

## SCHEDULES

### SCHEDULE 1

Section 3

#### NEW SCHEDULE 7A TO THE GOVERNMENT OF WALES ACT 2006

This Schedule sets out the new Schedule 7A to the Government of Wales Act 2006, to be substituted (with the new Schedule 7B) for Schedule 7 to that Act—

#### “SCHEDULE 7A

Section 108A

#### RESERVED MATTERS

#### PART 1

#### GENERAL RESERVATIONS

##### *The Constitution*

- 1 The following aspects of the constitution are reserved matters—
  - (a) the Crown, including succession to the Crown and a regency;
  - (b) the union of the nations of Wales and England;
  - (c) the Parliament of the United Kingdom.
- 2 (1) Paragraph 1 does not reserve—
  - (a) Her Majesty’s executive functions,
  - (b) functions exercisable by any person acting on behalf of the Crown, or
  - (c) the use of the Welsh Seal.
  - (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate.
  - (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
  - (4) In this paragraph “executive function” does not include a function conferred or imposed by or by virtue of any legislation or the prerogative.
- 3 (1) Paragraph 1 does not reserve property belonging—
  - (a) to Her Majesty in right of the Crown,
  - (b) to Her Majesty in right of the Duchy of Lancaster, or
  - (c) to the Duchy of Cornwall.
  - (2) Paragraph 1 does not reserve property belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.

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- (3) Sub-paragraphs (1) and (2) do not affect the reservation by paragraph 1 of—
- (a) the hereditary revenues of the Crown,
  - (b) the royal arms and standard, or
  - (c) the compulsory acquisition of property—
    - (i) belonging to Her Majesty in right of the Crown;
    - (ii) belonging to Her Majesty in right of the Duchy of Lancaster;
    - (iii) belonging to the Duchy of Cornwall;
    - (iv) held or used by a Minister of the Crown or government department.

- 4 (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.

*Public service*

- 5 The Civil Service of the State is a reserved matter.

*Political parties*

- 6 The following are reserved matters—
- (a) the registration of political parties;
  - (b) funding of political parties and of their members and officers;
  - (c) accounting requirements in relation to political parties;
- but this is subject to paragraph 7.
- 7 Paragraph 6 does not reserve making payments to any political party for the purpose of assisting members of the Assembly who are connected with the party to perform their Assembly duties.

*Single legal jurisdiction of England and Wales*

- 8 (1) The following are reserved matters—
- (a) courts (including, in particular, their creation and jurisdiction);
  - (b) judges (including, in particular, their appointment and remuneration);
  - (c) civil or criminal proceedings (including, in particular, bail, costs, custody pending trial, disclosure, enforcement of orders of courts, evidence, sentencing, limitation of actions, procedure, prosecutors and remedies);
  - (d) pardons for criminal offences;
  - (e) private international law;
  - (f) judicial review of administrative action.

(See also paragraphs 3 and 4 of Schedule 7B (restrictions on modifying private law and criminal law).)

- (2) The reference to prosecutors in sub-paragraph (1)(c) does not prevent an Act of the Assembly from making provision about responsibility for the prosecution of devolved offences.

An offence is a “devolved offence” if provision for the creation of it is within the legislative competence of the Assembly.

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- (3) Sub-paragraph (1) does not reserve—
- (a) welfare advice to courts in respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question;
  - (b) representation in respect of such proceedings;
  - (c) the provision of support (including information and advice), to children ordinarily resident in Wales and their families, in respect of such proceedings;
  - (d) Welsh family proceedings officers.

#### *Tribunals*

- 9 (1) Tribunals, including—
- (a) their membership,
  - (b) the appointment and remuneration of their members,
  - (c) their functions and procedure, and
  - (d) appeals against their decisions,
- are a reserved matter.
- (2) But this paragraph does not apply to a tribunal (a “devolved tribunal”) all of whose functions are functions that—
- (a) are exercisable only in relation to Wales, and
  - (b) do not relate to reserved matters.
- (3) In the case of a tribunal which has functions that do not relate to reserved matters, sub-paragraph (1) does not reserve any function of deciding an appeal or application which—
- (a) relates to a matter that is not a reserved matter, and
  - (b) is not an appeal against the decision of a tribunal (other than a devolved tribunal),
- but it does reserve the tribunal’s procedure in relation to that function.
- (4) In determining for the purposes of this paragraph whether functions of a tribunal are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly’s legislative competence (by virtue of section 108A(3)).
- (5) Where the question whether this paragraph applies to a particular tribunal is relevant to determining whether a provision of an Act of the Assembly is within the Assembly’s legislative competence, the time for deciding the question is the time when the Act is passed.

#### *Foreign affairs etc*

- 10 (1) International relations, regulation of international trade, and international development assistance and co-operation are reserved matters.
- (2) In sub-paragraph (1) “international relations” includes—
- (a) relations with territories outside the United Kingdom;
  - (b) relations with the EU and its institutions;

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- (c) relations with other international organisations.
- (3) But sub-paragraph (1) does not reserve—
  - (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under EU law, or
  - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.
- (4) In this paragraph “the Human Rights Convention” means—
  - (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and
  - (b) the Protocols to the Convention,
 as they have effect for the time being in relation to the United Kingdom.

### *Defence*

- 11 The following are reserved matters—
- (a) the defence of the realm;
  - (b) the naval, military or air forces of the Crown, including reserve forces;
  - (c) visiting forces;
  - (d) international headquarters and defence organisations;
  - (e) trading with the enemy and enemy property.

## PART 2

### SPECIFIC RESERVATIONS

#### **Preliminary**

- 12 The matters to which any of the Sections in this Part apply are reserved matters.
- 13 A Section applies to any matter described or referred to in it when read with any exceptions or interpretation provisions in that Section.
- 14 Any exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading “Exceptions” does not affect any other Section).

### *RESERVATIONS*

#### *Head A—Financial and Economic Matters*

##### Section A1A1 Fiscal, economic and monetary policy

- 15 Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

#### *Exceptions*

Devolved taxes, including their collection and management.

Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates).

##### Section A2A2 The currency

16 Coinage, legal tender and bank notes.  
Section A3A3 Financial services

17 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.  
Section A4A4 Financial markets

18 Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.  
Section A5A5 Dormant accounts

19 Distribution of money from dormant bank and building society accounts.

### *Head B—Home Affairs*

Section B1B1 Elections

#### *(A) Elections for membership of the House of Commons and the European Parliament*

20 Elections for membership of the House of Commons and the European Parliament, including the subject-matter of existing elections Acts so far as they apply, or may be applied, in respect of such membership.

