Crown, but
- (b) did not apply to the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

an instrument made in any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General is subject to the procedure in the Assembly specified by the standing orders.

- (6) If, immediately after the transfer of the Welsh function, a provision of either of the descriptions specified in sub-paragraph (7) applied to both—



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- (a) the exercise of the corresponding function by the Minister of the Crown, and
- (b) the exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General,

the instrument made in any exercise of the Welsh function by the Welsh Ministers, the First Minister or the Counsel General is subject to that provision and to the procedure in the Assembly specified by the standing orders.

- (7) The descriptions of provision referred to in sub-paragraphs (5) and (6) 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.
- (8) In this paragraph—
- “make” includes confirm or approve and related expressions are to be construed accordingly, and
  - “pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.
- (9) This paragraph does not apply if the Welsh function was transferred as a result of the operation of paragraph 30(2)(b) (see paragraph 28 and section 59).

#### Textual Amendments

- F161** Words in Sch. 11 para. 34(3) inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 3\(a\)](#)
- F162** Sch. 11 para. 34(4A)(4B) inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 3\(b\)](#)

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

- C5** Sch. 11 para. 34 excluded (1.4.2008) [Mental Health Act 2007 \(c. 12\)](#), ss. [50\(10\)\(a\)](#), 56; S.I. 2008/745, [art. 4](#)

- 35 (1) This paragraph applies where—
- (a) a function to make subordinate legislation was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 (c. 38) by a pre-commencement enactment,
  - (b) the function has been transferred to the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31, and
  - (c) when the function was transferred, no Minister of the Crown had the same or substantially the same function exercisable in relation to England.
- (2) No procedure for scrutiny by the Assembly applies to any instrument made in the exercise of the function, or a draft of any such instrument, unless the function is specified in Table 1 or Table 2.
- (3) No subordinate legislation is to be made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of any function specified in Table 1 unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

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TABLE 1

<i>Function</i>	<i>Description</i>
Section 45B(1) of the Environmental Protection Act 1990 (c. 43).	Power to apply section 45A to Welsh waste collection authorities.
Section 45D of the School Standards and Framework Act 1998 (c. 31).	Power to repeal school funding provisions.
Section 8(3) of the Care Standards Act 2000 (c. 14).	Power to confer functions in relation to Part 2 services in Wales.
Section 72B(2) of that Act.	Power to amend list of persons reviewable by Commissioner.
Section 73(5A) of that Act.	Power to amend list of arrangements reviewable by Commissioner.
Section 76(4) of that Act.	Power to confer further functions on Commissioner.
Section 78(1A) of that Act.	Power to provide that person aged 18 or over is a child for the purposes of Part 5.
Section 78(6) of that Act.	Power to make provision about persons to whom Part 5 applies.
Paragraph 2 of Schedule 2 to that Act.	Power to make provision about the appointment etc. of Commissioner.
Section 68(1) of the Local Government Act 2000 (c. 22), if exercised to amend or repeal any enactment contained in an Act.	Power to confer functions on Public Services Ombudsman for Wales.
Section 68(3) of that Act, if exercised to amend or repeal any enactment contained in an Act.	Power to make provision relating to Ombudsman's functions and expenses.
Section 70(1) of that Act.	Power to make provision about investigations by Ombudsman.
[ <sup>F163</sup> Section 20(1) of the Political Parties, Elections and Referendums Act 2000.]	Power to transfer functions of the Local Government Boundary Commission for Wales.]
Section 3(4) of the Health (Wales) Act 2003 (c. 4).	Power to transfer functions of Wales Centre for Health to Welsh Minister.
Section 4(1) of that Act.	Power to establish Health Professions Wales (HPW).
Section 4(3) of that Act.	Power to provide for HPW to carry out Welsh Ministers' functions.
Section 5(8) of that Act.	Power to abolish HPW.

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Section 83(2) of the Local Government Act 2003 (c. 26).	Power to make fire authorities in Wales major precepting authorities.
Section 92(2) of that Act.	Power to repeal section 24(3) of the Housing Act 1985 (c. 68).
Section 23(9) of the Anti-social Behaviour Act 2003 (c. 38).	Power to apply to Wales provisions about penalty notices in cases of truancy.
Section 75(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), if exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 96 of that Act, if exercised to amend or repeal any part of the text of an Act.	Power to confer additional functions in relation to Welsh local authority social services.
Section 101(1) of that Act, if exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 33(3)(a)(ii) of the Higher Education Act 2004 (c. 8).	Power to require institutions' plans to include provision relating to promotion of higher education.
Section 12(2) of the Public Audit (Wales) Act 2004 (c. 23).	Power to add to definition of “local government body in Wales”.
Section 39(1) of that Act, if exercised so as to include a declaration that a contravention is an offence.	Power to make provision about publication etc. of accounts.
Section 46(2) of that Act.	Power to apply sections 47 to 49 to other local government bodies.
Section 47(5) of that Act.	Power to shorten period within which body must publish information.
Section 62(1) of the Education Act 2005 (c. 18), if exercised to amend or repeal an enactment.	Power to change inspection framework for Wales.
Section 103(3) of that Act.	Power to repeal certain provisions in the Education Act 2002 (c. 32).
Section 124(1) of that Act, if exercised to amend or repeal an enactment.	Power to make consequential etc. provision.
[ <sup>F164</sup> Section 5(1) of the Transport (Wales) Act 2006.	Power to establish a joint transport authority to discharge specified transport functions for specified areas.]
[ <sup>F165</sup> Section 4(1) of the Commissioner for Older People (Wales) Act 2006.	Power to amend Schedule 2 to that Act.]
[ <sup>F166</sup> Section 6(5) of that Act.	Power to confer power on the Commissioner to require prescribed

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	persons to provide information for the purposes of his functions under section 5.]
[ <sup>F167</sup> Section 7(1) of that Act.	Power to amend Schedule 3 to that Act.]
[ <sup>F168</sup> Section 16(4) of that Act.	Power to apply the joint working provisions in section 16 to persons other than the Ombudsmen specified in that section.]
[ <sup>F169</sup> Section 17(8) of that Act.	Power to amend subsection 17(6), which specifies persons with whom the Commissioner may work collaboratively under section 17.]
[ <sup>F170</sup> Section 18(10) of that Act.	Power to amend the definition of “permitted person” in section 18(9).]
[ <sup>F171</sup> Section 27(2) of that Act.	Power to amend the definition of “family health service provider in Wales” and “independent provider in Wales”.]

(4) A statutory instrument containing subordinate legislation made by the Welsh Ministers, the First Minister or the Counsel General in the exercise of any function specified in Table 2 is (unless a draft of the statutory instrument has been laid before, and approved by a resolution of, the Assembly) subject to annulment in pursuance of a resolution of the Assembly.

TABLE 2

<i>Function</i>	<i>Description</i>
F172	F172
...	...
F173	F173
...	...
F174	F174
...	...
F175	F175
...	...
F176	F176
...	...
F177	F177
...	...
F178	F178
...	...
F179	F179
...	...

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F180	F180
...	...
F181	F181
...	...
F182	F182
...	...
F183	F183
...	...
F184	F184
...	...
Section 79S(2) of the Children Act 1989 (c. 41).	Power to confer functions relating to child minding or day care.
Section 79T(2) of that Act.	Power to make provision about inspection of child minding and day care.
Section 16A(3) of the Environment Act 1995 (c. 25).	Power to alter composition of regional flood defence committees in Wales.
[ <sup>F185</sup> Section 97D of the School Standards and Framework Act 1998.	Power to make provision about the admission of children looked after by local authorities in Wales to maintained schools in Wales.]
Paragraph 5(2) of Schedule 7 to the School Standards and Framework Act 1998 (c. 31).	Power to prescribe content and form of publication of proposals.
Paragraph 12(2)(d) of Schedule 7 to that Act.	Power to prescribe period within which objections to proposals may be made.
Paragraph 17(2) of Schedule 7 to that Act.	Power to make transitional exemption order relating to proposal for school to cease to be single sex.
Paragraph 13B(1) of Schedule 26 to that Act.	Power to prescribe period within which nursery inspection report must be made.
Section 73(5) of the Care Standards Act 2000 (c. 14).	Power to confer power on the Commissioner to require information.
Section 74(1) of that Act.	Power to provide for examination by Commissioner of particular cases.
Section 76(1) of that Act.	Power to confer power on Commissioner to assist children.
Paragraph 6(4) of Schedule 2 to that Act.	Power to specify the financial years of Commissioner.
Paragraph 8 of that Schedule.	Power to require Commissioner to make reports to Assembly.
Paragraph 17 of that Schedule.	Power to add Commissioner to the Superannuation Act 1972 (c. 11).

