



# Wales Act 2017

## 2017 CHAPTER 4

### PART 2 U.K.

#### LEGISLATIVE AND EXECUTIVE COMPETENCE: FURTHER PROVISION

##### *Onshore petroleum*

### 23 Onshore petroleum licensing U.K.

- (1) Section 8A of the Petroleum Act 1998 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1A), after paragraph (a) insert—
  - “(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.
- (3) In subsection (2), after paragraph (a) insert—
  - “(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.
- (4) At the end insert—
  - “(5) The Welsh onshore area is the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).
  - (6) In subsection (5) “Wales” has the same meaning as in the Government of Wales Act 2006.
  - (7) The English onshore area is the area of England and the sea adjacent to England that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).”

#### Commencement Information

II S. 23 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(a)

*Status: Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.*

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## 24 Onshore petroleum: existing licences U.K.

- (1) The Secretary of State may make amendments to—
  - (a) any model clause, to the extent that, under Part 1 of the Petroleum Act 1998, it is incorporated, or has effect as if incorporated, in an existing licence, and
  - (b) any other provision of an existing licence.
- (2) The Secretary of State may exercise the power in subsection (1) only if the Secretary of State considers that it is necessary or expedient to do so in consequence of—
  - (a) the exceptions mentioned in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006 (licensing of and access to petroleum within Welsh onshore area), or
  - (b) section 23.
- (3) In the case of an existing licence granted in respect of an area (“the licence area”) of which part only was within the Welsh onshore area at the time the licence was granted—
  - (a) the Secretary of State may direct that it is to have effect as a licence in respect of an area comprising that part and a separate licence in respect of an area comprising the rest of the licence area, and
  - (b) subsection (1) applies in relation to each of those licences as it applies in relation to the existing licence.
- (4) The power to make amendments under subsection (1)(a) is exercisable by regulations made by statutory instrument.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—
 

“existing licence” means a licence, granted before the day on which section 23 comes into force, under—

  - (a) section 3 of the Petroleum Act 1998, or
  - (b) section 2 of the Petroleum (Production) Act 1934,

in respect of an area all or part of which is within the Welsh onshore area;

“Welsh onshore area” has the meaning given by Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.

### Commencement Information

**I2** S. 24 in force at 7.3.2018 by S.I. 2017/1069, reg. 2

## 25 Onshore petroleum: right to use deep-level land in Wales U.K.

- (1) The Infrastructure Act 2015 is amended as follows.
- (2) In section 45 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy)—
  - (a) in subsection (1), for “the right of use” substitute “—
    - (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and

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- (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;
- (b) after subsection (1) insert—
  - “(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right to use deep-level land in Wales for the purposes of exploiting petroleum.”
- (3) In section 46 (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy)—
  - (a) in subsection (1), for ““the right of use”” substitute “—
    - (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and
    - (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;
  - (b) after subsection (1) insert—
    - “(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of the right to use deep-level land in Wales for the purposes of exploiting petroleum.”
- (4) In section 49 (advice on likely impact of onshore petroleum on the carbon budget)—
  - (a) in subsection (1), after ““activity”” insert “ in England ”;
  - (b) in subsection (3), after ““effect”” insert “ in England ”;
  - (c) in subsection (7), for the definition of ““petroleum got through onshore activity”” substitute—
    - ““petroleum got through onshore activity in England”” means petroleum got from the strata in which it exists in its natural condition by activity carried out on land in England (excluding land covered by the sea or any tidal waters);”.

#### Commencement Information

**I3** S. 25 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(a)

### Road transport

## 26 Roads: speed limits, pedestrian crossings and traffic signs **U.K.**

- (1) The Road Traffic Regulation Act 1984 is amended as follows.
- (2) In section 17 (traffic regulation on special roads), after subsection (3ZA) insert—
  - “(3ZAA) The power to make provision of the following kinds by regulations under subsection (2) is exercisable by the Welsh Ministers—
    - (a) provision with respect to a particular special road in Wales;
    - (b) provision for regulating the speed of vehicles on special roads in Wales.”

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- (3) In section 25 (pedestrian crossing regulations)—
- (a) in subsection (1), for ““national authority”” substitute “ relevant authority ”;
  - (b) after subsection (6) insert—
    - “(7) In this section ““relevant authority”” means—
      - (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
      - (b) in relation to a function so far as exercisable within devolved competence, within the meaning given by section 58A(7) and (8) of the Government of Wales Act 2006, means the Welsh Ministers;
      - (c) otherwise, means the Secretary of State.”
- (4) In section 64 (general provisions as to traffic signs)—
- (a) for ““national authority””, in each place, substitute “ relevant authority ”;
  - (b) after subsection (6) insert—
    - “(6A) In this section ““relevant authority”” means—
      - (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
      - (b) in relation to a function so far as exercisable within devolved competence, within the meaning given by section 58A(7) and (8) of the Government of Wales Act 2006, means the Welsh Ministers;
      - (c) otherwise, means the Secretary of State.”
- (5) In section 86 (speed limits for particular classes of vehicles), in subsection (7)—
- (a) in paragraph (a) omit ““and Wales””;
  - (b) after paragraph (a) insert—
    - “(aa) as respects the driving of vehicles on roads in Wales, is the Welsh Ministers;”.
- (6) In section 87 (exemption of emergency vehicles from speed limits) (as substituted by section 19 of the Road Safety Act 2006)—
- (a) in subsection (1)(b), for ““national authority”” substitute “ relevant authority ”;
  - (b) after subsection (6) insert—
    - “(7) In this section ““relevant authority””—
      - (a) in relation to a function so far as exercisable within devolved competence, within the meaning of the Scotland Act 1998, means the Scottish Ministers;
      - (b) otherwise, means the Secretary of State.”
- (7) In section 88 (temporary speed limits), in subsection (7A)—
- (a) in paragraph (a) omit ““and Wales””;
  - (b) after paragraph (a) insert—
    - “(aa) in relation to roads in Wales, is the Welsh Ministers;”.

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(8) In section 142(1) (general interpretation), in the definition of “national authority”, after paragraph (a) insert—

“(aa) in relation to Wales, means the Welsh Ministers;”.