#### *(B) Elections for membership of the Assembly and local government elections in Wales*

21 The subject-matter of sections 3(1A) and 13A of this Act (coincidence of Assembly elections and reserved elections).

22 The subject-matter of section 37ZA(2) of the Representation of the People Act 1983 (coincidence of local government elections and Assembly elections).

23 The combination of—  
(a) polls at elections or referendums that are outside the legislative competence of the Assembly with polls at—  
(i) elections of Assembly members,  
(ii) local government elections in Wales, or  
(iii) referendums held under Part 2 of the Local Government Act 2000 (arrangements in respect of executives etc), and  
(b) polls at ordinary general elections of Assembly members with polls at ordinary local government elections in Wales.

24 Any digital service provided by a Minister of the Crown for the registration of electors.

25 The subject-matter of the following provisions of the Political Parties, Elections and Referendums Act 2000 in relation to elections of Assembly members and local government elections in Wales—

in Part 1 (Electoral Commission)—

- (a) section 1, except in relation to—  
(i) financing the Commission,  
(ii) preparation, laying and publication by it of reports about the performance of its functions, and  
(iii) provision by it of copies of regulations made by it or notice of the alteration or revocation of such regulations;

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(b) sections 2 to 4 and 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs);

(c) sections 12 and 21;

Parts 2 to 4A (registration of parties, accounting, donations, loans etc);

section 140A (gifts received by unincorporated associations);

in Part 10 (miscellaneous and general)—

(a) section 149, except in relation to the register kept under section 89;

(b) sections 155 and 156 except in relation to Parts 5 and 6;

(c) sections 157 and 159 to 163.

26 The subject-matter of Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) where a limit applies to expenditure in relation to a period determined by reference to both—

(a) the date of the poll for an election of Assembly members or a local government election in Wales, and

(b) the date of the poll at an election for membership of the House of Commons or the European Parliament.

27 The subject-matter of sections 145 to 148 and 150 to 154 of the Political Parties, Elections and Referendums Act 2000 (enforcement and offences) as they apply for the purposes of any provision, so far as the subject-matter of the provision is reserved by paragraph 25 or 26.

### *Interpretation*

“Existing elections Acts” means—

(a) the Representation of the People Act 1983,

(b) the Representation of the People Act 1985,

(c) the Parliamentary Constituencies Act 1986,

(d) the Representation of the People Act 2000,

(e) the Political Parties, Elections and Referendums Act 2000,

(f) the European Parliamentary Elections Act 2002,

(g) the Electoral Administration Act 2006, and

(h) the Electoral Registration and Administration Act 2013.

“Local government elections in Wales” includes mayoral elections in Wales.

### Section B2B2 Nationality and immigration

28 Nationality.

29 Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens.

30 Free movement of persons within the European Economic Area.

31 Travel documents.

### Section B3B3 National security and official secrets

32 National security.

33 Special powers, and other special provisions, for dealing with terrorism.

34 The subject-matter of the Official Secrets Acts 1911 to 1989.

### Section B4B4 Interception of communications, communications data and surveillance

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- 35 Interception of communications.
- 36 Communications data.
- 37 Covert surveillance by persons exercising public functions.
- 38 Use of surveillance systems.

*Interpretation*

“Covert surveillance” includes the use of covert human intelligence sources.

Section B5B5 Crime, public order and policing

- 39 The prevention, detection and investigation of crime.
- 40 The maintenance of public order.
- 41 Policing.
- 42 Police and crime commissioners.

*Exception*

Powers of entry, search and seizure relating to the detection or investigation of an offence of a kind provision for the creation of which is within the Assembly’s legislative competence.

Section B6B6 Anti-social behaviour

- 43 The subject-matter of Parts 1 to 4 and 6 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 44 Dangerous dogs and dogs dangerously out of control.

Section B7B7 Modern Slavery

- 45 The subject-matter of the Modern Slavery Act 2015.

Section B8B8 Prostitution

- 46 Prostitution.

Section B9B9 Emergency powers

- 47 Emergency powers.

Section B10B10 Extradition

- 48 Extradition.

Section B11B11 Rehabilitation of offenders

- 49 The subject-matter of the Rehabilitation of Offenders Act 1974.

Section B12B12 Criminal records

- 50 Criminal records, including disclosure and barring.

Section B13B13 Dangerous items

- 51 The subject-matter of the Firearms Acts 1968 to 1997.
- 52 The subject-matter of the Poisons Act 1972.
- 53 Knives.

*Interpretation*

“Knives” includes—

- (a) knife blades and razor blades;
- (b) axes;
- (c) swords.

Section B14B14 Misuse of and dealing in drugs or psychoactive substances

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54 Misuse of and dealing in drugs or psychoactive substances.

*Interpretation*

“Psychoactive substances” has the meaning given in section 2 of the Psychoactive Substances Act 2015.

Section B15B15 Private security

55 Private security.

Section B16B16 Entertainment and late night refreshment.

56 Classification of films and video recordings (including video games).

57 Licensing of—

(a) the provision of entertainment, and

(b) late night refreshment.

Section B17B17 Alcohol

58 The sale and supply of alcohol.

Section B18B18 Betting, gaming and lotteries

59 Betting, gaming and lotteries.

*Exception*

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).

Section B19B19 Hunting

60 Hunting with dogs.

Section B20B20 Scientific and educational procedures on live animals

61 Procedures on live animals for scientific or educational purposes.

Section B21B21 Lieutenancies

62 Lieutenancies.

Section B22B22 Charities and fund-raising

63 Charities.

64 Raising funds for charitable, benevolent or philanthropic purposes.

*Interpretation*

“Funds” includes property other than money.

*Head C—Trade and Industry*

Section C1C1 Business associations and business names

65 The creation, operation, regulation and dissolution of types of business association.

66 The regulation of the name under which an individual or business association carries on business.

*Exception*

The creation, operation, regulation and dissolution of particular public bodies, or public bodies of a particular type, established by or under any enactment.

*Interpretation*

“Business association” means any entity, whether or not a legal person, that is not an individual (including a body corporate, partnership or other unincorporated association)



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and is established for the purpose of carrying on any kind of business, whether or not for profit.

“Business” includes the provision of benefits to the members of an association.

#### Section C2C2 Insolvency and winding up

- 67        Insolvency.
- 68        Winding up solvent business associations.