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Section 77(4) of the Learning and Skills Act 2000 (c. 21).	Power to prescribe period within which report must be made.
Section 83(7) of that Act.	Power to make further provision about obligation to provide information.
Section 128(4)(b) and (c) of that Act.	Power about statement of proposed action.
Section 68(1) of the Local Government Act 2000 (c. 22), unless exercised to amend or repeal any enactment contained in an Act.	Power to confer functions on Public Services Ombudsman for Wales.
Section 68(3) of that Act, unless exercised to amend or repeal any enactment contained in an Act.	Power to make provision relating to Ombudsman's functions and expenses.
Section 109(6)(b) of the Transport Act 2000 (c. 38).	Power to specify date by which deemed local transport plan to be replaced.
[ <sup>F186</sup> Section 113A(1) of the Transport Act 2000.	Power to modify the application of sections 108 to 111 of that Act in relation to local transport authorities whose areas are in Wales.]
[ <sup>F187</sup> Section 20(6) of the Political Parties, Elections and Referendums Act 2000.	Power to direct that the Local Government Boundary Commission for Wales shall cease to exist.]
F188	F188
...	...
F189	F189
...	...
F190	F190
...	...
[ <sup>F191</sup> Section 139(1) of the Education Act 2002 (c. 32).]	Power to approve institutions to provide course of higher education etc.
Section 192 of that Act.	Power to prescribe content and manner of publication of proposals to secure regional provision.
Section 193 of that Act.	Power to make provision about proposals to secure regional provision.
Section 197 of that Act.	Power relating to partnership agreements and statements.
Section 198 of that Act.	Power relating to transition from primary to secondary school.
Section 207(4) of that Act.	Power relating to adjustments between [ <sup>F192</sup> local authorities].
Section 3(3) of the Health (Wales) Act 2003 (c. 4).	Power to make provision about functions of Wales Centre for Health.

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Section 4(4) of that Act.	Power to make provision for HPW to make arrangements about functions.
Section 4(7) of that Act.	Power to make provision about constitution of HPW.
Section 5(1) of that Act.	Power to permit HPW to charge for services.
Section 5(2) of that Act.	Power to transfer property etc. and personnel to HPW.
Section 5(7) of that Act.	Power to make provision about accounts and audit of HPW.
Section 5(9) of that Act.	Power to transfer property etc. and staff from HPW.
Paragraph 10 of Schedule 2 to that Act.	Power to make provision about Wales Centre for Health.
Paragraph 27 of Schedule 2 to that Act.	Power to make provision about accounts and audit of Centre.
Section 29(1) of the Waste and Emissions Trading Act 2003 (c. 33)	Power to require Welsh local authority to have waste management strategy.
Section 30(1) of that Act.	Power to require Welsh local authority to provide information about waste.
Section 75(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), unless exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 94(6) of that Act.	Power to require Welsh local authority to pay fee in relation to review of adoption and fostering functions.
Section 96 of that Act, unless exercised to amend or repeal any part of the text of an Act.	Power to confer additional functions in relation to Welsh local authority social services.
Section 101(1) of that Act, unless exercised to amend or repeal any part of the text of an Act.	Power to require prescribed persons to provide explanation of documents etc.
Section 62(4) of the Planning and Compulsory Purchase Act 2004 (c. 5).	Power to prescribe form and content of local development plan.
Section 63(3)(a) of that Act.	Power to prescribe persons to be included in community involvement scheme.
Section 63(7) of that Act.	Power to prescribe requirements in relation to that scheme and local development plan.
Section 69(1) of that Act.	Power to prescribe times for review of local development plan.

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Section 69(3) of that Act.	Power to prescribe form of, and publication requirements for, review.
Section 76(2) of that Act.	Power to prescribe information to be contained in annual monitoring report.
Section 76(3) of that Act.	Power to prescribe timing, form and content of report.
Section 77 of that Act.	Power to make provision about functions conferred by Part 6.
Section 30(1)(b) of the Higher Education Act 2004 (c. 8).	Power to designate “relevant authority”.
Section 38(2) of that Act.	Power to prescribe maximum period during which relevant authority can refuse to approve institution's new plan.
Section 18(2)(c) of the Public Audit (Wales) Act 2004 (c. 23).	Power to specify documents to which right of access applies.
Section 21(1) of that Act.	Power to replace scale of audit fees.
Section 39(1) of that Act, unless exercised so as to include a declaration that a contravention is an offence.	Power to make provision about publication etc. of accounts.
Section 52(2)(c) of that Act.	Power to specify documents to which right of access applies.
Section 26(2)(f) of the Children Act 2004 (c. 31).	Power to make provision about implementation of children and young people's plans.
Section 26(4) of that Act.	Power to require approval of such plans.
Section 22(1) of the Education Act 2005 (c. 18).	Power to establish panel to advise on Chief Inspector's functions.
Section 25(2) of that Act.	Power to prescribe categories of persons who may be registered inspectors.
Section 25(3)(b) of that Act.	Power to prescribe fees for applications for registration.
Section 36(2) of that Act.	Power to make provision as to timing of inspections and reports.
Section 38(3)(e) and (4)(b) and (c) of that Act.	Power to make provision relating to destination of reports about maintained schools.
Section 39(2)(a), (3), (5) and (7)(b) of that Act.	Power to make provision relating to statement prepared by appropriate authority for school.



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Section 40(3)(a) of that Act.	Power to make provision relating to statement prepared by [ <sup>F193</sup> local authority].
Section 41(4)(b) and (c) of that Act.	Power to make provision relating to destination of reports about non-maintained schools.
Section 42(2)(a), (3), (4) and (5)(b) of that Act.	Power to make provision relating to statement prepared by proprietor of school.
Section 52(5) of that Act.	Power to make provision about provision of inspection services by [ <sup>F194</sup> local authorities].
Section 55(4) of that Act.	Power to prescribe intervals at which careers services are inspected.
Section 56(3) of that Act.	Power to prescribe intervals at which related services are inspected.
Section 57(7)(a), (b) and (c) of that Act.	Power to require a person inspected to prepare written statement in response.
Section 57(9) of that Act.	Power to make provision about inspection reports.
Section 62(1) of that Act, unless exercised to amend or repeal an enactment.	Power to change inspection framework for Wales.
Section 85(3)(d) of that Act.	Power to designate institutions eligible for HEFCW funding.
Section 90(1) of that Act.	Power to confer functions on HEFCW.
Section 91(1) of that Act.	Power to give directions to HEFCW.
Section 92(4) of that Act.	Power to authorise joint exercise of HEFCW functions.
Section 100(2) of that Act.	Power to make provision as to meaning of “governing body”.
Section 124(1) of that Act, unless exercised to amend or repeal an enactment.	Power to make consequential etc. provision.
Paragraph 2 of Schedule 3 to that Act.	Power to make provision about appeals to, and procedure of, tribunals.
Paragraph 3(2)(b) of Schedule 4 to that Act.	Power to prescribe persons who may not be members of inspection team.
Paragraph 4(3) of Schedule 4 to that Act.	Power to waive fees for applications to be on the list of inspection team members.
Paragraph 6(b) of Schedule 4 to that Act.	Power to make provisions about meetings between inspectors and pupils.