#### Commencement Information

**I4** S. 26 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

## 27 Bus service registration and traffic commissioners **U.K.**

(1) The Transport Act 1985 is amended as set out in subsections (2) to (5).

(2) In section 6 (registration of local bus services), after subsection (10) insert—

“(11) The power to make regulations under subsections (2), (3) and (9), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”

(3) In section 6A (applications for registration etc where restrictions are in force), after subsection (12) insert—

“(13) The power to make regulations under subsection (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”

(4) In section 6B (applications for registration where quality contracts scheme in force), after subsection (8) insert—

“(9) The power to make regulations under subsections (5) and (7), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”

(5) In section 7 (application of traffic regulation conditions to local bus services), after subsection (15) insert—

“(16) The power to make regulations under subsections (6)(d), (9) and (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”

(6) Section 4C of the Public Passenger Vehicles Act 1981 (power of senior traffic commissioner to give guidance and directions) is amended as set out in subsections (7) and (8).

(7) In subsection (1), in the second sentence, after “subsection (5) below” insert “ and, in relation to Wales, to subsection (6) below ”.

(8) After subsection (5) insert—

“(6) The senior traffic commissioner may not give guidance or directions under this section as to the exercise of a function so far as the function could (apart from paragraph 8 of Schedule 7B to the Government of Wales Act 2006) be conferred or imposed by provision falling within the legislative competence of the National Assembly for Wales.”

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#### Commencement Information

**I5** S. 27 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

## 28 Taxis: transfer of functions to Welsh Ministers **U.K.**

- (1) The Transport Act 1985 is amended as follows.
- (2) In section 10 (immediate hiring of taxis at separate fares), after subsection (9) insert—
- “(9A) The power to make regulations under subsections (5)(c) and (8), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (3) In section 13 (provisions supplementary to sections 10 to 12), after subsection (4) insert—
- “(5) The power to make an order under subsection (1) for the purpose of supplementing section 10 or 11, so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State); and the reference to the Secretary of State in subsection (4) is to be read accordingly.”

#### Commencement Information

**I6** S. 28 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(f)

### *Harbours: transfer of executive functions*

## 29 Welsh harbours **U.K.**

- (1) The functions mentioned in subsection (2) are (so far as not already transferred under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)) transferred to the Welsh Ministers.
- (2) The functions are functions exercisable by a Minister of the Crown under or by virtue of—
- (a) section 21 of the Sea Fish Industry Act 1951 (fishery harbours);
  - (b) the following provisions of the Harbours Act 1964—
    - (i) section 11 (loans for harbour works);
    - (ii) sections 14 to 17 and Schedule 3 (harbour revision orders, harbour authority appointment orders and harbour empowerment orders);
    - (iii) section 18 and Schedule 4 (harbour reorganisation schemes);
    - (iv) section 19 (compensation for loss of office etc in consequence of harbour orders and schemes);
    - (v) sections 30 and 31 (harbour charges and dues);
    - (vi) section 39(4) (extension of order-making power under section 21(8) of the Sea Fish Industry Act 1951);
    - (vii) sections 41 and 42 (provision of information, accounts etc);
    - (viii) section 60 (power to amend local Acts);
  - (c) the following provisions of the Docks and Harbours Act 1966—

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- (i) section 36 (provision of inland clearance depots);
  - (ii) sections 42 and 43 (further provision about harbour reorganisation schemes);
  - (d) section 1 of the Harbours (Loans) Act 1972;
  - (e) section 5(2) of the Ports (Finance) Act 1985 (orders amending local Acts etc);
  - (f) the following provisions of the Pilotage Act 1987—
    - (i) section 1 (orders about competent harbour authorities);
    - (ii) section 8(3) (directions about pilotage exemption certificates);
    - (iii) section 10(6) (appeals in respect of pilotage charges);
    - (iv) section 12 (information and directions as to joint arrangements);
    - (v) section 13 (resolution of disputes between harbour authorities);
    - (vi) paragraph 4 of Schedule A1 (appeals in relation to decisions on authorisation of EEA pilots);
  - (g) Part 1 of the Ports Act 1991, other than section 11(8);
  - (h) any provision contained in a local Act (including an Act confirming a provisional order);
- so far as exercisable in relation to harbours that are wholly in Wales, other than harbours that are reserved trust ports.
- (3) In determining for the purposes of subsection (2)(b) whether a function is exercisable by a Minister of the Crown under or by virtue of a provision of the Harbours Act 1964, any order made under section 42A of that Act (delegation of functions) is to be ignored.
- (4) Where a function mentioned in subsection (2) relates to two or more harbours, that function is transferred to the Welsh Ministers only to the extent that both or all of the harbours to which it relates are wholly in Wales and are not reserved trust ports.
- (5) This section does not operate to transfer to the Welsh Ministers a function to the extent that, if exercised, it would result in a cross-border harbour being created.
- (6) Sections 34 to 38 make further provision about—
- (a) the exercise, by a Minister of the Crown, of certain functions in relation to cross-border harbours,
  - (b) the exercise of certain functions relating to pilotage by the Secretary of State in relation to waters in Wales, and by the Welsh Ministers in relation to waters in England, and
  - (c) the exercise, by a Minister of the Crown, of certain functions in relation to two or more harbours where at least one of those harbours is wholly in Wales and is not a reserved trust port.
- (7) In this section—
- ““cross-border harbour”” has the meaning given in section 34;
  - ““reserved trust port”” has the meaning given in section 32;
  - ““Wales”” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).

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### Commencement Information

- I7** S. 29 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g) (with transitional provisions and savings in S.I. 2018/278, regs. 1, 2, Sch.)