#### *Interpretation*

“Business association” has the same meaning as in Section C1.

#### Section C3C3 Competition

- 69        Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

#### Section C4C4 Intellectual property

- 70        Intellectual property.

#### *Exception*

Plant varieties and seeds.

#### Section C5C5 Import and export control

- 71        Prohibition and regulation of imports and exports

#### *Exceptions*

Prohibition and regulation of movement into and out of Wales of food, plants, animals and related things for the purposes of—

- (a) protecting human, animal or plant health, animal welfare or the environment, or
- (b) observing or implementing obligations under the Common Agricultural Policy.

Prohibition and regulation of movement into and out of Wales of animal feeding stuffs, fertilisers or pesticides (or things treated by virtue of an enactment as pesticides) for the purposes of protecting human, animal or plant health or the environment.

But prohibition and regulation for the purposes of protecting endangered species of plants and animals is not excepted.

#### *Interpretation*

“Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

“Plants” includes plant parts and derivatives and goods appearing to contain plant parts or derivatives (and the reference to endangered species of plants includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

“Animals” includes animal parts and derivatives and goods appearing to contain animal parts or derivatives (and the reference to endangered species of animals includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

#### Section C6C6 Consumer protection

- 72        Regulation of—
- (a) the sale and supply of goods and services to consumers,
  - (b) guarantees in relation to such goods and services,

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- (c) hire-purchase, including the subject-matter of Part 3 of the Hire-Purchase Act 1964 (title to motor vehicles on hire-purchase or conditional sale),
  - (d) trade descriptions,
  - (e) advertising and price indications,
  - (f) auctions and mock auctions of goods and services, and
  - (g) hallmarking and gun barrel proofing.
- 73 Safety of, and liability for, services supplied to consumers.
- 74 The regulation of—
- (a) estate agents,
  - (b) timeshares, and
  - (c) package travel and package holidays.
- 75 The regulation of—
- (a) unsolicited goods and services, and
  - (b) trading schemes.
- 76 The subject-matter of Part 8 of the Enterprise Act 2002 (enforcement of certain consumer legislation).

*Exceptions*

Food, food products and food contact materials.

Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

*Interpretation*

“Food” has the same meaning as in Section C5.

“Food contact materials” means materials and articles to which Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC applies.

“Food products” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

Section C7C7 Product standards, safety and liability

- 77 Technical standards and requirements in relation to products in pursuance of an obligation under EU law.
- 78 The national accreditation body and the accreditation of bodies that certify or assess conformity to technical standards in relation to products or environmental management systems.
- 79 Product safety and liability.
- 80 Product labelling.

*Exceptions*

Food, food products and food contact materials.

Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).

*Interpretation*

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“Food” has the same meaning as in Section C5.

“Food contact materials” and “food products” have the same meaning as in Section C6.

“National accreditation body” means the body appointed for the purposes of Article 4(1) of Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93.

#### Section C8C8 Weights and measures

- 81 Units and standards of weight and measurement.
- 82 Regulation of trade so far as involving weighing, measuring and quantities.

#### Section C9C9 Telecommunications and wireless telegraphy

- 83 Telecommunications and wireless telegraphy (including electromagnetic disturbance).
- 84 Internet services.
- 85 Electronic encryption.

#### Section C10C10 Post

- 86 Postal services, post offices, the original holding company and any Post Office company.

#### *Exception*

Financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices.

#### *Interpretation*

“The original holding company” and “Post Office company” have the same meaning as in Part 1 of the Postal Services Act 2011.

#### Section C11C11 Research Councils

- 87 Research Councils within the meaning of the Science and Technology Act 1965, and the subject-matter of section 5 of that Act (funding of scientific research) so far as relating to those Councils.
- 88 The Arts and Humanities Research Council within the meaning of Part 1 of the Higher Education Act 2004, and the subject-matter of section 10 of that Act (research in arts and humanities) so far as relating to that Council.

#### Section C12C12 Industrial development

- 89 The subject-matter of—
- (a) section 1 of the Industrial Development Act 1982 (assisted areas),
  - (b) section 8(5) and (7) of that Act (limits on financial assistance to industry), and
  - (c) section 13A of that Act (grants for improvement of electronic communications networks and services etc),
- and the Industrial Development Advisory Board.

#### Section C13C13 Protection of trading and economic interests

- 90 The subject-matter of—
- (a) Part 2 of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and
  - (b) the Protection of Trading Interests Act 1980.

#### Section C14C14 Assistance in connection with exports of goods and services etc

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91 The Export Credits Guarantee Department.  
 Section C15C15 Water and sewerage

92 Appointment and regulation of a water or sewerage undertaker whose area is not wholly or mainly in Wales.

93 Licensing and regulation of a water supply or sewerage licensee.

*Exceptions*

Regulation of a water supply licensee in relation to licensed activities that use the supply system of a water undertaker whose area is wholly or mainly in Wales.

Regulation of a sewerage licensee in relation to licensed activities that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.

*Interpretation*

“Sewerage licensee” and “water supply licensee” have the same meaning as in the Water Industry Act 1991.

“Supply system of a water undertaker” has the meaning given in section 17B of that Act.

“Sewerage system of a sewerage undertaker” has the meaning given in section 17BA of that Act.

Section C16C16 Pubs Code Adjudicator and the Pubs Code

94 The subject-matter of Part 4 of the Small Business, Enterprise and Employment Act 2015.

Section C17C17 Sunday trading

95 Sunday trading.

*Head D—Energy*

Section D1D1 Electricity

96 Generation, transmission, distribution and supply of electricity.

Section D2D2 Oil and gas

- 97 Oil and gas, including—
- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas,
  - (b) pipelines and offshore installations,
  - (c) marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to oil and gas exploration and exploitation,
  - (d) restrictions on navigation, fishing and other activities to ensure safe operation of offshore activities,
  - (e) liquefaction and regasification of gas,
  - (f) the manufacture or production of gas, and
  - (g) the conveyance, shipping and supply of gas.

*Exceptions*

The granting and regulation of licences to search and bore for and get petroleum that, at the time of the grant of the licence, is within the Welsh onshore area, except for any consideration payable for such licences.

Access to land for the purpose of searching or boring for or getting petroleum under such a licence.

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Marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to searching or boring for or getting petroleum under such a licence.

*Interpretation*

“Petroleum” means petroleum within the meaning given by section 1 of the Petroleum Act 1998 in its natural state in strata.