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[ <sup>F195</sup> Section 8(1) of the Transport (Wales) Act 2006.	Power to establish the Public Transport Users` Committee for Wales or Pwyllgor Defnyddwyr Trafnidiaeth Gyhoeddus Cymru.]
[ <sup>F196</sup> Section 8(2) of that Act.	Power to change the name of a body established under section 8(1) of that Act.]
[ <sup>F197</sup> Section 8(6) of that Act	Power to make provision for the transfer of staff, property, rights and liabilities, from the Committee to any other person.]
[ <sup>F198</sup> Section 9(3) of that Act.	Power to change or transfer functions of the Public Transport Users` Committee for Wales.]
[ <sup>F199</sup> Section 8(1) of the Commissioner for Older People (Wales) Act 2006.	Power to confer power on the Commissioner to give assistance to certain persons to make complaints in respect of matters specified in section 8.]
[ <sup>F200</sup> Section 10(1) of that Act.	Power to make regulations allowing the Commissioner to examine cases of particular persons who are, or have been, older people in Wales.]
[ <sup>F201</sup> Section 14(1) of that Act.	Power to confer additional functions on the Commissioner.]
[ <sup>F202</sup> Section 15(1) of that Act.	Power to make regulations providing for the Commissioner to make reports following the discharge of any of his functions.]
[ <sup>F203</sup> Section 21(2) of that Act.	Power to prescribe certain functions for the purpose of preventing the Commissioner from being authorised and required to exercise those functions.]
[ <sup>F204</sup> Paragraph 2 of Schedule 1 to that Act.	Power to make provision as to the appointment of the Commissioner and as to the terms of office of the Commissioner.]
[ <sup>F205</sup> Article 16(4) of the National Assembly for Wales (Representation of the People) Order 2007.	Power to specify the apportionment of the costs of combined polls at an Assembly general election and an ordinary local government election.]

(5) In this paragraph—

“make” includes confirm or approve and related expressions are to be construed accordingly, and

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“pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.

- (6) This paragraph does not apply if the function was transferred as a result of the operation of paragraph 30(2)(b) (see paragraph 28 and section 59).

#### Textual Amendments

- F163** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F164** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F165** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F166** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F167** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F168** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F169** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F170** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F171** Sch. 11 para. 35(3) Table 1: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 4](#)
- F172** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F173** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F174** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F175** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F176** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F177** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F178** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F179** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)
- F180** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of [Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 304\(a\)](#) (with Sch. 3 Pt. 1)

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- F181** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F182** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F183** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F184** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(a)** (with Sch. 3 Pt. 1)
- F185** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F186** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F187** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F188** Sch. 11 para. 35(4) Table 2: entry omitted (1.3.2007) by virtue of Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 304(b)** (with Sch. 3 Pt. 1)
- F189** Sch. 11 para. 35(4) Table 2: entry omitted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(a)(b); S.I. 2009/3174, **art. 2(1)(r)**
- F190** Sch. 11 para. 35(4) Table 2: entry omitted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(a)(b); S.I. 2009/3174, **art. 2(1)(r)**
- F191** Sch. 11 para. 35(4) Table 2: entry substituted (7.12.2009) by virtue of Learning and Skills (Wales) Measure 2009 (nawm 1), ss. 47, 49, Sch. para. 22(c); S.I. 2009/3174, **art. 2(1)**
- F192** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(3)(a)**
- F193** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(3)(b)**
- F194** Sch. 11 para. 35(4): Table 2 words substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 59(3)(c)**
- F195** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F196** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**
- F197** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 4, **Sch. 2 para. 5**
- F198** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 4, **Sch. 2 para. 5**
- F199** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 4, **Sch. 2 para. 5**
- F200** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), arts. 1(3), 4, **Sch. 2 para. 5**

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- F201** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 5](#)
- F202** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 5](#)
- F203** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 5](#)
- F204** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 5](#)
- F205** Sch. 11 para. 35(4) Table 2: entry inserted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(3), 4, [Sch. 2 para. 5](#)

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

- C6** Sch. 11 para. 35 excluded (1.4.2008) [Mental Health Act 2007 \(c. 12\)](#), [ss. 50\(10\)\(a\)](#), 56; S.I. 2008/745, [art. 4](#)

*<sup>F206</sup> Instrument containing provisions under transferred power and provision under power in section 2(2) of the European Communities Act 1972: Assembly procedure*

**Textual Amendments**

- F206** Sch. 11 para. 35A and preceding cross-heading inserted by [The Government of Wales Act 2006 \(Transitional Provisions\) Order 2007 \(S.I. 2007/1270\)](#), [art. 2\(2\)](#), 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

- 35A (1) —(1) Paragraph 2A of Schedule 2 to the ECA 1972 applies to a draft of a statutory instrument laid before the Assembly pursuant to section 59(3) of this Act as it applies to a draft of a statutory instrument laid before Parliament pursuant to paragraph 2(2) of Schedule 2 to the ECA 1972.
- (2) Paragraph 2B of Schedule 2 to the ECA 1972 applies to a statutory instrument laid before the Assembly pursuant to section 59(3) of this Act as it applies to a statutory instrument laid before Parliament pursuant to paragraph 2(2) of Schedule 2 to the ECA 1972.
- (3) Paragraph 2A, or paragraph 2B, is subject to the following modifications in its application by virtue of this paragraph—
- references to Parliament and to each or either House of Parliament are to be read as references to the Assembly;
  - the reference in paragraph 2A(1)(a), or in paragraph 2B(1)(a), to a power conferred by any other enactment is to be read as a reference to a power which—
    - is transferred to, or made exercisable by, the Welsh Ministers, the First Minister or the Counsel General by or by virtue of paragraph 30 or 31 of this Schedule, or

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(ii) is conferred on the Welsh Ministers, the First Minister or the Counsel General by a provision of any Act in consequence of the amendment of that Act by or under this Act.

(4) In this paragraph, ECA 1972 means the European Communities Act 1972.]

*Transfers of Assembly functions: laying of reports and statements*

- 36 (1) This paragraph applies where—
- (a) a function to make or receive a report or statement was transferred to, or made exercisable by, the Assembly constituted by the Government of Wales Act 1998 (c. 38) by an Order in Council under section 22 of that Act,
  - (b) the function has been transferred to, or made exercisable by, the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission by or by virtue of paragraph 30 or 31, and
  - (c) immediately before the transfer of the function to that Assembly, any enactment made provision (“provision for Parliamentary laying”) for a report or statement made or received in the exercise of the function to be laid before Parliament or either House of Parliament by the person making or receiving it.
- (2) The provision for Parliamentary laying applies to the exercise of the function by the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission as if it required the report or statement to be laid before the Assembly instead of before Parliament or either House of Parliament.
- (3) In this paragraph and paragraph 37 references to a report or statement include any other document (except one containing subordinate legislation).
- 37 (1) This paragraph applies where—
- (a) a function to make or receive a report or statement was conferred or imposed on the Assembly constituted by the Government of Wales Act 1998 by a pre-commencement enactment,
  - (b) the function has been transferred to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission by or by virtue of paragraph 30 or 31, and
  - (c) immediately before the transfer, any enactment made provision for a report or statement made or received in the exercise of the function (or the matter contained in such a report or statement) to be published by that Assembly.
- (2) A copy of the report or statement must be laid before the Assembly after it has been made or received.
- (3) In this paragraph “pre-commencement enactment” means an enactment contained in an Act passed or subordinate legislation made before the end of the initial period.