## 30 Amendments of Harbours Act 1964 U.K.

- (1) The Harbours Act 1964 is amended as follows.
- (2) In section 17 (harbour orders: procedure), in subsection (2C), for the words from “fishery” to “National Assembly for Wales” substitute “harbour that is wholly in Wales, other than a reserved trust port, as references to the Welsh Ministers”.
- (3) In section 17E (harbour closure orders: devolution)—
  - (a) in subsection (1), for “fishery harbours in Wales” substitute “harbours that are wholly in Wales, other than reserved trust ports”;
  - (b) after subsection (1) insert—
 

“(1A) Before making a closure order that transfers functions to a harbour authority for a harbour that is wholly or partly in England or a reserved trust port, the Welsh Ministers must obtain the consent of the Secretary of State.”
- (4) In section 40A (directions made by harbour authorities in respect of ships), in subsection (4)(a), for “fishery harbour in Wales” substitute “harbour that is wholly in Wales other than a reserved trust port”.
- (5) In section 43 (provisions with respect to loans made by Minister)—
  - (a) after subsection (1) insert—
 

“(1A) Any loans which the Welsh Ministers make under section 11 of this Act shall be repaid to them at such times and by such methods, and interest thereon shall be paid to them at such rates and at such times, as they may from time to time direct.”;
  - (b) after subsection (2) insert—
 

“(2A) Such sums as are necessary to enable the Welsh Ministers to make loans under section 11 of this Act may be issued to them out of the Welsh Consolidated Fund.”;
  - (c) after subsection (4) insert—
 

“(4A) Any sums received by the Welsh Ministers under subsection (1A) of this section shall be paid into the Welsh Consolidated Fund.”;
  - (d) after subsection (5) insert—
 

“(6) The Welsh Ministers shall, as respects each financial year, prepare an account of sums issued to them under this section and of the sums to be paid into the Welsh Consolidated Fund under subsection (4A) and of the disposal by them of those sums respectively, and send it to the Auditor General for Wales not later than the end of November following the year; and the Auditor General for Wales shall examine, certify and report on the account and lay copies of it, together with his report, before the National Assembly for Wales.”;



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- (e) in the heading, at the end insert “ or the Welsh Ministers ”.
- (6) In section 57(1) (interpretation), at the appropriate place insert—
- ““reserved trust port”” has the meaning given in section 32 of the Wales Act 2017;”.
- (7) In Schedule 3 (procedure for making harbour orders), in paragraph 25(6)(a), for subparagraph (ii) substitute—
- “(ii) a harbour that is wholly in Wales other than a reserved trust port, the Welsh Ministers;”.

**Commencement Information**

**18** [S. 30](#) in force at 1.4.2018 by [S.I. 2017/1179](#), [reg. 3\(g\)](#)

**31** **Application of general provisions to transfer of functions in sections 29 and 30**  
**30** **U.K.**

- (1) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under sections 29 and 30 as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act—
- (a) Part 2 of Schedule 3 (exercise of transferred functions);
- (b) paragraph 13 of Schedule 3 (continued validity of things done);
- (c) paragraphs 1, 2(2) and 4 of Schedule 4 (transfers of property, rights and liabilities).
- (2) Where a function transferred under section 29 is exercisable by a delegate by virtue of an order made under section 42A of the Harbours Act 1964, the provisions mentioned in subsection (1) are to be read as if references to a Minister of the Crown or to the Secretary of State were, or included, references to the delegate.
- (3) The application by subsection (1)(c) of paragraphs 1 and 2(2) of Schedule 4 to the Government of Wales Act 2006 in relation to the transfer of functions under sections 29 and 30 is subject to any contrary provision made in regulations made by the Secretary of State.
- (4) Regulations under subsection (3) may make—
- (a) different provision for different purposes or cases (including different provision for different harbours or different descriptions of harbour);
- (b) transitional or saving provision.
- (5) Regulations under subsection (3) must be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**19** [S. 31](#) in force at 1.4.2018 by [S.I. 2017/1179](#), [reg. 3\(g\)](#)

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## 32 Reserved trust ports **U.K.**

- (1) A harbour is a reserved trust port if, on the principal appointed day (within the meaning given by section 71), it is a harbour, dock, pier or boatslip that is owned or managed by a harbour authority that—
  - (a) is a relevant port authority within the meaning of Part 1 of the Ports Act 1991 (see section 1(3) of that Act), and
  - (b) meets the annual turnover requirement.
- (2) The annual turnover requirement is the turnover requirement set out in section 11 of the Ports Act 1991.
- (3) Section 11 of that Act, in its application for the purposes of this section, has effect as if for subsection (1) there were substituted—
  - “(1) A relevant port authority meet the annual turnover requirement if the annual turnover of the authority's port undertaking exceeded the turnover limit in the case of at least two of the last three accounting years of the authority for which accounts have been submitted under section 42(5) of the Harbours Act 1964.”

### Commencement Information

**I10** S. 32 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

## 33 Development consent **U.K.**

- (1) Section 24 of the Planning Act 2008 (development consent for construction or alteration of harbour facilities) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
  - “(a) will be—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
    - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and will be, or will form part of, a reserved trust port, and”.
- (3) In subsection (2), for paragraph (a) substitute—
  - “(a) the harbour facilities are—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
    - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and are, or form part of, a reserved trust port, and”.
- (4) In subsection (6), after the definition of ““container ship”” insert—
  - ““reserved trust port”” has the meaning given in section 32 of the Wales Act 2017;”.

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#### Commencement Information

III S. 33 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### *Harbours: consultation and consent requirements*

## 34 Exercise of functions in relation to cross-border harbours **U.K.**

- (1) Where—
- (a) a Minister of the Crown proposes to exercise a relevant function in relation to a cross-border harbour, and
  - (b) the exercise of that function would, in the opinion of the Minister, be likely to have a material effect in Wales,
- the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).
- (2) Where a Minister of the Crown proposes to exercise a function under the Harbours Act 1964 in such a way that it would result in a cross-border harbour being created, the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).
- (3) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duties in subsections (1) and (2) apply to the delegate as they apply to a Minister of the Crown.
- (4) The following are ““relevant functions””—
- (a) making an order under section 21 of the Sea Fish Industry Act 1951;
  - (b) making a harbour revision order under section 14 or 15 of the Harbours Act 1964, other than an order of the type described in section 7(5) of the Pilotage Act 1987 (order extending limits of pilotage jurisdiction);
  - (c) making an order under any of the following sections of the Harbours Act 1964—
    - (i) section 15A (orders about port appointments);
    - (ii) section 16 (harbour empowerment orders);
    - (iii) section 17A (closure orders);
    - (iv) section 18 (orders for harbour reorganisation schemes);
    - (v) section 40A (orders designating harbour authority);
    - (vi) section 60 (orders amending local Acts);
  - (d) making regulations under section 19 of that Act (compensation for loss of office etc);
  - (e) approving a charge to which section 31 of that Act applies, or giving directions with respect to such a charge, under section 31(6)(a) or (b) of that Act (harbour dues);
  - (f) giving or refusing consent under section 36(1) of the Docks and Harbours Act 1966 (inland clearance depots);
  - (g) making an order under section 5(2) of the Ports (Finance) Act 1985 (order amending local enactments in consequence of borrowing powers etc);
  - (h) giving or refusing consent under section 5(1) of the Ports Act 1991 (control over issue or disposal of securities etc);