“Welsh onshore area” means 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).

Section D3D3 Coal

- 98 Coal, including—
- (a) the ownership and exploitation of coal,
  - (b) deep and opencast coal mining,
  - (c) subsidence relating to coal mining, and
  - (d) water discharge from coal mines.

*Exception*

Land restoration.

Section D4D4 Nuclear energy

- 99 Nuclear energy and nuclear installations, including—
- (a) nuclear safety, security and safeguards, and
  - (b) liability for nuclear occurrences.

100 The Office for Nuclear Regulation.

Section D5D5 Heat and cooling

- 101 Production, distribution and supply of heat and cooling.

*Exceptions*

Heat and cooling networks, but not the regulation of them.

Schemes providing incentives to generate or produce, or to facilitate the generation or production of, heat or cooling from sources of energy other than fossil fuel or nuclear fuel.

*Interpretation*

“Heat and cooling network” means a system or network by which steam, hot water or chilled liquid is distributed from a central source for supplying heat or cooling to various consumers or premises.

Section D6D6 Energy conservation

- 102 Energy conservation.

*Exception*

The encouragement of energy efficiency otherwise than by prohibition or regulation.

*Head E—Transport*

Section E1E1 Road transport

- 103 Road freight transport services in the United Kingdom (including goods vehicles operator licensing).
- 104 Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads.
- 105 Road traffic offences.

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- 106 Driver licensing (including training, testing and certification).
- 107 Driving instruction.
- 108 Drivers' hours.
- 109 Traffic regulation on special roads, other than regulation relating to speed limits or traffic signs.
- 110 Exemptions from speed limits.
- 111 The application of traffic signs or pedestrian crossings to vehicles being used for a purpose that gives rise to an exemption from speed limits in Wales.
- 112 International road transport services for passengers or goods.
- 113 Public service vehicle operator licensing.
- 114 Documents relating to vehicles and drivers for the purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.
- 115 Vehicle insurance and vehicle registration.
- 116 The subject-matter of Parts 2 and 3 of the Severn Bridges Act 1992 so far as relating to the second Severn crossing.

*Exceptions*

The subject-matter of Part 6 of the Traffic Management Act 2004 (civil enforcement of traffic contraventions).

Regulation relating to trunk road charging schemes.

Regulation relating to the descriptions of motor vehicles and trailers that may be used under arrangements for persons to travel to and from the places where they receive education or training, unless the regulation is the setting of technical standards for construction or equipment of motor vehicles or trailers which differ from the standards that would or might otherwise apply to them.

Regulation of the carriage of animals in motor vehicles or trailers for the purposes of protecting human, animal or plant health, animal welfare or the environment.

Licensing of taxis, taxi drivers, private hire vehicles, private hire vehicle drivers and private hire vehicle operators (but not enforcement by means of penalty points).

*Interpretation*

“Second Severn crossing” means the bridge referred to as the new bridge in the Severn Bridges Act 1992.

“Trunk road charging schemes” means schemes for imposing charges in respect of the use or keeping of vehicles on trunk roads in Wales (other than schemes in relation to the second Severn crossing).

Section E2E2 Rail transport

- 117 Railway services.
- 118 The subject-matter of the Channel Tunnel Act 1987.

*Exception*

Financial assistance so far as relating to railway services; but this exception does not apply in relation to—

- (a) financial assistance relating to the carriage of goods,
- (b) financial assistance made in connection with a railway administration order, or

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- (c) financial assistance made in connection with Regulation (EC) No. 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road.

#### *Interpretation*

“Railway services” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “railway” given by section 81(2) of that Act).

#### Section E3E3 Marine and waterway transport etc

- 119 Navigational rights and freedoms.
- 120 Shipping and technical and safety standards of vessels that are not ships (whether or not capable of navigation), including the subject-matter of—
  - (a) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
  - (b) the Dangerous Vessels Act 1985, and
  - (c) the Merchant Shipping Act 1995.
- 121 Reserved trust ports and harbours not wholly in Wales.
- 122 Pilotage other than devolved pilotage.
- 123 Coastguard services and maritime search and rescue.
- 124 Hovercraft.

#### *Exceptions*

The reference to navigational rights and freedoms does not reserve the regulation of works that may obstruct or endanger navigation apart from works in relation to, or for constructing, reserved trust ports or harbours not wholly in Wales.

The reference to maritime search and rescue does not reserve participation by Welsh fire and rescue authorities in maritime search and rescue responses.

Financial assistance for shipping services to, from or within Wales.

Regulation of the carriage of animals on vessels for the purposes of protecting human, animal or plant health, animal welfare or the environment.

#### *Interpretation*

“Devolved pilotage” means pilotage that —

- (a) relates to a harbour wholly in Wales that is not a reserved trust port, and
- (b) is provided in a pilotage jurisdiction that does not extend beyond Wales.

“Pilotage jurisdiction” means an area in relation to which the duty of a competent harbour authority under section 2(1) of the Pilotage Act 1987 is exercisable.

“Reserved trust port” has the meaning given by section 32 of the Wales Act 2017.

#### Section E4E4 Air transport

- 125 Aviation, air transport, airports and aerodromes.

#### *Exceptions*

Financial assistance to providers or proposed providers of air transport services or airport facilities or services.

Strategies by the Welsh Ministers or local or other public authorities about provision of air services.

Regulation of the carriage of animals on aircraft for the purposes of protecting human, animal or plant health, animal welfare or the environment.

#### Section E5E5 Transport security

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

126 Transport security.

*Exception*

Regulation of transport security relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training.

Section E6E6 Other matters

- 127 Technical specifications for public passenger transport for disabled persons, including the subject-matter of—
- (a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State’s guidance and consultation with the Disabled Persons Transport Advisory Committee), and
  - (b) Part 12 of the Equality Act 2010 (disabled persons: transport).
- 128 Technical specifications for fuel or other energy sources or processes for use in road, rail, marine, waterway or air transport.
- 129 Carriage of dangerous goods (including transport of radioactive material).

*Interpretation*

“Radioactive material” means any material having a specific activity in excess of—

- (a) 0.1 kilobecquerels per kilogram, or
- (b) such other specific activity (not exceeding 70 kilobecquerels per kilogram) as may be specified in regulations made by the Secretary of State.

*Head F—Social Security, Child Support, Pensions and Compensation*

Section F1F1 Social security schemes

- 130 Social security schemes supported from public funds.
- 131 Requiring persons—
- (a) to establish and administer, or make payments to or in respect of, social security schemes, and
  - (b) to keep records and supply information in connection with social security schemes.