*Transfers of Assembly functions: property, rights and liabilities*

- 38 (1) In paragraphs 39 and 40 “transferred function” means a function—
- (a) which is conferred or imposed on the Welsh Ministers, the First Minister or the Counsel General by a provision of this Act which re-enacts (with or without modifications) a provision of the Government of Wales Act 1998 (c. 38) which conferred or imposed the same or substantially the same function on the Assembly constituted by that Act,

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- (b) which is transferred to a person or body other than the Assembly by or by virtue of paragraph 30 or 31, or
      - (c) which is conferred or imposed on the Welsh Ministers, the First Minister or the Counsel General by a provision of any Act in consequence of the amendment of that Act by or under this Act.
    - (2) In paragraphs 39 and 40 “the transferee”, in relation to a transferred function, means—
      - (a) in the case of a function within paragraph (a) or (c) of sub-paragraph (1), the person or body on whom the function is conferred or imposed, and
      - (b) in the case of a function within paragraph (b) of that sub-paragraph, the person or body to whom the function is transferred.
    - (3) In paragraph 39 “transfer time”, in relation to a transferred function, means the time when the function first becomes exercisable by the transferee of the transferred function.
  - 39 (1) The property, rights and liabilities to which the Assembly constituted by the Government of Wales Act 1998 is entitled or subject in connection with any transferred function are transferred to and vest in the transferee of the function.
  - (2) Anything (including legal proceedings) which relates to—
    - (a) any transferred function, or
    - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,and which is in the process of being done by or in relation to the Assembly constituted by the Government of Wales Act 1998 immediately before the transfer time may be continued by or in relation to the transferee of the transferred function.
  - (3) Anything which was done by or in relation to the Assembly constituted by the Government of Wales Act 1998 for the purpose of or in connection with—
    - (a) any transferred function, or
    - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,and which is in effect immediately before the transfer time has effect as if done by or in relation to the transferee of the transferred function.
  - (4) In any instruments, contracts or legal proceedings which relate to—
    - (a) any transferred function, or
    - (b) any property, rights or liabilities transferred by sub-paragraph (1) in connection with any transferred function,and which are made or commenced before the transfer time, the transferee of the transferred function is substituted for the Assembly constituted by the Government of Wales Act 1998.
- 40 (1) Her Majesty may by Order in Council provide that all or any of the provisions of paragraph 39—
  - (a) do not apply in relation to particular transferred functions or to the property, rights and liabilities connected with the particular transferred functions or particular property, rights and liabilities so connected,
  - (b) are to apply only in relation to particular transferred functions or to particular property, rights or liabilities connected with transferred functions, or

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- (c) apply with modifications in relation to particular transferred functions or to the property, rights and liabilities connected with the particular transferred functions or particular property, rights and liabilities so connected.
- (2) Paragraph 39 does not apply in relation to rights and liabilities under a contract of employment of a member of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38).
- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this paragraph unless a draft of the statutory instrument containing the Order in Council has been laid before and approved by a resolution of—
- (a) each House of Parliament, and
  - (b) the Assembly constituted by the Government of Wales Act 1998 or the Assembly constituted by this Act.
- 41 (1) The Secretary of State may by order provide for the transfer to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission of—
- (a) any specified property, rights or liabilities, or
  - (b) property, rights or liabilities of any specified description,
- to which the Assembly constituted by the Government of Wales Act 1998 is entitled or subject or to which that Assembly was entitled or subject immediately before the end of the initial period.
- (2) An order under sub-paragraph (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under sub-paragraph (1) may provide—
- (a) for the creation in favour of the Assembly Commission of interests in, or rights over, property transferred to the Welsh Ministers, the First Minister or the Counsel General,
  - (b) for the creation in favour of the Welsh Ministers, the First Minister or the Counsel General of interests in, or rights over, property transferred to the Assembly Commission, or
  - (c) for the creation of new rights and liabilities between the Welsh Ministers, the First Minister or the Counsel General on the one hand and the Assembly Commission on the other.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Welsh Ministers, the First Minister, the Counsel General, or the Assembly Commission of—
- (a) any specified thing, or
  - (b) anything of a specified description,
- commenced by or in relation to the Assembly constituted by the Government of Wales Act 1998 (c. 38).
- (5) The Secretary of State may by order make provision for—
- (a) any specified thing, or
  - (b) anything of a specified description,
- done by or in relation to the Assembly constituted by the Government of Wales Act 1998 to have effect as if done by or in relation to the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission.



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- (6) The Secretary of State may by order make provision for the substitution of the Welsh Ministers, the First Minister, the Counsel General or the Assembly Commission for the Assembly constituted by the Government of Wales Act 1998 in—
- (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this paragraph may be made in consequence of provision made by this Act or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) An order under this paragraph may not provide for the transfer of rights and liabilities under a contract of employment of a member of the staff of the Assembly constituted by the Government of Wales Act 1998.
- (9) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- 42 (1) A certificate issued by the Secretary of State that any property has been transferred by—
- (a) paragraph 39, or
  - (b) an order under paragraph 41,
- is conclusive evidence of the transfer.
- (2) Paragraph 39, and orders under paragraph 41, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.
- (3) A right of pre-emption, right of return or other similar right does not operate or become exercisable as a result of any transfer of property or rights by virtue of paragraph 39 or an order under paragraph 41.
- (4) Any such right has effect in the case of any such transfer as if the transferee were the same person in law as the transferor and no transfer of the property or rights had taken place.
- (5) Such compensation as is just is to be paid to any person in respect of any such right which would, apart from sub-paragraph (3), have operated in favour of or become exercisable by that person but which, in consequence of the operation of that sub-paragraph, cannot subsequently operate in favour of or become exercisable by that person.
- (6) Any compensation payable by virtue of sub-paragraph (5) is to be paid by the transferor or by the transferee or by both.
- (7) The Secretary of State may by order make provision for the determination of disputes as to—
- (a) whether compensation is payable under sub-paragraph (5),
  - (b) how much compensation is payable, and
  - (c) the person to whom or by whom it is to be paid.
- (8) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

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- (9) Sub-paragraphs (2) to (8) apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property; and references to the transferor and transferee are to be read accordingly.
- (10) In this paragraph “right of return” means any right under a provision for the return or reversion of property in specified circumstances.

### *[<sup>F207</sup> Criminal Liability of the Assembly*

#### **Textual Amendments**

**F207** Sch. 11 para. 42A and preceding cross-heading inserted by [The Government of Wales Act 2006 \(Transitional Provisions\) Order 2007 \(S.I. 2007/1270\)](#), [art. 2\(3\)](#), 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

- 42A (1) —(1) In this paragraph, “criminal liability of the Assembly” means criminal liability incurred by the Assembly constituted by the Government of Wales Act 1998.
- (2) To the extent that any criminal liability of the Assembly is connected with property, rights and other liabilities transferred to the Assembly Commission by the National Assembly for Wales (Transfer of Property, Rights and Liabilities) Order 2007, that criminal liability is transferred to the Assembly Commission.
- (3) Subject to sub-paragraph (2), the criminal liability of the Assembly is transferred to the Welsh Assembly Government.
- (4) Paragraph 39(2) to (4) applies in relation to criminal liability transferred by this paragraph as it applies to a liability transferred by paragraph 39; and in that application of paragraph 39(2) to (4)—
- “transfer time” means the time immediately after the end of the initial period;
- “transferee of the transferred function” means the Assembly Commission or, as the case may be, the Welsh Assembly Government.]

#### *Staff of the Assembly*

- 43 (1) Subject as follows, at the end of the initial period the members of the staff of the Assembly constituted by the Government of Wales Act 1998 (c. 38) (“relevant employees”) are to be taken to have been appointed as members of the staff of the Welsh Assembly Government.
- (2) But the Secretary of State may by order make a scheme (“a transfer scheme”) for the transfer to the Assembly Commission of [<sup>F208</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] listed relevant employees under [<sup>F209</sup>or in connection with] their contracts of employment at the end of the initial period.
- (3) A relevant employee is a listed relevant employee if the relevant employee is named in, or is of a description of relevant employees specified in, a list produced by the Secretary of State; and the Secretary of State—
- (a) may at any time amend the list, and