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- (i) giving directions under section 5(2) of that Act (directions about issue or disposal of securities etc);
  - (j) making a decision under section 9(6) of that Act (decision confirming port transfer scheme);
  - (k) giving directions under section 10(2) or (3) of that Act (directions requiring port authority to form a company or submit a scheme);
  - (l) making a scheme under section 12(1) of that Act (required port transfer scheme).
- (5) In this section—
- ““cross-border harbour”” means a harbour that is partly in England and partly in Wales;
  - ““England”” includes the sea adjacent to England out as far as—
    - (a) the seaward boundary of the territorial sea, or
    - (b) if nearer to the land, any boundary between waters that are treated as part of the sea adjacent to Wales and those that are not, as determined by an order made under section 158(3) of the Government of Wales Act 2006;
  - ““Wales”” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).

#### Commencement Information

**I12** S. 34 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### 35 Cross-border exercise of pilotage functions **U.K.**

- (1) Where—
- (a) the Secretary of State proposes to exercise a relevant pilotage function, and
  - (b) the function would be exercised in relation to waters in Wales,
- the Secretary of State must first consult the Welsh Ministers (except where section 38(1) applies).
- (2) Where—
- (a) the Welsh Ministers propose to exercise a relevant pilotage function other than a function mentioned in subsection (5)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first obtain the consent of the Secretary of State.
- (3) Where the Secretary of State or the Welsh Ministers have made an order under section 42A of the Harbours Act 1964 delegating the function of making a harbour revision order, the duty in subsection (1) or (2), so far as it relates to the function mentioned in subsection (5)(c), applies to the delegate as it applies to the Secretary of State or the Welsh Ministers.
- (4) Where—
- (a) the Welsh Ministers propose to exercise a function mentioned in subsection (5)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first consult the Secretary of State (except where section 38(1) applies).

*Status: Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.*

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- (5) The following are ““relevant pilotage functions””—
- (a) making an order under section 1(3) of the Pilotage Act 1987 (order about exercise of pilotage jurisdiction);
  - (b) making an order under section 1(4) or (4A) of that Act (orders about competent harbour authorities);
  - (c) making an order of the type described in section 7(5) of that Act (harbour revision order extending limits of pilotage jurisdiction of a harbour authority);
  - (d) making a direction under section 8(3) of that Act (pilotage exemption certificates);
  - (e) approving a charge imposed by virtue of section 10 of that Act, or giving directions with respect to such a charge, under section 31(6) of the Harbours Act 1964 as applied by section 10(6) of the Pilotage Act 1987;
  - (f) making directions under section 12(2) or (3) of the Pilotage Act 1987 (joint arrangements);
  - (g) settling a dispute under section 13 of that Act (resolution of dispute between authorities);
  - (h) deciding an appeal under paragraph 4 of Schedule A1 to that Act (decisions on authorisation of EEA pilots).
- (6) In this section ““England”” and ““Wales”” have the same meanings as in section 34.

**Commencement Information**

**I13** S. 35 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

**36 Exercise of functions in relation to two or more harbours** **U.K.**

- (1) Where—
- (a) a Minister of the Crown proposes to exercise a relevant function in relation to two or more harbours, and
  - (b) at least one of those harbours is a harbour that is wholly in Wales and is not a reserved trust port,
- the Minister of the Crown must first consult the Welsh Ministers (except where section 38(1) applies).
- (2) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duty in subsection (1) applies to the delegate as it applies to a Minister of the Crown.
- (3) In this section—
- ““relevant function”” has the same meaning as in section 34;
  - ““reserved trust port”” has the meaning given in section 32;
  - ““Wales”” has the same meaning as in section 34.

**Commencement Information**

**I14** S. 36 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

*Status: Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.*

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### 37 **Consequential amendments to consent requirements in Harbours Act 1964** **U.K.**

- (1) In section 42C of the Harbours Act 1964 (consent of Welsh Ministers for certain orders and schemes), after subsection (2) insert—

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.”

- (2) In section 42D of that Act (consent of Secretary of State for certain orders and schemes), after subsection (2) insert—

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.”

#### **Commencement Information**

**I15** S. 37 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### 38 **Sections 34 to 37: supplementary** **U.K.**

- (1) The duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) does not apply in relation to the exercise of a function if it is not reasonably practicable to comply with it in relation to the exercise of the function.
- (2) If the duty to consult in section 34(1) or (2), section 35(1) or section 36(1) does not apply in relation to the exercise of a function by reason of subsection (1), the Secretary of State must as soon as is reasonably practicable inform the Welsh Ministers of the exercise of the function and of the reasons for its exercise.
- (3) If the duty to consult in section 35(4) does not apply in relation to the exercise of a function by reason of subsection (1), the Welsh Ministers must as soon as is reasonably practicable inform the Secretary of State of the exercise of the function and of the reasons for its exercise.
- (4) A failure to comply with a duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) in relation to the exercise of a function does not affect the validity of its exercise.
- (5) The Secretary of State may make regulations modifying the application of sections 34, 35, 36 and this section in relation to the harbours, or descriptions of harbour, specified in the regulations.
- (6) Before making regulations under subsection (5), the Secretary of State must consult the Welsh Ministers.
- (7) The regulations may in particular—
  - (a) disapply a requirement for a Minister of the Crown to consult the Welsh Ministers before exercising a function;
  - (b) disapply a requirement for the Welsh Ministers to consult or obtain the consent of the Secretary of State before exercising a function;
  - (c) change a requirement to consult into a requirement to obtain consent, and vice versa;

