



Welfare Reform Act 2009

2009 CHAPTER 24

PART 2 **E+W+S**

DISABLED PEOPLE: RIGHT TO CONTROL PROVISION OF SERVICES

Supplementary

45 **The appropriate authority by which regulations under section 41 are made** **E+W+S**

- (1) Subsection (2) has effect to determine the appropriate authority by which regulations under section 41 may be made.
- (2) The Secretary of State is the appropriate authority, except that—
 - (a) in relation to provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, the Scottish Ministers are the appropriate authority,
 - (b) in relation to provision that would be within the legislative competence of the National Assembly for Wales if it were included in ^[F1]an Act of the Assembly], the Welsh Ministers are the appropriate authority,
 - (c) in relation to provision that does not fall within paragraph (b) and relates to relevant services in Wales with respect to which functions are exercisable—
 - (i) by a Minister of the Crown, and
 - (ii) by the Welsh Ministers, the First Minister or the Counsel General, the Secretary of State or the Welsh Ministers are the appropriate authority, and
 - (d) in relation to provision that does not fall within paragraph (b) or (c) and relates to relevant services in Wales with respect to which functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General, the Welsh Ministers are the appropriate authority.
- (3) Any power of the Secretary of State to make regulations under section 41—
 - (a) is exercisable only with the consent of the Treasury; and
 - (b) does not include power to make provision—

Changes to legislation: Welfare Reform Act 2009, Section 45 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) removing or modifying any function of the Welsh Ministers, the First Minister or the Counsel General, or
 - (ii) conferring or imposing any function on the Welsh Ministers, the First Minister or the Counsel General.
- (4) Any power of the Welsh Ministers to make regulations under section 41 by virtue of subsection (2)(c) or (d) does not include power to make provision—
- (a) removing or modifying any function of a Minister of the Crown, or
 - (b) conferring or imposing any function on a Minister of the Crown.
- (5) In this section—
- “the Assembly Act provisions” has the meaning given by section 103(8) of the Government of Wales Act 2006 (c. 32);
 - “the Counsel General” means the Counsel General to the Welsh Assembly Government;
 - “the First Minister” means the First Minister for Wales;
 - “Minister of the Crown” includes the Treasury.

Textual Amendments

- F1** Words in s. 45(2)(b) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 82](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(r)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 4 para. 9(3)(b) repealed by [2009 c. 24 Sch. 7 Pt. 1](#)