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- (b) must make the list (and any amendments of it) available to such persons, and in such manner, as appear appropriate.
- (4) The transfer by a transfer scheme of [<sup>F210</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] a relevant employee under [<sup>F211</sup>or in connection with] the relevant employee's contract of employment does not break the continuity of the relevant employee's employment and accordingly—
  - (a) the relevant employee is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) (redundancy) as having been dismissed by virtue of the transfer, and
  - (b) the relevant employee's period of employment with the Assembly constituted by the Government of Wales Act 1998 counts as a period of employment with the Assembly Commission for the purposes of the Employment Rights Act 1996.
- (5) A transfer scheme transferring [<sup>F212</sup>the rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of] a relevant employee under [<sup>F213</sup>or in connection with] the relevant employee's contract of employment must provide for the terms and conditions of the relevant employee's employment with the Assembly Commission (taken as a whole) to be no less favourable to the relevant employee than the terms and conditions on which the relevant employee is employed immediately before the transfer.
- (6) A transfer scheme must provide that, if a listed relevant employee informs the Assembly constituted by the Government of Wales Act 1998 or the Assembly Commission that the relevant employee objects to becoming employed by the Assembly Commission—
  - (a) the transfer scheme does not operate to transfer [<sup>F214</sup>any rights, powers, duties and liabilities of the Assembly constituted by the Government of Wales Act 1998 in respect of][<sup>F215</sup>or in connection with] the relevant employee's contract of employment, and
  - (b) the relevant employee's contract of employment is terminated [<sup>F216</sup>immediately before the end of] the initial period, but
  - (c) the relevant employee is not, by virtue of that termination, to be treated for any purpose as having been dismissed.
- (7) Anything (including legal proceedings) which relates to [<sup>F217</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme which is in the process of being done by or in relation to the Assembly constituted by the Government of Wales Act 1998 (c. 38) immediately before they are transferred may be continued by or in relation to the Assembly Commission.
- (8) Anything which was done by or in relation to the Assembly constituted by the Government of Wales Act 1998 for the purpose of or in connection with [<sup>F218</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme which is in effect immediately before they are transferred has effect as if done by or in relation to the Assembly Commission.
- (9) In any instruments, contracts or legal proceedings which relate to [<sup>F219</sup>any rights, powers, duties or liabilities] transferred by a transfer scheme and which are made or

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commenced immediately before they are transferred, the Assembly Commission is substituted for the Assembly constituted by the Government of Wales Act 1998.

- (10) Before making an order under sub-paragraph (2) the Secretary of State must consult the Assembly constituted by the Government of Wales Act 1998.
- (11) A statutory instrument containing an order under sub-paragraph (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F208** Words in Sch. 11 para. 43(2) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(a)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F209** Words in Sch. 11 para. 43(2) inserted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(a)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F210** Words in Sch. 11 para. 43(4) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(b)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F211** Words in Sch. 11 para. 43(4) inserted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(b)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F212** Words in Sch. 11 para. 43(5) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(c)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F213** Words in Sch. 11 para. 43(5) inserted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(c)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F214** Words in Sch. 11 para. 43(6)(a) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(d)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F215** Words in Sch. 11 para. 43(6)(a) inserted by virtue of The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(d)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F216** Words in Sch. 11 para. 43(6)(b) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(e)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F217** Words in Sch. 11 para. 43(7) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(f)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F218** Words in Sch. 11 para. 43(8) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(g)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)
- F219** Words in Sch. 11 para. 43(9) substituted by The National Assembly for Wales (Transfer of staff to Assembly Commission Scheme) Order 2007 (S.I. 2007/1169), arts. 1(2), **2(h)**, the amending S.I. coming into force immediately after "the 2007 election" (which was held on 3.5.2007)

#### *Powers to lend money*

- 44 (1) This paragraph applies where—

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- (a) a power to lend money was transferred to the Assembly constituted by the Government of Wales Act 1998 by an Order in Council under section 22 of that Act, and
  - (b) the power has been transferred to the Welsh Ministers by paragraph 30.
- (2) Sub-paragraph (3) applies to any sums which, for the purpose or as a result of the exercise of the power, would be required (apart from that sub-paragraph)—
  - (a) to be issued by the Treasury out of the National Loans Fund, or
  - (b) to be paid into that Fund.
- (3) Those sums are instead—
  - (a) to be charged on the Welsh Consolidated Fund, or
  - (b) to be paid into that Fund.
- (4) The following provisions apply where—
  - (a) the power was exercised by a Minister of the Crown before its transfer to the Assembly constituted by the Government of Wales Act 1998 (c. 38) or by that Assembly after its transfer, and
  - (b) the sums required for the exercise of the power were issued by the Treasury out of the National Loans Fund.
- (5) Any amount payable by way of repayment of, or of interest on, the loan is to be paid to the Welsh Ministers and into the Welsh Consolidated Fund (instead of to the Minister of the Crown and into the National Loans Fund).
- (6) Amounts equal to those which are to be received by the Welsh Ministers in repayment of principal are to be treated as being loans made to the Welsh Ministers by the Secretary of State on the date of the transfer of the power to the Welsh Ministers.
- (7) Such loans are to be repaid to the Secretary of State at such times and by such methods, and interest is to be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (8) Sums required to be paid to the Secretary of State under sub-paragraph (7) are to be charged on the Welsh Consolidated Fund.
- (9) Sums received by the Secretary of State under sub-paragraph (7) are to be paid into the National Loans Fund.
- (10) Her Majesty may by Order in Council disapply this paragraph (in whole or in part) in relation to any power to lend money.
- (11) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (10) 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.

#### *Local government scheme*

- 45 (1) Any scheme under section 113(1) of the Government of Wales Act 1998 which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 73.

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- (2) Sub-paragraph (1) does not give rise to any obligation under section 73(4) to publish the scheme.
- (3) Section 73(6) does not apply in relation to the financial year ending with 31st March 2007.
- (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by paragraph 9 of Schedule 11 to that Act in relation to that financial year before the commencement of the repeal of that paragraph by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (5) In relation to the financial year ending with 31st March 2008, the reference in section 73(6)(a) to the proposals set out in the local government scheme includes those set out in a scheme under section 113(1) of the Government of Wales Act 1998.

*Voluntary sector scheme*

- 46
- (1) Any scheme under section 114(1) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 74.
  - (2) Sub-paragraph (1) does not give rise to any obligation under section 74(7) to publish the scheme.
  - (3) Section 74(9) does not apply in relation to the financial year ending with 31st March 2007.
  - (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (9) of section 114 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
  - (5) In relation to the financial year ending with 31st March 2008, the reference in section 74(9)(a) to the proposals set out in the voluntary sector scheme includes those set out in a scheme under section 114(1) of the Government of Wales Act 1998.

*Equality of opportunity arrangements*

- 47
- (1) Any arrangements under section 120(1) of the Government of Wales Act 1998 which are in force immediately before the commencement of the repeal of that provision by this Act have effect after that time (with appropriate modifications) as if made under section 77.
  - (2) Section 77(2) does not apply in relation to the financial year ending with 31st March 2007.
  - (3) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (2) of section 120 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.

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- (4) In relation to the financial year ending with 31st March 2008, the references in subsection (2) of section 77 to the arrangements made in pursuance of subsection (1) of that section include those made in pursuance of section 120(1) of the Government of Wales Act 1998.

*Welsh language strategy and scheme*

- 48 (1) The National Action Plan for a Bilingual Wales (or *Iaith Pawb*) as it stands immediately before the coming into force of section 78 has effect after that time (with appropriate modifications) as if it were a strategy adopted under subsection (1) of that section.
- (2) Any Welsh language scheme adopted by the Assembly constituted by the Government of Wales Act 1998 and current immediately before the coming into force of section 78 has effect after that time (with appropriate modifications) as if adopted under subsection (2) of that section.
- (3) Sub-paragraphs (1) and (2) do not give rise to any obligation under section 78(6).
- (4) Section 78(8) does not apply in relation to the financial year ending with 31st March 2007.

*Sustainable development scheme*

- 49 (1) Any scheme under section 121(1) of the Government of Wales Act 1998 (c. 38) which is in force immediately before the commencement of the repeal of that provision by this Act has effect after that time (with appropriate modifications) as if made under section 79.
- (2) Sub-paragraph (1) does not give rise to any obligation under section 79(4) to publish the scheme.
- (3) Section 79(6) does not apply in relation to the financial year ending with 31st March 2007.
- (4) But if the Assembly constituted by the Government of Wales Act 1998 has not complied with the duty imposed by subsection (6) of section 121 of that Act in relation to that financial year before the commencement of the repeal of that subsection by this Act, that duty becomes a duty of the Welsh Ministers on the commencement of that repeal.
- (5) In relation to the financial year ending with 31st March 2008, the reference in section 79(6)(a) to the proposals set out in the sustainable development scheme includes those set out in a scheme under section 121(1) of the Government of Wales Act 1998.
- (6) Section 79(7) has effect as if 2008 were the year following that in which an ordinary general election is held.

