
STATUTORY INSTRUMENTS

1999 No. 1545

CONSTITUTIONAL LAW

DEVOLUTION, WALES

The National Assembly for Wales (Local Government
(Contracts) Act 1997) (Modifications) Order 1999

<i>Made</i>	- - - -	<i>4th June 1999</i>
<i>Laid before Parliament</i>		<i>9th June 1999</i>
<i>Coming into force</i>	- -	<i>1st July 1999</i>

The Secretary of State for Wales, in exercise of the powers conferred on him by section 39 of the Government of Wales Act 1998(1), hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Local Government (Contracts) Act 1997) (Modifications) Order 1999 and shall come into force on 1st July 1999.

(2) In this Order, “the Act” means the Local Government (Contracts) Act 1997(2).

Application of the Act

2. The Act shall apply in relation to contracts entered into by the National Assembly for Wales on or after 1st July 1999 but, in relation to the provisions of the Act set out in the left hand column of the Schedule to this Order, as if the modifications set out opposite such provision in the right hand column to that Schedule were made to the Act.

4th June 1999

Alun Michael
Secretary of State for Wales

(1) 1998 c. 38.
(2) 1997 c. 65.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

THE SCHEDULE

article 2

Provision of the Act	Modification
Section 1 (Functions to include power to enter into contracts)	<p>For references to “a local authority” and “the local authority”, in each place, substitute “the Assembly”.</p> <p>For subsection (3), substitute—</p> <p>“(3) In this Act references to “the Assembly” means the National Assembly for Wales.”.</p> <p>Omit subsection (5).</p>
Section 2 (Certified contracts to be intra vires)	<p>For references to “a local authority” and “the local authority”, in each place, substitute “the Assembly”.</p> <p>For subsection (6), substitute—</p> <p>“(6) Subsection (1) is subject to section 5 (special provisions about judicial reviews).”.</p> <p>In subsection (7), omit the words “or by section 17(1) of the Local Government Act 1988”.</p>
Section 3 (the certification requirements)	<p>In subsection (1), for “a local authority” substitute “the Assembly”.</p> <p>In subsection (2), for “the local authority”, where it first occurs, substitute “the Assembly” and for paragraphs (d) to (g), substitute—</p> <p>“(d) stating that the Assembly had or has power to enter into the contract, specifying the statutory provision, or each of the statutory provisions, conferring the power and, where that provision or one such provision is section 40 of the Government of Wales Act 1998(3), specifying each function of the Assembly which the contract is calculated to facilitate, or is conducive or incidental to, the exercise of that function,</p> <p>(e) stating that a copy of the certificate has been or is to be given to—</p> <p>(i) each of the persons with whom the Assembly has entered or is to enter into the contract in relation to which the certificate is issued,</p>

(3) Section 40 makes provision as to the supplementary powers of the Assembly.

Provision of the Act	Modification
	<p>(ii) the presiding officer or deputy presiding officer of the Assembly⁽⁴⁾, and</p> <p>(iii) the Auditor General for Wales⁽⁵⁾, and</p> <p>(f) confirming that the Assembly has complied with or is to comply with the requirements imposed by subsection (4) with respect to the issue of certificates under this section.”.</p> <p>For subsection (3) substitute–</p> <p>“(3) The requirement specified in this subsection is that the Assembly must have secured that the certificate issued by it is signed by the Assembly First Secretary⁽⁶⁾ or on his behalf pursuant to section 63 of the Government of Wales Act 1998 (exercise of functions by the Assembly staff).”.</p> <p>In subsection (4), for references to “the local authority,” in both places, substitute “the Assembly”.</p>
Section 4 (certified contracts supplementary)	<p>In subsections (1), (3) and (4), for references to “a local authority” and “the local authority”, in each place, substitute “the Assembly”.</p> <p>In subsection (2), for “in relation to a contract by a local authority within section 1(3)(a) or (d), the local authority” substitute “by it in relation to a contract, the Assembly”.</p> <p>Omit subsection (5).</p>
Section 5 (Special provision for judicial reviews and audit reviews)	<p>In subsections (1) and (2), for</p> <p>“(a) an application for judicial review, or</p> <p>(b) an audit review”, in both places, substitute “an application for judicial review”.</p> <p>In subsections (1) and (3), for references to “a local authority” and “the local authority”, in each place, substitute “the Assembly”.</p>

(4) As to the presiding officer and the deputy presiding officer of the Assembly, *see* section 52 of the Government of Wales Act 1998.

(5) As to the Auditor General for Wales, *see* section 90 of the Government of Wales Act 1998.

(6) As to the Assembly First Secretary, *see* section 53 of the Government of Wales Act 1998.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Provision of the Act	Modification
	In subsection (3), omit “or an audit review”.
	In subsection (4), at the end, add “and include a reference of a devolution issue under Schedule 8 to the Government of Wales Act 1998(7)”.
Section 6 (Relevant discharge terms)	<p>In subsection (1), for</p> <p style="padding-left: 40px;">“(a) an application for judicial review, or (b) an audit review,” substitute, “an application for judicial review”.</p> <p>In subsection (2), for “a local authority” and for both references to “the local authority”, in each place, substitute “the Assembly” and in paragraph (c), omit “or an audit review”.</p> <p>In subsection (4), for “a local authority” and “the local authority” in each place, substitute “the Assembly”.</p>
Section 7 (Absence of relevant discharge terms)	<p>In subsection (1)(a) and (3), in both places, omit “or an audit review”.</p> <p>In subsection (1)(b) and subsections (2) and (3), for references to “the local authority”, in each place, substitute “the Assembly”.</p>
Section 8 (Audit reviews)	Omit this section.
Section 9 (Contracting out of functions in connection with certified contracts)	<p>For subsection (1), substitute—</p> <p style="padding-left: 40px;">“(1) An authorisation given by the Assembly by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994(8) (authorisation of exercise by another person of functions for period not exceeding ten years) may specify that it is to be for a period exceeding ten years if it is given in connection with a certified contract.”.</p> <p>In subsection (3),</p> <p>for paragraph (a), substitute “(a) it is given by the Assembly”,</p> <p>and in paragraph (b), for “the authority”, substitute “the Assembly”.</p>

(7) As to the meaning of “devolution issue”, see paragraph 1(1) of Schedule 8.

(8) 1994 c. 40.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Provision of the Act	Modification
Section 10 (power to treat expenditure as not being capital expenditure) and section 11 (Regulations)	Omit these sections.

EXPLANATORY NOTE

(This note is not part of the Order)

The Local Government (Contracts) Act 1997 (“the Act”) makes provision about the power of local authorities to enter into contracts.

Section 39 of the Government of Wales Act 1998 empowers the Secretary of State by order to apply the Act in relation to contracts entered into by the National Assembly for Wales (“the Assembly”) but subject to any appropriate modifications. The present Order by the Secretary of State for Wales effects this in relation to contracts entered into by the Assembly on or after 1st July 1999. The modifications made to the Act are set out in the Schedule and are modifications that the Secretary of State considers to be appropriate having regard to the powers and procedures of the Assembly and having regard also to the certification requirements applying to contracts under the Act imposed by the Local Authorities (Contracts) Regulations 1997 (S.I. [1997/2862](#)).