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- (d) provide that a Minister of the Crown must consult, or obtain the consent of, the Welsh Ministers before exercising a function not mentioned in section 34, 35 or 36, in the circumstances set out in the regulations;
  - (e) provide that the Welsh Ministers must consult, or obtain the consent of, the Secretary of State before exercising a function not mentioned in section 35, in the circumstances set out in the regulations.
- (8) Regulations under subsection (5) may make—
- (a) different provision for different purposes or cases, and
  - (b) consequential, incidental, supplementary, transitional and saving provision.
- (9) Regulations under subsection (5) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I16** S. 38 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

### *Planning for electricity generating stations*

#### **39 Development consent for generating stations with 350MW capacity or less **U.K.****

- (1) Section 15 of the Planning Act 2008 (generating stations) is amended as set out in subsections (2) to (6).
- (2) In subsection (1), for ““or (3)”” substitute “ , (3), (3A) or (3B) ”.
- (3) In subsection (2)(a) omit ““or Wales””.
- (4) After subsection (3) insert—
- “(3A) A generating station is within this subsection if—
- (a) it is in Wales,
  - (b) it does not generate electricity from wind, and
  - (c) its capacity is more than 350 megawatts.
- (3B) A generating station is within this subsection if—
- (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
  - (b) its capacity is more than 350 megawatts.”
- (5) In subsection (4)—
- (a) in paragraph (a) omit ““or Wales””;
  - (b) in paragraph (b), after ““except”” insert “ the Welsh zone or ”.
- (6) After subsection (4) insert—
- “(5) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”



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- (7) Section 36 of the Electricity Act 1989 (consent required for construction etc of generating stations) is amended as set out in subsections (8) to (11).
- (8) In subsection (1), (4) and (5)(a), for ““Secretary of State”” substitute “ appropriate authority ”.
- (9) In subsection (2)—
- (a) in paragraph (a)—
    - (i) at the beginning insert “ in the case of a generating station otherwise than in Wales, ”;
    - (ii) at the end omit ““and””;
  - (b) in paragraph (b), after ““extended”” insert “ otherwise than in Wales ”;
  - (c) after paragraph (b) insert—
    - “(c) in the case of a generating station in Wales, does not exceed the devolved capacity, that is to say, 350 megawatts; and
    - (d) in the case of a generating station which is to be constructed or extended in Wales, will not exceed the devolved capacity when it is constructed or extended;”
- (10) In subsection (7), for ““the Secretary of State”” substitute—
- “(a) the Welsh Ministers, if they are the appropriate authority, or
  - (b) the Secretary of State, in all other cases.”
- (11) After subsection (9) insert—
- “(10) In this section ““appropriate authority”” means—
- (a) the Scottish Ministers, in relation to a generating station in or to be constructed in Scotland;
  - (b) the Welsh Ministers, in relation to a generating station in or to be constructed in Welsh waters that—
    - (i) does not exceed the devolved capacity, that is to say, 350 megawatts;
    - (ii) in the case of a generating station which is to be constructed or extended, will not exceed the devolved capacity when constructed or extended;
  - (c) the Secretary of State, in all other cases.
- (11) In this section—
- ““Scotland”” has the same meaning as in section 32(2) (see section 32(3));
- ““Welsh waters”” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;
- ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (12) In section 36C of the Electricity Act 1989 (variation of consents under section 36), in subsection (6)—
- (a) in the definition of ““appropriate authority””—
    - (i) after paragraph (a) insert—



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- “(ab) the Welsh Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts;”;
- (ii) in paragraph (b), at the end insert “ and does not relate to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts ”;
- (b) in the definition of ““regulations””, after paragraph (a) insert—
  - “(aa) the Welsh Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350 megawatts;”;
- (c) in the definition of ““statutory provision””, after ““Scottish Parliament”” insert “ and an Act of the Assembly ”;
- (d) at the end insert—

““Welsh waters”” has the meaning given in section 36.”

- (13) In section 90 of the Town and Country Planning Act 1990 (development with government authorisation), in subsections (2) and (2ZA), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

#### Commencement Information

**I17** S. 39(4)(6) in force for specified purposes at 31.3.2017, see s. 71(2)(e)

**I18** S. 39 in force at 1.4.2018 for specified purposes by [S.I. 2017/1179](#), [reg. 3\(h\)](#)

**I19** S. 39 in force at 1.4.2019 in so far as not already in force by [S.I. 2017/1179](#), [reg. 5\(a\)](#)

## 40 Generating stations and public rights of navigation **U.K.**

- (1) Section 36A of the Electricity Act 1989 (declarations extinguishing etc public rights of navigation) is amended as set out in subsections (2) to (5).
- (2) In subsection (1)—
  - (a) for ““the Secretary of State or the Scottish Ministers”” substitute “ the appropriate authority ”;
  - (b) for ““he or (as the case may be) they”” substitute “ the appropriate authority ”.
- (3) In subsection (2), for ““The Secretary of State or the Scottish Ministers”” substitute “ The appropriate authority ”.
- (4) In subsection (6)—
  - (a) for ““the Secretary of State or the Scottish Ministers”” substitute “ the appropriate authority ”;
  - (b) for ““him or them””, in both places, substitute “ the appropriate authority ”.
- (5) In subsection (7), after ““In this section—”” insert—
  - ““appropriate authority”” has the same meaning as in section 36;”.
- (6) Section 36B of that Act (duties in relation to navigation) is amended as set out in subsections (7) to (10).

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- (7) In subsection (1)—
- (a) for ““Neither the Secretary of State nor the Scottish Ministers may”” substitute “ The appropriate authority may not ”;
  - (b) for ““he considers, or (as they case may be) they consider,”” substitute “ the appropriate authority considers ”.
- (8) In subsection (2), for ““both of the Secretary of State and of the Scottish Ministers”” substitute “ of the appropriate authority ”.
- (9) In subsection (3), for ““the Secretary of State or (as the case may be) the Scottish Ministers”” substitute “ the appropriate authority ”.
- (10) In subsection (4)(a), for ““the Secretary of State and the Scottish Minister have exercised or will exercise their powers”” substitute “ the appropriate authority has exercised or will exercise its powers ”.
- (11) Section 100 of the Energy Act 2004 (further provision relating to public rights of navigation) is amended as set out in subsections (12) to (14).
- (12) In subsection (1) omit ““the consenting authority””.
- (13) In subsections (3), (6) and (7), for ““the consenting authority”” substitute “ the appropriate authority ”.
- (14) In subsection (8), after ““In this section—”” insert—
- ““appropriate authority”” has the same meaning as in section 36 of the Electricity Act 1989;”.