*Orders in Council amending Schedule 5*

- 50 (1) Section 95 has effect until the end of the initial period subject to the following modifications.

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- (2) In subsection (2), for the words after “exercisable by” substitute “ the Assembly constituted by the Government of Wales Act 1998 ”.
- (3) In subsection (5)(a), after “Assembly” insert “ constituted by the Government of Wales Act 1998 ”.
- (4) Omit subsections (6) to (10).
- 51 Section 96 has effect until the end of the initial period with the substitution of “ Assembly constituted by the Government of Wales Act 1998 ” for “Counsel General”.

*Assembly Measures: criminal penalties*

- 52 (1) No term of imprisonment of more than six months is to be imposed on conviction of a summary offence created by or by virtue of an Assembly Measure if the offence is committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (c. 44).
- (2) No term of imprisonment of more than six months is to be imposed on summary conviction of an offence triable either way created by or by virtue of an Assembly Measure if the offence is committed before the coming into force of section 154(1) of that Act.

*[<sup>F220</sup>Payments into the Welsh Consolidated Fund]*

**Textual Amendments**

**F220** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), [art. 3](#)

- [<sup>F221</sup>53A No later than four weeks after a certified copy of the accounts of the Public Services Ombudsman for Wales (“the Ombudsman”) for the financial year ending with 31st March 2007 is, under paragraph 17(2)(b) of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005, laid before the Assembly, the Ombudsman must pay into the Welsh Consolidated Fund a sum equal to the total amount of all monies standing to the credit of the Ombudsman immediately before 1st April 2007.

**Textual Amendments**

**F221** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), [art. 3](#)

- 53B (1) No later than four weeks after a certified copy of the accounts of the Auditor General for the financial year ending with 31st March 2007 is laid before the Assembly under paragraph 15(3)(b) of Schedule 8 (as it applies by virtue of paragraph 64C of this Schedule) the Auditor General must pay the required amount into the Welsh Consolidated Fund.
- (2) “The required amount” means a sum equal to the total amount of all monies standing to the credit of the Auditor General immediately before 1st April 2007 except monies within both sub-paragraph (3) and sub-paragraph (4).



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- (3) Monies are within this sub-paragraph if they represent—
- (a) fees charged by the Auditor General by virtue of Part 1 of the Local Government Act 1999 (best value audits and inspections),
  - (b) grants made to the Auditor General under section 33(3)(b) of that Act (grants in respect of expenditure under that Act),
  - (c) fees charged by the Auditor General by virtue of Part 2 of the Public Audit (Wales) Act 2004 (local government audit), or
  - (d) fees or other sums received by the Auditor General by virtue of section 96C of the Government of Wales Act 1998 (arrangements with relevant authorities).
- (4) Monies are within this sub-paragraph if they are retained by the Auditor General for use in connection with the exercise of the functions conferred or imposed by, or the exercise of functions pursuant to —
- (a) Part 1 of the Local Government Act 1999,
  - (b) Part 2 of the Public Audit (Wales) Act 2004, or
  - (c) section 96C of the Government of Wales Act 1998.]

#### Textual Amendments

**F221** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

- [<sup>F222</sup>53 No later than four weeks after a certified copy of the accounts of the Assembly constituted by the Government of Wales Act 1998 for the financial year ending with 31st March 2007 is, under section 97(5)(b) of that Act, laid before the Assembly constituted by this Act, the Welsh Ministers must pay into the Welsh Consolidated Fund a sum equal to the total amount of all monies standing to the credit of the Assembly constituted by the Government of Wales Act 1998 immediately before 1st April 2007.]

#### Textual Amendments

**F222** Sch. 11 para. 53-53B and cross-heading substituted (1.4.2007) for para. 53 and cross-heading by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 3**

#### Grants

- 54 Until the end of the initial period section 118(2) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for the reference to the Welsh Ministers, the First Minister or the Counsel General.

#### Statement of estimated payments

- 55 In its application for the financial year beginning on 1st April 2007 section 119 has effect as if—

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- (a) the references in subsection (1)(b) and (c) to the Welsh Ministers, the First Minister or the Counsel General included the Assembly constituted by the Government of Wales Act 1998, and
- (b) the reference in subsection (6) to the Assembly were to that Assembly.

*Destination of receipts*

- 56 Until the end of the initial period section 120 has effect—
- (a) with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for paragraphs (a) and (b) of subsection (1), and
  - (b) as if the references in subsections (3), (4) and (5) to the Welsh Ministers were to that Assembly;
- and the reference in subsection (2)(a) to a resolution of the Assembly includes a resolution made before the beginning of the initial period by that Assembly.

*Borrowing*

- 57 (1) Until the end of the initial period section 121(1) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 for the reference to the Welsh Ministers.
- (2) For the purpose of section 122(2) the aggregate amount which, immediately before 1st April 2007, is outstanding in respect of the principal of—
- (a) loans made under section 82 of the Government of Wales Act 1998, and
  - (b) any other loans issued out of the National Loans Fund which the Assembly constituted by the Government of Wales Act 1998 is liable to repay,
- is treated as outstanding in respect of the principal of sums borrowed under section 121.

*Payments out of Welsh Consolidated Fund.*

- 58 Until the end of the initial period section 124(3) has effect with the substitution of a reference to the Assembly constituted by the Government of Wales Act 1998 (c. 38) for paragraphs (a) and (b).
- 59 Until the end of the initial period—
- (a) paragraph 5(3) of Schedule 31 to the Local Government, Planning and Land Act 1980 (c. 65) (financial provisions relating to urban development corporations: guarantees),
  - (b) paragraph 16 of Schedule 8 to the Local Government Finance Act 1988 (c. 41) (non-domestic rating: pooling), and
  - (c) paragraph 5(3) of Schedule 8 to the Housing Act 1988 (c. 50) (financial provisions relating to housing action trusts: guarantees),
- have effect with the substitution of references to that Assembly for the references to the Welsh Ministers.

*Annual Budget motions*

- 60 (1) In its application for the financial year beginning on 1st April 2007 section 125 has effect as if—

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- (a) the reference in subsection (1) to the Assembly included the Assembly constituted by the Government of Wales Act 1998 (except as it continues in existence by virtue of paragraph 22), and
  - (b) the references in paragraphs (b) and (c) of subsection (3) to the Welsh Ministers, the First Minister or the Counsel General included that Assembly.
- (2) In relation to a Budget motion moved in that Assembly that section has effect as if—
- (a) the reference in subsection (2) to the First Minister or a Welsh Minister appointed under section 48, and
  - (b) the reference in subsection (3) to the Welsh Ministers in the words before the paragraphs,
- were to a member of the executive committee within the meaning of the Government of Wales Act 1998 and as if the references in paragraphs (a), (b) and (c) of that subsection to the estimate of the Welsh Ministers were to the estimate of the member of that committee by whom the statement is made.

#### *Supplementary Budget motions*

- 61 (1) In its application for the financial year beginning on 1st April 2007 section 126 has effect as if the reference in subsection (1) to the Assembly included the Assembly constituted by the Government of Wales Act 1998 (except as it continues in existence by virtue of paragraph 22).
- (2) In relation to a supplementary Budget resolution moved in that Assembly that section has effect as if the reference in subsection (5) to the First Minister or a Welsh Minister appointed under section 48 were to a member of the executive committee within the meaning of the Government of Wales Act 1998.

