



Wales Act 2017

2017 CHAPTER 4

PART 1

CONSTITUTIONAL ARRANGEMENTS

Other provision about legislation by the Assembly

9 Super-majority requirement for certain legislation

In the Government of Wales Act 2006, after section 111 insert—

“111A Bills with protected subject-matter: super-majority requirement

- (1) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (2) (but not if the provision is incidental to or consequential on another provision of the Bill).
- (2) The matters are—
 - (a) the name of the Assembly,
 - (b) the persons entitled to vote as electors at an election for membership of the Assembly,
 - (c) the system by which members of the Assembly are returned,
 - (d) the specification or number of constituencies, regions or any equivalent electoral area,
 - (e) the number of members to be returned for each constituency, region or equivalent electoral area, and
 - (f) the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.
- (3) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it—

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- (a) decide whether or not, in the view of the Presiding Officer, any provision of the Bill relates to a protected subject-matter, and
 - (b) state that decision.
- (4) If the Presiding Officer decides that any provision of the Bill relates to a protected subject-matter, the Bill is not passed unless the number of Assembly members voting in favour of it at the final stage is at least two-thirds of the total number of Assembly seats.

111B Scrutiny of Bills by the Supreme Court (protected subject-matter)

- (1) The Counsel General or the Attorney General may refer the question whether any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General may make a reference in relation to a Bill—
 - (a) at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has decided under section 111A(3) that a provision of the Bill relates to a protected subject-matter, or
 - (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has decided under section 111A(3) that no provision of the Bill relates to a protected subject-matter, unless the number of Assembly members voting in favour of the Bill at its passing is at least two-thirds of the total number of Assembly seats.
- (3) No reference may be made in relation to a Bill—
 - (a) by the Counsel General if the Counsel General has notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or
 - (b) by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has, since the notification, been approved or rejected in accordance with standing orders made by virtue of section 111(7).”

10 Super-majority requirement: amendments relating to procedure etc

- (1) Section 111 of the Government of Wales Act 2006 (proceedings on Bills) is amended as set out in subsections (2) to (5).
- (2) In subsection (6), before paragraph (a) insert—
 - “(za) the Supreme Court decides on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer’s decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter.”.
- (3) After subsection (6) insert—
 - “(6A) The standing orders must provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), on a reference made in relation to the Bill under section 111B(2)(a) (reference following Presiding Officer’s

decision that Bill contains protected subject-matter), the Supreme Court decides that no provision that is subject to the reference relates to a protected subject-matter.”

(4) For subsection (7) substitute—

“(7) The standing orders must, in particular, ensure that—

- (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (6)(a), (b) or (c), and
- (b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (6)(za) or (6A),

is subject to a final stage at which it can be approved or rejected.”

(5) In subsection (8)—

- (a) after “109(5)” insert “, 111A(3) and (4), 111B(2)(b)”;
- (b) for “which has been amended on reconsideration” substitute “to which subsection (7)(a) or (b) applies”.

(6) In section 112 of that Act—

- (a) in the heading, at the end insert “(legislative competence)”;
- (b) in subsection (2)(b) omit “subsequent”.

(7) In section 114 of that Act (power of Secretary of State to intervene), in subsection (4)

- (a) in paragraph (b) omit “subsequent”;
- (b) in paragraph (c), after “section” insert “111B or”.

(8) In section 115 of that Act (Royal Assent)—

- (a) in subsection (2)(a), after “section” insert “111B or”;
- (b) after subsection (3) insert—

“(3A) The Presiding Officer may not submit a Bill for Royal Assent if the Supreme Court has decided on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer’s decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter unless, since the decision, the Bill has been approved in accordance with standing orders made by virtue of section 111(7).”

11 Introduction of Bills: justice impact assessment

After section 110 of the Government of Wales Act 2006 insert—

“110A Introduction of Bills: justice impact assessment

- (1) The standing orders must include provision requiring the person in charge of a Bill, on or before the introduction of the Bill, to make a written statement setting out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a “justice impact assessment”).
- (2) The form of the justice impact assessment and the manner in which it is to be made are to be determined under the standing orders.

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(3) The standing orders must provide for the justice impact assessment to be published.”

12 Submission of Bills for Royal Assent: role of Presiding Officer

- (1) In section 115 of the Government of Wales Act 2006, in subsections (1), (2) and (3), for “Clerk” substitute “Presiding Officer”.
- (2) In consequence of the amendments made by subsection (1)—
 - (a) in section 112(3) of that Act (scrutiny of Bills by Supreme Court for legislative competence: notification of lack of reference), in paragraphs (a) and (b), for “Clerk” substitute “Presiding Officer”;
 - (b) in section 113(2)(a) of that Act (ECJ references), for “Clerk” substitute “Presiding Officer”;
 - (c) in section 114 of that Act (power of Secretary of State to intervene), in subsections (2) and (5), for “Clerk” substitute “Presiding Officer”.