*Exceptions*

The provision by a local authority of financial assistance to or in respect of an individual in respect of costs of meeting his or her needs for care or support that the authority would otherwise meet in some other way (for example, by providing accommodation, facilities or services).

The deferral of payment due to a local authority from an individual in respect of costs of, or financial assistance for, meeting that or another individual’s needs for care or support.

*Interpretation*

“Social security schemes” means schemes providing financial assistance for social security purposes to or in respect of individuals, including, in particular, providing such assistance to or in respect of individuals—

- (a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,
- (b) who qualify by reason of low income, or
- (c) in relation to their housing costs.

“Payments to or in respect of social security schemes” includes national insurance contributions.



## Section F2F2 Child Support

- 132 Child support maintenance.
- 133 Collection and enforcement of—
- (a) periodical payments, other than child support maintenance, that are payable for the benefit of a child (“other maintenance”), and
  - (b) periodical payments, other than child support maintenance or other maintenance, that are—
    - (i) payable to or for the benefit of any person, and
    - (ii) collected or enforced where child support maintenance or other maintenance is also collected.

## Section F3F3 Occupational and Personal Pensions

- 134 Occupational and personal pensions.

### *Exception*

Occupational and personal pension schemes for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and
- (b) members of local authorities,

but pensions regulation in relation to such schemes is not excepted.

### *Interpretation*

“Local authority” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

“Occupational and personal pensions” includes pension protection.

“Pension” includes gratuities and allowances.

“Pensions regulation” means the regulation of occupational and personal pensions, including regulation in respect of members, employers, trustees or managers.

## Section F4F4 Public sector compensation

- 135 Compensation for or in respect of public sector workers in respect of—
- (a) incapacity or death as a result of injury or illness,
  - (b) loss of office or employment, or
  - (c) loss or diminution of emoluments.
- 136 Regulation of amounts payable, or paid, to or in respect of public sector workers in consequence of leaving office or employment (including requirements that such amounts be repaid).

### *Exception*

Schemes for the payment of compensation, and regulation of amounts as mentioned in paragraph 136, for or in respect of—

- (a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and
- (b) members of local authorities.

### *Interpretation*

“Compensation” includes pensions, grants, allowances, supplements and gratuities.

“Local authority” includes a fire and rescue authority, a National Park authority and a conservation board for an area of outstanding natural beauty.

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

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“Public sector worker” means a person holding office or employed in the public sector.

Section F5F5 Armed forces compensation etc

- 137 Compensation for or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in respect of—
- (a) injury, illness or death in consequence of or whilst in service,
  - (b) ceasing to be a member of the forces, or
  - (c) loss or diminution of emoluments.
- 138 Regulation of amounts payable, or paid, to or in respect of members of the naval, military or air forces of the Crown (including reserve forces) in consequence of ceasing to be a member of the forces (including requirements that such amounts be repaid).
- 139 The subject-matter of any scheme under the Personal Injuries (Emergency Provisions) Act 1939, sections 3 to 5 and 7 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or section 1 of the Polish Resettlement Act 1947.

*Interpretation*

“Compensation” includes pensions, grants, allowances, supplements and gratuities.

*Head G—Professions*

Section G1G1 Architects, auditors, health professionals and veterinary surgeons

- 140 Regulation of—
- (a) the profession of architect,
  - (b) the profession of auditor,
  - (c) health professions, and
  - (d) the profession of veterinary surgeon.

*Exceptions*

- Regulation of the social care profession.
- Regulation of the social work profession.

*Interpretation*

“Health professions” means—

- (a) the professions regulated by the following—
  - the Medical Act 1983;
  - the Dentists Act 1984;
  - the Opticians Act 1989;
  - the Osteopaths Act 1993;
  - the Chiropractors Act 1994;
  - the Nursing and Midwifery Order 2001 ([S.I. 2002/253](#));
  - the Health and Social Work Professions Order 2001 ([S.I. 2002/254](#));
  - the Pharmacy Order 2010 ([S.I. 2010/231](#));
- (b) any other profession concerned with the physical or mental health of individuals.

*Head H—Employment*

Section H1H1 Employment and industrial relations

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

- 141 Employment rights and duties and industrial relations, including the subject-matter of—
- (a) the Employers’ Liability (Compulsory Insurance) Act 1969,
  - (b) the Employment Agencies Act 1973,
  - (c) the Pneumoconiosis etc (Workers’ Compensation) Act 1979,
  - (d) the Trade Union and Labour Relations (Consolidation) Act 1992,
  - (e) the Employment Tribunals Act 1996,
  - (f) the Employment Rights Act 1996,
  - (g) the National Minimum Wage Act 1998,
  - (h) the Working Time Regulations 1998 (S.I. 1998/1833),
  - (i) the Employment Relations Act 1999,
  - (j) the Transnational Information and Consultation of Employees Regulations 1999 (S.I. 1999/3323),
  - (k) the Employment Act 2002,
  - (l) the Gangmasters (Licensing) Act 2004,
  - (m) the Employment Relations Act 2004,
  - (n) the Work and Families Act 2006,
  - (o) the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),
  - (p) the Agency Workers Regulations 2010 (S.I. 2010/93), and
  - (q) Part 2 of the Enterprise and Regulatory Reform Act 2013.

*Exception*

The subject-matter of the Agricultural Sector (Wales) Act 2014.  
Section H2H2 Industrial training boards

- 142 The following boards—
- (a) the Construction Industry Training Board;
  - (b) the Engineering Construction Industry Training Board;
  - (c) the Film Industry Training Board for England and Wales.

Section H3H3 Job search and support

- 143 Arrangements for assisting persons to select, train for, obtain and retain employment, and to obtain suitable employees.

*Exceptions*

Education.  
Vocational, social and physical training.  
Careers services.

*Interpretation*

“Employment” includes—

- (a) work on a person’s own account, and
- (b) employment of a disabled person (including work on the disabled person’s own account) under special conditions;

and “disabled person” here has the same meaning as it has in the Equality Act 2010 as at the principal appointed day.

“Employees” includes partners and other business associates.

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

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*Head J—Health, Safety and Medicines*

Section J1J1 Abortion

144 Abortion.

Section J2J2 Xenotransplantation

145 Xenotransplantation.

Section J3J3 Embryology, surrogacy and genetics

146 Human genetics, human fertilisation, human embryology and surrogacy arrangements.

Section J4J4 Medicines, medical supplies, biological substances etc

147 Medicinal products, including manufacture, authorisations for use and regulation of prices.

148 Regulation of prices of other medical supplies.

149 Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).