#### Commencement Information

**I20** S. 40 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

## 41 Safety zones around renewable energy installations **U.K.**

- (1) Section 95 of the Energy Act 2004 (safety zones around renewable energy installations) is amended as set out in subsections (2) to (5).
- (2) In subsection (1A)—
- (a) for ““means the Scottish Ministers”” substitute “means—
    - (a) the Scottish Ministers”;
  - (b) paragraphs (a) to (c) are renumbered sub-paragraphs (i) to (iii);
  - (c) in sub-paragraphs (ii) and (iii) (as renumbered), for ““paragraph (a)”” substitute “ sub-paragraph (i) ”;
  - (d) before ““and otherwise”” insert—
    - “(b) the Welsh Ministers, in relation to a renewable energy installation which has, or will have, a capacity of 350 megawatts or less and—
      - (i) which is to be or is in an area of Welsh waters, and is not being proposed to be extended outside those areas,

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- (ii) to which sub-paragraph (i) has ceased to apply because of an extension or proposed extension, if subsection (1D) applies, or
- (iii) to the extent that it is to be or is in an area of Welsh waters, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1D) does not apply.”.

(3) After subsection (1C) insert—

“(1D) This subsection applies if there is an agreement in force between the Secretary of State and the Welsh Ministers providing for the Welsh Ministers to be the appropriate Minister in relation to the whole of the installation.

(1E) Where subsection (1D) applies, the Welsh Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.”

(4) After subsection (4A) insert—

“(4B) Before issuing a notice under this section which relates, wholly or partly, to Welsh waters, the Secretary of State must consult the Welsh Ministers.

(4C) Before issuing a notice under this section which relates, wholly or partly, to an area outside Welsh waters, the Welsh Ministers must consult the Secretary of State.”

(5) In section 96 of that Act (prohibited activities in safety zones), in subsection (8)(a), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

(6) In section 104 of that Act (interpretation of Chapter 2 of Part 2), at the end of subsection (1) insert—

“““Welsh waters”” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;

““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”

#### Commencement Information

**I21** S. 41 in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

## 42 Overhead lines associated with devolved Welsh generating stations **U.K.**

(1) Section 37 of the Electricity Act 1989 (consent required for overhead lines) is amended as set out in subsection (2) and (3).

(2) In subsection (1), for ““(2)”” substitute “ (2A) ”.

(3) After subsection (2) insert—

“(2A) Subsection (1) above shall not apply in relation to an electric line that—

- (a) has a nominal voltage of 132 kilovolts or less, and

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- (b) is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force.
- (2B) ““Devolved Welsh generating station”” means a generating station that—
- (a) is in Wales and—
- (i) generates electricity from wind, or
- (ii) has a maximum capacity of 350 megawatts or less; or
- (b) is in Welsh waters and has a maximum capacity of 350 megawatts or less.
- (2C) ““Welsh waters”” has the meaning given in section 36 above.”
- (4) In section 16 of the Planning Act 2008 (electric lines), after subsection (3A) insert—
- “(3B) The installation of an electric line above ground is not within section 14(1) (b) if the line is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force and the nominal voltage of the line is expected to be no greater than 132 kilovolts.
- (3C) ““Devolved Welsh generating station”” means a generating station that—
- (a) is in Wales and—
- (i) generates electricity from wind, or
- (ii) has a capacity of 350 megawatts or less; or
- (b) is in waters adjacent to Wales up to the seaward limits of the territorial sea or in the Welsh zone and has a capacity of 350 megawatts or less.
- (3D) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”

#### Commencement Information

**I22** S. 42(4) in force for specified purposes at 31.3.2017, see s. 71(2)(e)

**I23** S. 42(1)-(3) in force at 1.4.2019 by S.I. 2017/1179, reg. 5(a)

**I24** S. 42(4) in force at 1.4.2019 in so far as not already in force by S.I. 2017/1179, reg. 5(a)

### 43 Alignment of associated development consent **U.K.**

- (1) Section 115 of the Planning Act 2008 (development for which development consent may be granted) is amended as follows.
- (2) In subsection (2)(c), for ““or (4)”” substitute “, (4) or (4A) ”.
- (3) After subsection (4) insert—
- “(4A) Development is within this subsection if the development within subsection (1)(a) with which it is associated is—
- (a) the construction or extension of a generating station that is or (when constructed or extended) is expected to be within section 15(3A) or (3B), or

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- (b) the installation of an electric line that is or (when installed) is expected to be within section 14(1)(b).”

### *Equal opportunities*

#### **44 Equal opportunities: public sector equality duty** **U.K.**

- (1) The Equality Act 2010 is amended as follows.
- (2) In section 152 (power to specify public authorities: consultation and consent)—
- (a) in subsection (2), for the words after ““must”” substitute “ consult the Commission, and after making such an order they must inform a Minister of the Crown. ”;
- (b) in the heading omit ““and consent””.
- (3) In section 154 (power to impose specific duties: cross-border authorities), in the second column of the table in subsection (3), for the words ““The Welsh Ministers must consult a Minister of the Crown before”” in both places substitute “ The Welsh Ministers must inform a Minister of the Crown after ”.

#### **Commencement Information**

**I25** S. 44 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(i)

#### **45 Public sector duty regarding socio-economic inequalities** **U.K.**

- (1) The Equality Act 2010 is amended as follows.
- (2) In section 1 (public sector duty), in subsection (2A), after paragraph (a) insert—
- “(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers;”.
- (3) In section 2 (power to amend section 1) omit subsections (7), (9) and (10).
- (4) Section 216 (commencement) is amended as follows.
- (5) In subsection (3), for ““subsection (4)”” substitute “ subsections (4) and (6) ”.
- (6) After subsection (5) insert—
- “(6) The following provisions of Part 1 come into force on such day as the Welsh Ministers may by order appoint—
- (a) section 1, so far as it applies to a relevant authority as defined by section 2(6);
- (b) section 2, so far as it confers a power on the Welsh Ministers;
- (c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a).
- (7) Section 209 does not apply to an order under subsection (6).”

