

PUBLIC BODIES ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 2: Other Provisions Relating to Public Bodies

Section 26: Delegation of functions by Environment Agency

68. *Section 26* provides for the Environment Agency to make arrangements to delegate its non-devolved functions to a person exercising Welsh environmental functions (A “non-devolved function” means a function that is not a Welsh devolved function). *Subsection (2)* provides that such arrangements require the consent of the Secretary of State and of Welsh Ministers.
69. *Subsection (3)* confers a power on the Secretary of State to make provision by order about such arrangements (including about the charging of fees in relation to the arrangements). This order-making power is subject to the consent of Welsh Ministers.
70. *Subsection (4)* provides that an order under *subsection (3)* is subject to the negative resolution procedure.

Section 27: Delegation of welsch environmental functions

71. *Section 27* provides for the Environment Agency, the Forestry Commissioners and any other person exercising Welsh environmental functions to make arrangements between themselves under which one exercises a Welsh environmental function for the other. Arrangements may also be made by them to co-operate when carrying out Welsh environmental functions. *Subsection (4)* confers a power on Welsh Ministers to make provision by order about such arrangements (including about the charging of fees in relation to the arrangements).
72. *Subsection (3)* provides that such arrangements require the consent of Welsh Ministers. *Subsection (6)* provides that such arrangements require the consent of the Secretary of State where an arrangement involves, or an order under *subsection (4)* affects, the Environment Agency, the Forestry Commissioners or any other person who is a cross-border operator.
73. *Subsection (5)* provides that an order under *subsection (4)* is subject to the negative resolution procedure in the National Assembly for Wales.

Section 28: Shared services

74. *Subsection (1)* provides for the bodies listed in *subsection (2)* to make arrangements with any other person for the provision of administrative, professional and technical services for purposes relating to the exercise of public functions in or as regards England or Wales. These arrangements are subject to various consent requirements: under *subsection (3)* the Secretary of State must consent to arrangements involving a person exercising non-devolved functions and under *subsection (7)* Welsh Ministers must consent to arrangements involving a person exercising a Welsh devolved function.

Subsections (4) and (8) provide that the Secretary of State and the Welsh Ministers may make provision by order as to how the function of making arrangements is to be exercised (including about charging of fees in relation to the arrangements). These order-making powers are also subject to consent requirements (see subsections (5) and (9)).

Section 29: Shared services: Forestry Commissioners

75. *Subsection (1)* provides for the Forestry Commissioners to make arrangements with a person who exercises a Welsh environmental function to provide administrative, professional and technical services for purposes relating to the exercise of public functions in or as regards Wales. Under *subsection (2)* Welsh Ministers may make provision by order as to how the function of making arrangements is to be exercised. *Subsection (4)* provides that the Secretary of State's consent is required for arrangements under the section or an order under *subsection (2)*.

Section 30: Regional development agencies

76. *Subsections (1) and (2)* provide that the regional development agencies (except the London Development Agency) are abolished.
77. *Subsection (4)* confers power on the Secretary of State to make provision for activities begun by a regional development agency to be continued or completed by another person. *Subsections (5) and (6)* allow for persons continuing or completing activities to exercise any power that the regional development agency exercised including powers of compulsory acquisition of land or rights over land and rights of entry.
78. *Subsection (7)* enables the Secretary of State to make an order to make consequential or supplementary provision and so on.
79. *Subsection (8)* sets out the procedure for orders made under this section. An order is subject to the affirmative resolution procedure if it contains a provision repealing or amending an enactment. In all other cases, an order is subject to the negative resolution procedure.
80. *Subsections (9) and (10)* enable the Secretary of State to make a scheme to transfer property, rights and liabilities of a regional development agency to an eligible person. The transfer scheme may be included in an order under *subsection (4)*, and if not, it must be laid before Parliament after being made.

Section 31: Sianel Pedwar Cymru

81. **Section 31** amends the Broadcasting Act 1990 ("the 1990 Act") by substituting a new section 61 of the 1990 Act, which relates to the funding arrangements of Sianel Pedwar Cymru ("S4C"). The new section 61 removes the provision for S4C's funding to be linked to the retail price index. It instead makes provision for the Secretary of State to secure such funding as he considers sufficient to cover the costs of S4C providing public services and the broadcasting or distribution of such services.
82. The new section 61(2) of the 1990 Act allows the Secretary of State either to make payments himself or to enter into an agreement with another person for that person to do so, or both.
83. The effect of the new section 61(3) of the 1990 Act is that if S4C were paid an amount that exceeds its costs it could pay back the difference to the person from whom the money was received.

Section 32: V &A, Science Museum, Kew and English Heritage

84. **Section 32** amends sections 3, 11, 25 and 35 of the National Heritage Act 1983 so that institutions governed by that Act have the power to form trading subsidiaries for objects

*These notes refer to the Public Bodies Act 2011 (c.24)
which received Royal Assent on 14th December 2011*

incidental to the institution's functions (bringing their powers into line with similar institutions governed by the Museums and Galleries Act 1992).

Section 33: Chief Coroner

85. *Subsection (1)* of section 33 repeals the uncommenced section 40 of the Coroners and Justice Act 2009, which provided for the right of appeal to the Chief Coroner against certain decisions. *Subsection (2)* repeals other provisions relating to appeals under section 40 of that Act.

Section 34: Scope of power to amend Schedule 1 to Superannuation Act 1972

86. **Section 34** amends section 1 of the Superannuation Act 1972. It clarifies that when an employment or office is added by order to Schedule 1 of the Superannuation Act 1972 (which enables the staff of that body to become members of the Principal Civil Service Pension Scheme and linked schemes), the condition that the remuneration of staff in the employment or office must be paid out of moneys provided by Parliament, the Consolidated Fund or the Scottish Consolidated Fund applies only at the time that the addition to Schedule 1 is made.