150 Veterinary medicinal products, including manufacture, authorisations for use and regulation of prices.

151 Specified feed additives.

152 Animal feeding stuffs, in relation to—

(a) the incorporation in them of veterinary medicinal products or specified feed additives;

(b) matters arising in consequence of such incorporation.

153 Vaccine damage payments.

*Interpretation*

“Medical supplies” has the same meaning as in section 260 of the National Health Service Act 2006.

“Medicinal products” has the same meaning as in the Human Medicines Regulations 2012 ([S.I. 2012/1916](#)).

“Specified feed additives” has the same meaning as in Schedule 5 to the Veterinary Medicines Regulations 2013 ([S.I. 2013/2033](#)).

“Veterinary medicinal products” has the same meaning as in those Regulations.

Section J5J5 Welfare foods

154 Schemes established by regulations under section 13 of the Social Security Act 1988 (benefits under schemes for improving nutrition: pregnant women, mothers and children).

Section J6J6 Health and safety

155 The subject-matter of Part 1 of the Health and Safety at Work etc. Act 1974.

156 The Health and Safety Executive and the Employment Medical Advisory Service.

157 Protection of the public from radiation.

*Interpretation*

For the purposes of the reservation of the subject-matter of Part I of the Health and Safety at Work etc. Act 1974—

(a) “work” and “at work” in that Part are to be taken to have the meaning they have on the principal appointed day;

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

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- (b) that subject-matter includes—
- (i) process fire precautions,
  - (ii) fire precautions in relation to petroleum and petroleum spirit, and
  - (iii) fire safety on ships and hovercraft, in mines and on offshore installations,
- but does not include any other aspect of fire safety.

*Head K—Media, Culture and Sport*

Section K1K1 Media

158 Broadcasting and other media.

159 The British Broadcasting Corporation.

Section K2K2 Public lending right

160 Public lending right.

Section K3K3 Government Indemnity Scheme

161 Government indemnities for objects on loan.

Section K4K4 Property accepted in satisfaction of tax

162 Payments to Her Majesty’s Revenue and Customs in respect of property accepted in satisfaction of tax and the disposal of such property.

Section K5K5 Sports grounds

163 Safety of sports grounds.

*Head L—Justice*

Section L1L1 The legal profession, legal services and claims management services

164 The legal profession and legal services.

165 Claims management services.

Section L2L2 Legal aid

166 Legal aid.

Section L3L3 Coroners

167 The subject-matter of Part 1 of the Coroners and Justice Act 2009.

Section L4L4 Arbitration

168 Arbitration.

Section L5L5 Mental capacity

169 The subject-matter of the Mental Capacity Act 2005.

Section L6L6 Personal data

170 Protection of personal data.

Section L7L7 Information rights

171 Public access to information held by a public authority.

*Exception*

Public access to information held by—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Government, or
- (d) any Welsh public authority,

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

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unless supplied by a Minister of the Crown or government department and held in confidence.

### *Interpretation*

“Public authority” and “held by a public authority”—

- (a) in relation to environmental information, have the same meaning as in the Environmental Information Regulations 2004 (S.I. 2004/3391);
- (b) otherwise, have the meaning given by section 3 of the Freedom of Information Act 2000.

“Welsh public authority” has the meaning given by section 83 of that Act, but does not include a reserved authority within the meaning given by paragraph 8 of Schedule 7B to this Act.

### Section L8L8 Public sector information

172 The subject-matter of—

- (a) the INSPIRE Regulations 2009 (S.I. 2009/3157);
- (b) the Re-use of Public Sector Information Regulations 2015 (S.I. 2015/1415).

### Section L9L9 Public records

173 The subject-matter of the Public Records Act 1958.

### Section L10L10 Compensation for persons affected by crime and miscarriages of justice

174 Compensation for—

- (a) persons affected by crime;
- (b) miscarriages of justice.

### Section L11 Section L11 Prisons and offender management

175 (1) Prisons and other institutions for the detention of persons charged with or convicted of offences (“relevant institutions”).

(2) The management of—

- (a) persons charged with or convicted of offences (whether or not detained in a relevant institution);
- (b) other persons required to be detained in a relevant institution.

(3) This reservation includes probation, escort functions, transfers of persons between relevant institutions and the subject-matter of—

- (a) sections 47 to 49 of the Mental Health Act 1983 (transfer to hospital of prisoners) and the provisions of that Act relating to persons who are restricted patients within the meaning given by section 79 of that Act;
- (b) sections 37 to 42 of the Crime and Disorder Act 1998 (youth justice).

### *Exceptions*

Accommodation provided by or on behalf of a local authority for the purpose of restricting the liberty of children or young persons.

The provision of health care, social care, education, training or libraries.

### *Interpretation*

The reference to conviction in sub-paragraph (2) includes a finding in criminal proceedings that a person has committed an offence or done the act or made the omission charged.

“Escort functions” includes functions of the kind mentioned in section 80(1) of the Criminal Justice Act 1991.

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

“Probation” includes matters of the kind mentioned in section 1(1)(a) to (f) of the Offender Management Act 2007.

Section L12L12 Family relationships and children

- 176 Marriage, civil partnership and cohabitation.
- 177 Parenthood, parental responsibility, child arrangements and adoption.
- 178 Proceedings and orders under Part 4 or 5 of the Children Act 1989 or otherwise relating to the care or supervision of children.
- 179 Civil remedies in respect of domestic violence, domestic abuse and female genital mutilation.

*Exceptions*

Services and facilities relating to adoption, adoption agencies and their functions, other than functions of the Central Authority under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

Parental discipline.

*Interpretation*

“Child arrangements” includes the subject-matter of Part 2 of the Children Act 1989.

Section L13L13 Gender recognition

- 180 Gender recognition.

Section L14L14 Registration of births, deaths and places of worship

- 181 Registration of births and deaths and of places of worship.

*Head M—Land and Agricultural Assets*

Section M1M1 Registration of land

- 182 Registration of—
  - (a) estates, interests and charges in or over land, and
  - (b) associated actions, proceedings, writs and orders.

*Exception*

Fees for the registration of local land charges.

Section M2M2 Registration of agricultural charges and debentures

- 183 The subject-matter of sections 9 and 14 of, and the Schedule to, the Agricultural Credits Act 1928.