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### Commencement Information

**I26** S. 45 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(i)

## *Marine licensing and conservation*

### 46 Marine licensing in the Welsh offshore region **U.K.**

- (1) The Marine and Coastal Access Act 2009 is amended as set out in subsections (2) to (5).
- (2) In section 113 (the appropriate licensing authority)—
  - (a) in subsection (4), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”;
  - (b) in subsection (5), after paragraph (b) insert—
    - “(c) in relation to the Welsh offshore region, any activity falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).”
- (3) In section 236 (enforcement of marine licensing regime), in subsection (2)—
  - (a) in paragraph (a), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
  - (b) after that paragraph insert—
    - “(aa) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (4) In section 240 (marine licensing: oil and gas and other reserved matters), in subsection (1)—
  - (a) in paragraph (b), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
  - (b) after that paragraph insert—
    - “(ba) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (5) In section 241 (marine licensing: Northern Ireland), in subsection (3)—
  - (a) in paragraph (a), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”;
  - (b) after that paragraph insert—
    - “(aa) any activity in the Welsh offshore region falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc);”.
- (6) The Marine Licensing (Exempted Activities) (Wales) Order 2011 (S.I. 2011/559 (W.81)) is amended as set out in subsection (7) to (9).
- (7) In Article 4 (exemption from need for marine licence), in paragraph (1), for ““or the Welsh inshore region”” substitute “ , the Welsh inshore region or the Welsh offshore region ”.

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- (8) In Article 32 (bored tunnels), in paragraph (4), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”.
- (9) In Article 34 (loading of a vehicle or vessel etc for incineration outside Wales and the Welsh inshore region)—
- (a) in the heading, for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”;
  - (b) in paragraph (1)(b), for ““and the Welsh inshore region”” substitute “ , the Welsh inshore region and the Welsh offshore region ”.

**Commencement Information**

**I27** S. 46 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(j)

**47 Marine conservation zones** U.K.

- (1) Part 5 of the Marine and Coastal Access Act 2009 is amended as follows.
- (2) In section 116 (marine conservation zones)—
- (a) in subsection (5)(a), after ““Wales”” insert “ or the Welsh offshore region ”;
  - (b) after subsection (5) insert—  

“(5A) The Welsh Ministers may not designate an area as an MCZ without the agreement of the Secretary of State if any part of the proposed MCZ lies in the Welsh offshore region.”
- (3) In section 119 (consultation before designation)—
- (a) in subsection (6), after ““Wales”” insert “ or the Welsh offshore region ”;
  - (b) omit subsection (9)(a).
- (4) In section 125 (general duties of public authorities in relation to MCZs), in subsection (11)(a), after ““Wales”” insert “ or the Welsh offshore region ”.

**Commencement Information**

**I28** S. 47 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(j)

*Water etc*

PROSPECTIVE

**48 Water and sewerage** U.K.

- (1) In Schedule 7A to the Government of Wales Act 2006 (substituted by this Act), in Section C15 (water and sewerage)—
- (a) omit paragraph 92;
  - (b) in paragraph 93 omit ““and regulation””;
  - (c) omit the two exceptions (and the heading ““Exceptions””);



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- (d) omit the definitions of ““supply system of a water undertaker”” and ““sewerage system of a sewerage undertaker””.
- (2) In section 192B of the Water Industry Act 1991 (annual and other reports)—
- (a) in subsection (1), after ““the Secretary of State”” insert “ and the Welsh Ministers ”;
- (b) after subsection (5) insert—
- ““(5A) The Welsh Ministers shall—
- (a) lay a copy of each annual report before the Assembly; and
- (b) arrange for the report to be published in such manner as they consider appropriate.”;
- (c) in subsection (7) omit ““the Assembly,””.

#### 49 Modification of water-related functions **U.K.**

In section 58 of the Government of Wales Act 2006, after subsection (2) insert—

“(2A) Her Majesty may by Order in Council—

- (a) make provision modifying (by reference to geographical extent or otherwise) a previously conferred or transferred water-related function;
- (b) provide for such a function to be exercisable—
- (i) concurrently or jointly with a Minister of the Crown or the Welsh Ministers, or
- (ii) only with the agreement of, or after consultation with, a Minister of the Crown or the Welsh Ministers.

(2B) In subsection (2A)—

““previously conferred or transferred function”” means a function exercisable by—

- (a) the Welsh Ministers, the First Minister or the Counsel General,
- (b) a Minister of the Crown, or
- (c) any authority or other body,

by virtue of provision contained in or made under this Act or any other enactment;

““water-related function”” means a function exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection.”

#### Commencement Information

129 S. 49 in force at 8.1.2018 by S.I. 2017/893, reg. 2

#### 50 Water protocol **U.K.**

- (1) The Welsh Ministers and the Secretary of State may make an agreement (the ““water protocol””) for the purpose of ensuring that—



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- (a) actions or inaction of the Welsh Ministers, or public bodies exercising functions in Wales, do not have a serious adverse impact on water resources in England, water supply in England or the quality of water in England, and
  - (b) actions or inaction of the Secretary of State, or public bodies exercising functions in England, do not have a serious adverse impact on water resources in Wales, water supply in Wales or the quality of water in Wales.
- (2) The water protocol must—
- (a) provide for a procedure for resolving matters of disagreement between the Welsh Ministers and the Secretary of State;
  - (b) make provision about whether, or to what extent, functions relating to such matters may be exercised pending the outcome of the procedure.
- (3) The water protocol may be revised by agreement of the Welsh Ministers and the Secretary of State.
- (4) The water protocol, and any revised protocol, must be laid before both Houses of Parliament and the National Assembly for Wales.
- (5) The Welsh Ministers and the Secretary of State must exercise their functions in accordance with the provisions of the water protocol, unless it is revoked by agreement of the Welsh Ministers and the Secretary of State.

## 51 Reciprocal cross-border duties in relation to water **U.K.**

- (1) In exercising functions relating to water resources, water supply or water quality—
- (a) the Welsh Ministers must have regard to the interests of consumers in England;
  - (b) the Secretary of State must have regard to the interests of consumers in Wales.
- (2) In subsection (1) “the interests of consumers” has the same meaning as in section 2 of the Water Industry Act 1991.