#### *[<sup>F223</sup>Contingencies]*

##### **Textual Amendments**

**F223** Sch. 11 para. 62 substituted (1.4.2007) by virtue of [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 4**

- [<sup>F224</sup>62(1) Until the end of the initial period, section 128 has effect as if for the words after “this section” in subsections (4) and (5) there were substituted in each place “must not exceed £50 million.”.
- (2) Until the beginning of the initial period, section 128(1) to (6) has effect as if the references to the Welsh Ministers were to two or more members of the executive committee within the meaning of the Government of Wales Act 1998.
- (3) Where authorisation is given under section 128 before the beginning of the initial period, that section has effect as if for subsection (7) there were substituted—
- “(7) Where two or more members of the executive committee within the meaning of the Government of Wales Act 1998 authorise the use of resources or the payment of amounts under this section, that committee must, as soon as possible, lay before the Assembly constituted by that Act a report setting out—

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- (a) the resources authorised to be used or the amounts authorised to be paid,
  - (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
  - (c) why it was considered necessary to authorise the use of the resources, or the payment of the amounts, under this section.”
- (4) During the initial period, section 128(1) to (6) has effect as if the references to the Welsh Ministers were to two or more members of the Assembly constituted by the Government of Wales Act 1998 (as it continues in existence by virtue of paragraph 22) not including the person who immediately before the beginning of the initial period held office as the presiding officer.
- (5) Where authorisation is given under section 128 during the initial period, that section has effect as if for subsection (7) there were substituted—
- “(7) Where two or more members of the Assembly constituted by the Government of Wales Act 1998 authorise the use of resources or the payment of amounts under this section, that Assembly (as it continues in existence by virtue of paragraph 22 of Schedule 11) must, as soon as possible, prepare a report for the Welsh Ministers setting out—
- (a) the resources authorised to be used or the amounts authorised to be paid,
  - (b) the services or purposes for which the resources were authorised to be used, or the amounts were authorised to be paid, and
  - (c) why it was considered necessary to authorise the use of the resources, or the payment of the amounts, under this section.
- (8) The Welsh Ministers must lay the report before the Assembly constituted by this Act as soon as reasonably practicable after the end of the initial period.”.]

#### Textual Amendments

**F224** Sch. 11 para. 62 substituted (1.4.2007) by virtue of [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), [art. 4](#)

#### *Approvals to draw*

- 63 (1) This paragraph applies until the end of the initial period.
- (2) Section 129 has effect as if the [<sup>F225</sup>references] in subsection (1) [<sup>F226</sup>and subsection (3)] to the Welsh Ministers were—
- (a) before the beginning of the initial period, to a member of the executive committee within the meaning of the Government of Wales Act 1998, and
  - (b) during the initial period, to a member of the Assembly constituted by that Act (as it continues in existence by virtue of paragraph 22) other than the person who immediately before the beginning of the initial period held office as the presiding officer.
- [<sup>F227</sup>(3) That section has effect as if for the references in subsection (4) to the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission there were

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substituted a reference to the Assembly constituted by the Government of Wales Act 1998.]

- (4) And that section has effect as if the reference in subsection (5)(b) to the principal accounting officer for the Welsh Assembly Government were—
- (a) before the beginning of the initial period, to the Assembly's principal accounting officer (designated under section 98 of the Government of Wales Act 1998), and
  - (b) during the initial period, to the person who was the Assembly's principal accounting officer immediately before the beginning of the initial period.

#### Textual Amendments

- F225** Word in Sch. 11 para. 63(2) substituted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(1)**
- F226** Words in Sch. 11 para. 63(2) inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(1)**
- F227** Sch. 11 para. 63(3) substituted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 5(2)**

#### *<sup>F228</sup>Preparation of Assembly's annual accounts for financial year ending 31st March 2007*

#### Textual Amendments

- F228** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

- 63A The function of the Assembly constituted by the Government of Wales Act 1998 under section 97 of that Act of preparing accounts of that Assembly for the financial year ending with 31st March 2007 shall transfer to the Welsh Ministers at the end of the initial period.

#### Textual Amendments

- F228** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

#### *Preparation of whole of government accounts for year ending 31st March 2007*

- 63B The function of the Assembly constituted by the Government of Wales Act 1998 under section 101A of that Act of preparing whole of government accounts for the financial year ending with 31st March 2007 shall transfer to the Welsh Ministers at the end of the initial period.]

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#### Textual Amendments

**F228** Sch. 11 paras. 63A, 63B and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 6**

#### *Auditor General*

- 64 The person who, immediately before the commencement of the repeal of section 90 of the Government of Wales Act 1998, holds the post of Auditor General for Wales is to be taken after that time to have been appointed to that post under paragraph 1 of Schedule 8.

#### *<sup>F229</sup>Auditor General's staff*

#### Textual Amendments

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

- 64A The members of staff employed by the Auditor General immediately before the commencement of the repeal of section 92 of the Government of Wales Act 1998 are to be taken after that time to have been appointed to that employment under paragraph 7 of Schedule 8.

#### Textual Amendments

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

#### *Audit of Auditor General's accounts*

- 64B The person appointed as the auditor of the accounts for the Auditor General under section 94(1) of the Government of Wales Act 1998 immediately before the commencement of the repeal of that section is to be taken after that time to have been appointed by the Assembly constituted by this Act under paragraph 14(1) of Schedule 8.

#### Textual Amendments

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

- 64C Paragraph 15 of Schedule 8 (audit of accounts) applies to accounts prepared by the Auditor General under section 93(8) of the Government of Wales Act 1998 for the financial year ending with 31st March 2007 as it applies to accounts prepared under paragraph 13 of that Schedule.

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**Textual Amendments**

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Audit Committee reports*

64D The reference in section 143(1) (Audit Committee reports) to any accounts, statement of accounts or report laid before the Assembly includes any accounts, statement of accounts or report laid before the Assembly constituted by the Government of Wales Act 1998.

**Textual Amendments**

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Examinations into use of resources by the 1998 Assembly*

64E (1) Notwithstanding the repeal of section 100 of the Government of Wales Act 1998 (examination into Assembly's use of resources) the Auditor General may carry out, or continue to carry out, examinations into the economy, efficiency and effectiveness with which the Assembly constituted by that Act used its resources in discharging its functions.

(2) Section 135 of this Act applies to an examination carried out pursuant to subparagraph (1) as it applies to an examination of the kind mentioned in subsection (1) of that section.

**Textual Amendments**

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

*Remuneration of the Auditor General*

64F Any sums required by the Assembly constituted by the Government of Wales Act 1998 for the making of payments under section 91(1), (2) or (4) of that Act (remuneration of the Auditor General for Wales) shall, to the extent that they relate to the financial year beginning with 1st April 2007, be charged on the Welsh Consolidated Fund.

**Textual Amendments**

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), **art. 7**

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*Remuneration etc. of the Public Services Ombudsman for Wales*

- 64G Any sums required by the Assembly constituted by the Government of Wales Act 1998 for the making of payments under paragraph 9(1), (2) and (5) of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (remuneration of Public Services Ombudsman for Wales) or paragraph 10 of that Schedule (expenses) shall, to the extent that they relate to the financial year beginning with 1st April 2007, be charged on the Welsh Consolidated Fund.]

**Textual Amendments**

**F229** Sch. 11 paras. 64A-64G and cross-headings inserted (1.4.2007) by [The Government of Wales Act 2006 \(Transitional Provisions\) \(Finance\) Order 2007 \(S.I. 2007/726\)](#), [art. 7](#)

*Advocate General for Northern Ireland*

- 65 (1) Until the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26) this Act has effect subject to the following modifications.
- (2) In section 81(3), omit “, the Advocate General for Northern Ireland”.
- (3) In section 153(5)(c) and paragraphs 23(1) and (2), 24(1) and 29(2)(c) of Schedule 9, for “Advocate General” substitute “ Attorney General ”.

