



# Public Bodies Act 2011

## 2011 CHAPTER 24

### PART 1

#### GENERAL ORDER-MAKING POWERS

##### *Powers of Welsh Ministers: supplementary*

#### **16 Purpose and conditions for orders made by Welsh Ministers**

- (1) The Welsh Ministers may make an order under section 13 or 14 only if they consider that the order serves the purpose of improving the exercise of public functions having regard to—
  - (a) efficiency,
  - (b) effectiveness,
  - (c) economy, and
  - (d) securing appropriate accountability to the Welsh Ministers.
- (2) The Welsh Ministers may make an order under either of those sections only if they consider that—
  - (a) the order does not remove any necessary protection, and
  - (b) the order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

#### **17 Consent of UK Ministers**

- (1) The Secretary of State's consent is required for an order under section 13 or 14 which transfers a function to, or confers a function on—
  - (a) the Environment Agency,
  - (b) the Forestry Commissioners, or
  - (c) any other cross-border operator.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Secretary of State's consent is required for an order under section 13 or 14 made by virtue of section 15 which in any other way modifies the non-devolved functions of a person referred to in subsection (1).
- (3) A Minister's consent is required for an order under section 13 or 14 which transfers a function to, or modifies the functions of, the Minister.

## **18 Consultation by Welsh Ministers**

- (1) Where the Welsh Ministers propose to make an order under section 13 or 14 they must consult—
  - (a) any body or person exercising public functions to which the proposal relates,
  - (b) such other persons as appear to them to be representative of interests substantially affected by the proposal, and
  - (c) such other persons as they consider appropriate.
- (2) If, as a result of consultation under subsection (1), it appears to the Welsh Ministers appropriate to change the whole or part of the proposal, they must carry out such further consultation with respect to the changes as seems appropriate.
- (3) It is immaterial for the purposes of this section whether consultation is carried out before or after the commencement of this section.
- (4) Subsection (1)(a) does not apply to a body with no members or an office which is vacant; and, where a body is consulted under that provision, any vacancy in its membership is immaterial.

## **19 Procedure for orders by Welsh Ministers etc**

- (1) If after consultation under section 18 the Welsh Ministers consider it appropriate to proceed with the making of an order under section 13 or 14, the Welsh Ministers may lay before the National Assembly for Wales—
  - (a) a draft order, and
  - (b) an explanatory document.
- (2) The explanatory document must—
  - (a) introduce and give reasons for the order,
  - (b) explain why the Welsh Ministers consider that—
    - (i) the order serves the purpose in section 16(1), and
    - (ii) the conditions in section 16(2)(a) and (b) are satisfied, and
  - (c) contain a summary of representations received in the consultation.
- (3) The Welsh Ministers may not act under subsection (1) before the end of the period of twelve weeks beginning with the day on which the consultation began.
- (4) Subject as follows, if after the expiry of the 40-day period the draft order laid under subsection (1) is approved by a resolution of the National Assembly for Wales, the Welsh Ministers may make an order in the terms of the draft order.
- (5) The procedure in subsections (6) to (9) shall apply to the draft order instead of the procedure in subsection (4) if—
  - (a) the National Assembly for Wales so resolves within the 30-day period, or

- (b) a committee of the Assembly charged with reporting on the draft order so recommends within the 30-day period and the Assembly does not by resolution reject the recommendation within that period.
- (6) The Welsh Ministers must have regard to—
  - (a) any representations,
  - (b) any resolution of the National Assembly for Wales, and
  - (c) any recommendations of a committee of the Assembly charged with reporting on the draft order,made during the 60-day period with regard to the draft order.
- (7) If after the expiry of the 60-day period the draft order is approved by a resolution of the National Assembly for Wales, the Welsh Ministers may make an order in the terms of the draft order.
- (8) If after the expiry of the 60-day period the Welsh Ministers wish to proceed with the draft order but with material changes, the Welsh Ministers may lay before the National Assembly for Wales—
  - (a) a revised draft order, and
  - (b) a statement giving a summary of the changes proposed.
- (9) If the revised draft order is approved by a resolution of the National Assembly for Wales, the Welsh Ministers may make an order in the terms of the revised draft order.
- (10) For the purposes of this section an order is made in the terms of a draft order or revised draft order if it contains no material changes to its provisions.
- (11) In this section, references to the “30-day”, “40-day” and “60-day” periods in relation to any draft order are to the periods of 30, 40 and 60 days beginning with the day on which the draft order was laid before the National Assembly for Wales.
- (12) For the purposes of subsection (11) no account is to be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (13) An order may not be made by the Secretary of State under section 15(6) unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.