Section M3M3 Development and buildings

- 184 Planning (including the subject-matter of Parts 2 to 8 of the Planning Act 2008) but only in relation to—
  - (a) relevant nationally significant infrastructure projects,
  - (b) overhead electric lines other than devolved associated lines, and
  - (c) railways other than railways that start, end and remain in Wales,except this does not affect the reservation of the subject-matter of sections 14 and 16 of the Harbours Act 1964 by paragraph 121.
- 185 Compensation in respect of—
  - (a) the interference with rights in land by exercise of a statutory power;
  - (b) depreciation in the value of land as a result of works or land provided or used in the exercise of a statutory power.

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

- 186 The regulation of—
- (a) the design and construction of buildings,
  - (b) the demolition of buildings, and
  - (c) services, fittings and equipment provided in or in connection with buildings,
- but only in relation to specified Crown land and specified undertaker land.

*Interpretation*

“Devolved associated line” means an overhead line that—

- (a) is associated with a generating station that is or (when constructed or extended) is expected to be—
  - (i) in Wales or the Welsh zone, but
  - (ii) not within section 15(3A) or (3B) of the Planning Act 2008, and
- (b) has or will (when installed) have a nominal voltage no greater than 132 kilovolts.

“Railway” has the meaning given by section 67(1) of the Transport and Works Act 1992.

“Relevant nationally significant infrastructure project” means a project falling within paragraph (a), (c), (g) or (j) of section 14(1) of the Planning Act 2008.

“Specified Crown land” means land—

- (a) belonging to Her Majesty in right of the Crown;
- (b) belonging to Her Majesty in right of the Duchy of Lancaster;
- (c) belonging to the Duchy of Cornwall;
- (d) held or used by a Minister of the Crown or a government department.

“Specified undertaker land” means land held or used by a statutory undertaker in the exercise of a statutory power that relates to a matter in paragraph 96, 97(f) and (g), 99, 117, 121 or 125.

*Head N—Miscellaneous*

Section N1N1 Equal opportunities

- 187 Equal opportunities.

*Exceptions*

The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.

Imposing duties on any devolved Welsh authority to make arrangements with a view to securing that its functions are carried out with due regard to the need to meet the equal opportunity requirements.

Equal opportunities so far as relating to the inclusion of persons with particular protected characteristics in non-executive posts on boards of devolved Welsh authorities.

Equal opportunities in relation to the functions of any devolved Welsh authority, other than a function that relates to the inclusion of persons in non-executive posts on boards of devolved Welsh authorities. The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include—

- (a) provision that supplements or is otherwise additional to provision made by that Act;
- (b) in particular, provision imposing a requirement to take action which that Act does not prohibit;



- (c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.

*Interpretation*

“Board” includes any other equivalent management body.

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions, but not including language.

“Equal opportunity requirements” means the requirements of the law for the time being relating to equal opportunities.

“Non-executive post”, in relation to an authority, means any position the holder of which is not an employee of the authority.

“Protected characteristic” has the same meaning as in the Equality Act 2010.

The references to the Equality Act 2010 and any subordinate legislation made under that Act are to be read as references to those enactments, as at the principal appointed day, but treating any provision of them that is not yet in force on that day as if it were in force.

Section N2N2 Control of weapons

- 188 Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

Section N3N3 Ordnance Survey

- 189 Ordnance Survey.

Section N4N4 Time

- 190 Timescales, time zones, the subject-matter of the Summer Time Act 1972, units of time, the calendar, bank holidays and the date of Easter.

*Exception*

The computation of periods of time.

Section N5N5 Outer space

- 191 Activities connected with outer space.

Section N6N6 Antarctica

- 192 Activities connected with Antarctica.

*Interpretation*

“Antarctica” has the meaning given in section 1 of the Antarctic Act 1994.

Section N7N7 Deep sea bed mining

- 193 Activities for the purposes of deep sea bed mining operations.

*Interpretation*

“Deep sea bed mining operations” has the meaning given in section 17 of the Deep Sea Mining Act 1981.

### PART 3

#### GENERAL PROVISIONS

##### Devolved Welsh authorities etc

- 194 (1) This Schedule does not reserve—
- (a) the constitution of an authority that has reserved functions,
  - (b) conferring or imposing (or giving power to confer or impose) accounting or public procurement functions on such an authority,
  - (c) modifying or removing (or giving power to modify or remove) any accounting or public procurement functions of such an authority, or
  - (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to such an authority,
- if the authority is a devolved Welsh authority.
- (2) For the purposes of this paragraph—
- (a) “authority” means a body, office or holder of an office that has functions of a public nature (but does not include a court);
  - (b) “reserved functions” are functions that relate to reserved matters;
  - (c) the constitution of an authority includes the authority’s establishment and dissolution, its assets and liabilities and its funding and receipts;
  - (d) a function specifically exercisable in relation to an authority does not include a function specifically exercisable in relation to a particular reserved function of the authority.
- (3) Where the question whether an authority is a devolved Welsh authority is relevant to determining whether a provision of an Act of the Assembly is within the Assembly’s legislative competence, the time for deciding the question is the time when the Act is passed.
- 195 (1) Paragraph 1 of this Schedule does not reserve an authority if—
- (a) its functions are exercisable only in relation to Wales, or
  - (b) it is a devolved Welsh authority (whether or not its functions are exercisable only in relation to Wales),
- and it has no reserved functions.
- (2) In this paragraph “authority” and “reserved functions” have the same meaning as in paragraph 194.
- (3) In determining for the purposes of this paragraph whether functions of an authority are exercisable only in relation to Wales, no account is taken of any function that—
- (a) is exercisable otherwise than in relation to Wales, and
  - (b) could (apart from paragraph 8 of Schedule 7B) be conferred or imposed by provision falling within the Assembly’s legislative competence (by virtue of section 108A(3)).
- (4) Where the conditions in sub-paragraph (1) are relevant to determining whether a provision of an Act of the Assembly is within the Assembly’s legislative competence, the time for assessing whether those conditions are met is the time when the Act is passed.

- 196 Paragraph 194 applies in relation to a devolved tribunal (within the meaning of paragraph 9(2)) as it applies in relation to a devolved Welsh authority.