*The Supreme Court*

- 66 (1) Until the coming into force of section 23(1) of the Constitutional Reform Act 2005 (c. 4) this Act has effect subject to the following modifications.
- (2) In section 96, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”.
- (3) In section 98(6)(a), for “the Supreme Court decides” substitute “ the Judicial Committee of the Privy Council decide ”.
- (4) In the following provisions, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”
- (a) the title to section 99,
  - (b) subsection (1) of that section,
  - (c) section 100(1)(b),
  - (d) section 101(4)(c), and
  - (e) section 102(2)(b).
- (5) In section 102(3)(a), for “the Supreme Court has” substitute “ the Judicial Committee of the Privy Council have ”.
- (6) In section 111(6)(a), for “the Supreme Court decides” substitute “ the Judicial Committee of the Privy Council decide ”.
- (7) In the following provisions, for “Supreme Court” substitute “ Judicial Committee of the Privy Council ”
- (a) the title to section 112,
  - (b) subsection (1) of that section,



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- (c) section 113(1)(b),
  - (d) section 114(4)(c), and
  - (e) section 115(2)(b).
- (8) In section 115(3)(a), for “the Supreme Court has” substitute “ the Judicial Committee of the Privy Council have ”.
- (9) In section 148(1)(f), for “Senior Courts” substitute “ Supreme Court ”.
- (10) In paragraph 1(2) of Schedule 9 after “Schedule” insert “—
- (a) “the Judicial Committee” means the Judicial Committee of the Privy Council, and
  - (b) ”.
- (11) In paragraphs 7(2)(a), 9, 15 and 25 of that Schedule, for “Supreme Court” substitute “ House of Lords ”.
- (12) In the following provisions of that Schedule—
- (a) paragraph 10 and the heading before it,
  - (b) paragraph 18 and the heading before it,
  - (c) paragraph 19,
  - (d) paragraph 20 and the heading before it,
  - (e) paragraph 27 and the heading before it,
  - (f) sub-paragraph (1) of paragraph 29 and the heading before it, and
  - (g) paragraph 30(1),
- for “Supreme Court” substitute “ Judicial Committee ”.
- (13) In paragraph 11 of that Schedule—
- (a) for “Supreme Court”, in both places, substitute “ Judicial Committee ”,
  - (b) for “permission”, in the first two places, substitute “ leave ”, and
  - (c) for “permission”, in the third place, substitute “ special leave ”,
- and in the heading before it, for “Supreme Court” substitute “ Judicial Committee ”.
- (14) In paragraph 21 of that Schedule—
- (a) for “Supreme Court apart from this paragraph” substitute “ House of Lords ”,
  - (b) for “Supreme Court”, in the second and third places, substitute “ Judicial Committee ”,
  - (c) for “permission”, in the first two places, substitute “ leave ”, and
  - (d) for “permission”, in the third place, substitute “ special leave ”.
- (15) In paragraph 28 of that Schedule—
- (a) for “Supreme Court”, in both places, substitute “ Judicial Committee ”,
  - (b) for “permission”, in the first two places, substitute “ leave ”, and
  - (c) for “permission”, in the third place, substitute “ special leave ”,
- and in the heading before it, for “Supreme Court” substitute “ Judicial Committee ”.
- (16) Before paragraph 29 of that Schedule insert—

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*“Proceedings in the House of Lords*

- 28A Any devolution issue which arises in judicial proceedings in the House of Lords is to be referred to the Judicial Committee unless the House considers it more appropriate, having regard to all the circumstances, that it should determine the issue.”
- 67 (1) This paragraph has effect until the coming into force of section 23(1) of the Constitutional Reform Act 2005 (c. 4).
- (2) Any decision of the Judicial Committee in proceedings under this Act—
- (a) must be stated in open court, and
  - (b) is binding in all legal proceedings (other than proceedings before the Judicial Committee).
- (3) The only members of the Judicial Committee who may sit and act as members of the Judicial Committee in proceedings under this Act are those who hold or have held—
- (a) the office of a Lord of Appeal in Ordinary, or
  - (b) high judicial office as defined in section 25 of the Appellate Jurisdiction Act 1876 (c. 59) (ignoring for this purpose section 5 of the Appellate Jurisdiction Act 1887 (c. 70)).
- (4) Her Majesty may by Order in Council—
- (a) confer on the Judicial Committee in relation to proceedings under this Act such powers as appear to be appropriate,
  - (b) apply the Judicial Committee Act 1833 (c. 41) in relation to proceedings under this Act with exceptions and modifications, and
  - (c) make rules for regulating the procedure with respect to proceedings under this Act before the Judicial Committee.
- (5) An Order in Council under sub-paragraph (4) 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 in connection with the provision made by the Order in Council.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under sub-paragraph (4) 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.
- (7) A statutory instrument containing an Order in Council which makes provision falling within sub-paragraph (4)(a) or (b) 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.

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## SCHEDULE 12

Section 163

### REPEALS AND REVOCATIONS

#### Commencement Information

**I189** Sch. 12 partly in force at Royal Assent, partly in force at 1.4.2007, partly in force immediately after "the 2007 election" and partly in force immediately after the end of "the initial period" (subject to s. 161(6)) by s. 161(1)-(5)

<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
Copyright, Designs and Patents Act 1988 (c. 48)	Section 163(1A).
Official Secrets Act 1989 (c. 6)	Section 12(2)(aa).
Town and Country Planning Act 1990 (c. 8)	Section 321B(5).
Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)	In Schedule 3, paragraph 8(5).
Planning (Hazardous Substances) Act 1990 (c. 10)	In the Schedule, paragraph 8(5).
Government of Wales Act 1998 (c. 38)	Sections 1 to 26. Section 27(1) to (5) and (8) to (10). Sections 29 to 103. Section 104(5). Sections 106 to 124. Section 144(6) and (8A). In section 145(3), the words "(or, before the first ordinary election, the views of the Secretary of State)". In section 154— (a) in subsection (3), paragraph (a) and, in paragraph (b), the words "96(5), 117," and the words "144(1) or (4),", (b) subsection (4), (c) in subsection (6), in paragraph (a), the words from "3" to "118(1)(f),", the words "144(1) or (4),", and the words "or paragraph 17(9) of Schedule 9" and paragraph (b) and the word "and" preceding it, and (d) subsection (7). In section 155— (a) in subsection (1), the definitions of "Community law" and "delegate", (b) subsection (2), and (c) in subsection (3), the words from "; and the" to the end. Section 156. Schedules 1 to 3. Schedule 5.

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	Schedule 8.
	Schedule 11.
	In Schedule 12—
	(a) paragraph 2,
	(b) paragraph 7,
	(c) paragraph 8(2)(a), (3) and (4),
	(d) paragraph 12,
	(e) paragraph 13,
	(f) paragraph 15,
	(g) paragraph 17(3)(a),
	(h) paragraph 28, and
	(i) paragraph 30
Northern Ireland Act 1998 (c. 47)	In Schedule 13, paragraph 8(2) to (4).
Pollution Prevention and Control Act 1999 (c. 24)	In Schedule 2, paragraph 20.
Care Standards Act 2000 (c. 14)	In Schedule 1, paragraph 27(a).
Government Resources and Accounts Act 2000 (c. 20)	In Schedule 1, paragraphs 22, 23(a) and 24.
Learning and Skills Act 2000 (c. 21)	In Schedule 9, paragraph 93.
Political Parties, Elections and Referendums Act 2000 (c. 41)	In Schedule 3, paragraphs 8 to 16. In Schedule 21, paragraph 12.
House of Commons (Removal of Clergy Disqualification) Act 2001 (c. 13)	In Schedule 1, paragraph 3.
European Parliamentary Elections Act 2002 (c. 24)	In Schedule 3, paragraph 6.
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 7, paragraphs 3, 6 and 9.
Health (Wales) Act 2003 (c. 4)	In Schedule 3, paragraph 10.
Local Government Act 2003 (c. 26)	In Schedule 7, paragraph 67.
Criminal Justice Act 2003 (c. 44)	In Schedule 26, paragraph 50.
Copyright and Related Rights Regulations 2003 (S.I. 2003/2498)	In Schedule 1, paragraph 11(a).
Planning and Compulsory Purchase Act 2004 (c. 5)	Section 60(7).
Public Audit (Wales) Act 2004 (c. 23)	Section 2. Sections 6 to 11. Section 65(2). In Schedule 2, paragraphs 43 and 45.
Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004 (S.I. 2004/533)	Article 6.
Companies Act 1985 (Inter—national Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947)	In Schedule 7, paragraph 13.

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Constitutional Reform Act 2005 (c. 4)	In Schedule 9, paragraphs 87 to 92.
Public Services Ombudsman (Wales) Act 2005 (c. 10)	Section 12(9). Section 16(9). Section 21(11). Section 23(6). In section 24— (a) in subsection (2), paragraph (b) and the word “and” preceding it, and subsection (3). (b) In section 41(1), the definition of “Assembly Cabinet”. Section 44(3). In Schedule 1, in paragraph 15(3), the words “to it”. In Schedule 6, paragraphs 62 to 64.
Inquiries Act 2005 (c. 12)	In section 1(2), the words following paragraph (c).

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