## 52 Repeal of intervention powers relating to water **U.K.**

- (1) In the Government of Wales Act 2006—
- (a) in section 114 (power to intervene in certain cases) omit paragraph (b) of subsection (1);
  - (b) omit section 152 (intervention in case of functions relating to water).
- (2) Regulations under section 71 bringing this section into force may not be made until an agreement under section 50 has been laid before both Houses of Parliament and the National Assembly for Wales.

### Commencement Information

**I30** S. 52 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(k)

*Status: Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.*

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### Miscellaneous

#### 53 Transfer of functions in relation to fishing vessels **U.K.**

(1) The functions to which this section applies, so far as exercisable in relation to Welsh fishing boats beyond the seaward limits of the Welsh zone, are transferred to the Welsh Ministers.

(2) This section applies to —

- (a) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fish (Conservation) Act 1967,
- (b) functions of a Minister of the Crown under the Sea Fisheries Act 1968,
- (c) functions of a Minister of the Crown under Parts 2 to 4 of the Fisheries Act 1981, and
- (d) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fisheries (Wildlife Conservation) Act 1992.

(3) But this section does not apply to—

- (a) functions conferred on the Board of Trade by section 8 of the Sea Fish (Conservation) Act 1967;
- (b) functions listed in paragraph 2(2) of Schedule 3A to the Government of Wales Act 2006 (inserted by this Act) (functions concurrently exercisable with the Welsh Ministers).

(4) In this section—

““Welsh fishing boat”” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging;

““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.

#### Commencement Information

**I31** S. 53 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

#### 54 Transfer of functions in relation to excepted energy buildings **U.K.**

(1) The functions conferred or imposed on the Secretary of State by or under the Building Act 1984, so far as exercisable in relation to excepted energy buildings in Wales, are transferred to the Welsh Ministers.

(2) But subsection (1) does not operate to transfer any functions that are reserved by the following provisions of the 2009 TFO—

- (a) Article 3(b) (functions exercisable by Secretary of State as a Crown authority);
- (b) Article 3(c) (powers of commencement etc);
- (c) Article 4 (energy performance requirements and energy assessors for existing buildings).

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- (3) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under subsection (1) as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act—
  - (a) Part 2 of Schedule 3 (exercise of functions transferred under section 58);
  - (b) paragraph 1 of Schedule 4 (general transfer of property, rights and liabilities).
- (4) In this section—
  - ““excepted energy building”” has the meaning given in the Schedule to the 2009 TFO;
  - ““the 2009 TFO”” means the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019).

#### Commencement Information

**I32** S. 54 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

## 55 Renewable energy incentive schemes **U.K.**

- (1) After section 148 of the Government of Wales Act 2006 insert—

*“Consultation with Welsh Ministers*

### **148A Renewable energy incentive schemes**

- (1) The Secretary of State must consult the Welsh Ministers before—
  - (a) establishing a renewable energy incentive scheme that applies in Wales, or
  - (b) amending such a scheme as it relates to Wales.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.
- (3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.
- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—
  - (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);

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- (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).”
- (2) Where, before the commencement of this section, the Secretary of State has consulted, or is consulting, the Welsh Ministers regarding a renewable energy incentive scheme within the meaning of section 148A of the Government of Wales Act 2006 (inserted by subsection (1) above), that consultation is to be treated as fulfilling the obligation in that section.

#### Commencement Information

**I33** S. 55 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

## 56 Financial assistance for inland waterway and sea freight **U.K.**

- (1) Section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) So far as it relates to inland waterways that are wholly in Wales, the power conferred by this section is a power of the Welsh Ministers.
- (4A) So far as it relates to—
- (a) the carriage of goods by an inland waterway that is partly in Wales, or
- (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales,
- the power conferred by this section may be exercised concurrently or jointly by the Secretary of State and the Welsh Ministers.”
- (3) For subsection (6) substitute—
- “(6) In this section—
- “inland waterway” includes both a natural and an artificial inland waterway;
- “sea adjacent to Wales” means the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.
- (7) An order under section 158(3) of the Government of Wales Act 2006 determining, or making provision for determining, any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not applies for the purposes of the definition of “sea adjacent to Wales” in this section as it applies for the purposes of the definition of “Wales” in that Act.”

#### Commencement Information

**I34** S. 56 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

*Status: Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.*

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## 57 Maritime and Coastguard Agency **U.K.**

- (1) In section 1 of the Coastguard Act 1925 (transfer of the coastguard to the Board of Trade), after subsection (4) insert—

“(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to activities of Her Majesty's Coastguard in Wales.

(6) In subsection (5) ““Wales”” has the same meaning as in the Government of Wales Act 2006.”

- (2) In section 292 of the Merchant Shipping Act 1995 (general functions of the Secretary of State), after subsection (4) insert—

“(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to the safety standards of ships in Wales and protecting the health and safety of persons on them.

(6) In subsection (5) ““Wales”” has the same meaning as in the Government of Wales Act 2006.”

### Commencement Information

**I35** S. 57 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

## 58 Gaming machines on licensed betting premises **U.K.**

- (1) In section 172 of the Gambling Act 2005 (gaming machines), in subsection (12) (definition of ““appropriate Minister””), after paragraph (a) insert—

“(aa) the Welsh Ministers, so far as, in the case of a betting premises licence in respect of premises in Wales and not in respect of a track, the order varies—

(i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or

(ii) whether such machines are authorised;”.

- (2) In section 355 of that Act (regulations, orders and rules)—

(a) in subsection (1), after ““the Secretary of State”” insert “ , the Welsh Ministers ”;

(b) in subsection (3), after ““the Secretary of State”” insert “ or the Welsh Ministers ”;

(c) after subsection (8) insert—

“(8A) An order of the Welsh Ministers under section 172 shall not be made unless a draft has been laid before and approved by resolution of the National Assembly for Wales.”

- (3) The amendments made by this section do not apply in relation to a betting premises licence issued before this section comes into force.

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**Commencement Information**

**I36** S. 58 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(1)

**Status:**

Point in time view as at 01/04/2019. This version of this part contains provisions that are prospective.

**Changes to legislation:**

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