### **Particular authorities**

- 197 (1) The reservation of an authority to which this paragraph applies has effect to reserve—
- (a) its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts;
  - (b) conferring or imposing (or giving power to confer or impose) functions on it;
  - (c) modifying or removing (or giving power to modify or remove) any of its functions;
  - (d) conferring, imposing, modifying or removing (or giving power to confer, impose, modify or remove) functions specifically exercisable in relation to it.
- (2) This paragraph applies to—
- (a) a body reserved by name by Part 2 of this Schedule;
  - (b) any of the companies reserved by Section C10 of that Part;
  - (c) each of the councils reserved by Section C11 of that Part;
  - (d) a police and crime commissioner;
  - (e) the Commission for Equality and Human Rights.
- (3) This paragraph is subject to paragraphs 198 and 199.

### **Welsh language functions**

- 198 (1) This Schedule does not reserve—
- (a) conferring or imposing (or giving power to confer or impose) a Welsh language function on a person other than a court;
  - (b) modifying or removing (or giving power to modify or remove) any Welsh language function of a person other than a court.
- (2) “Welsh language function” means a function in relation to the Welsh language.

### **Council tax precepts**

- 199 This Schedule does not reserve council tax precepts.

### **Interpretation of Schedule**

- 200 (1) References in this Schedule to the subject-matter of any enactment are to be read as references to the subject-matter of that enactment as it has effect on the principal appointed day or, if it ceased to have effect at any time within the period ending with that day and beginning with the passing of the Wales Act 2017, as it had effect immediately before that time.
- (2) For the purposes of sub-paragraph (1), any provision of an enactment that is not yet in force on the principal appointed day is treated as if it were in force on that day.
- (3) In this Schedule “the principal appointed day” has the same meaning as in section 71 of the Wales Act 2017.”

## SCHEDULE 2

Section 3

## NEW SCHEDULE 7B TO THE GOVERNMENT OF WALES ACT 2006

This Schedule sets out the new Schedule 7B to the Government of Wales Act 2006, to be substituted (with the new Schedule 7A) for Schedule 7 to that Act—

## “SCHEDULE 7B

Section 108A

## GENERAL RESTRICTIONS

## PART 1

## GENERAL RESTRICTIONS

**The law on reserved matters**

- 1 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law on reserved matters.
- (2) “The law on reserved matters” means—
  - (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of Parliament or subordinate legislation under an Act of Parliament, and
  - (b) any rule of law which is not contained in an enactment and the subject-matter of which is a reserved matter,and in this sub-paragraph “Act of Parliament” does not include this Act.
- 2 (1) Paragraph 1 does not apply to a modification that—
  - (a) is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters, and
  - (b) has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision.
- (2) In determining what is necessary for the purposes of this paragraph, any power to make laws other than the power of the Assembly is disregarded.

**Private law**

- 3 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the private law.
- (2) “The private law” means the law of contract, agency, bailment, tort, unjust enrichment and restitution, property, trusts and succession.
- (3) In sub-paragraph (2) the reference to the law of property does not include intellectual property rights relating to plant varieties or seeds but does include the compulsory acquisition of property.
- (4) Sub-paragraph (1) does not apply to a modification that has a purpose (other than modification of the private law) which does not relate to a reserved matter.

## **Criminal law**

- 4 (1) A provision of an Act of the Assembly cannot—
- (a) make modifications of, or confer power by subordinate legislation to make modifications of, an offence in a listed category;
  - (b) create, or confer power by subordinate legislation to create, an offence in a listed category.
- (2) The listed categories of offences are—
- (a) treason and related offences;
  - (b) homicide offences (including offences relating to suicide) and other offences against the person (including offences involving violence or threats of violence) that are triable only on indictment;
  - (c) sexual offences (including offences relating to indecent or pornographic images);
  - (d) offences of a kind dealt with by the Perjury Act 1911.
- (3) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law about—
- (a) criminal responsibility and capacity,
  - (b) the meaning of intention, recklessness, dishonesty and other mental elements of offences,
  - (c) inchoate and secondary criminal liability, or
  - (d) sentences and other orders and disposals in respect of defendants in criminal proceedings, or otherwise in respect of criminal conduct, and their effect and operation.
- (4) For the purposes of this paragraph, a modification of the law relating to defences to an offence is a modification of the offence.
- (5) This paragraph does not affect the reservation, by virtue of Schedule 7A, of the creation or modification of offences in relation to reserved matters.
- (See also paragraph 8 of that Schedule (single legal jurisdiction of England and Wales).)

## **Enactments other than this Act**

- 5 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the table below—

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972	The whole Act.
Government of Wales Act 1998	Section 144(7).
Human Rights Act 1998	The whole Act.
Civil Contingencies Act 2004	The whole Act.
Energy Act 2008	Section 100 and regulations under that section.

- (2) A provision of an Act of the Assembly cannot, unless it is an oversight provision, make modifications of—

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

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- (a) section 146A(1) of the Government of Wales Act 1998, or
  - (b) sections 2(1) to (3), 3(2) to (4) or 6(2) and (3) of the [Public Audit \(Wales\) Act 2013](#) (anaw 3),
- or confer power by subordinate legislation to do so.
- (3) A provision of an Act of the Assembly cannot, unless it is an oversight provision and also a non-governmental committee provision—
- (a) make modifications of section 8(1) of the [Public Audit \(Wales\) Act 2013](#) so far as that section relates to the Auditor General’s exercise of functions free from the direction or control of the Assembly or Welsh Government, or
  - (b) confer power by subordinate legislation to do so.
- (4) An “oversight provision” is a provision of an Act of the Assembly that—
- (a) relates to the oversight or supervision of the Auditor General or of the exercise of the Auditor General’s functions, or
  - (b) is ancillary to a provision falling within paragraph (a).
- (5) A “non-governmental committee provision” is a provision conferring functions on a committee of the Assembly that—
- (a) does not consist of or include members of the Welsh Government, and
  - (b) is not chaired by an Assembly member who is a member of a political group with an executive role,
- or a provision conferring power by subordinate legislation to do so.
- (6) A person designated under section 46(5) to exercise the functions of the First Minister is treated as a member of the Welsh Government for the purposes of sub-paragraph (5)(a).
- 6 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.

### **This Act**

- 7 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- (2) Sub-paragraph (1) does not apply to—
- (a) the following provisions in Part 1 (the Assembly)—
    - (i) in section 1(1), the words from “the National Assembly for Wales” to the end;
    - (ii) section 1(2) to (5);
    - (iii) section 2;
    - (iv) section 3(1), (1B) and (2) to (4);
    - (v) sections 4 to 20;
    - (vi) section 22;
    - (vii) section 23(2), (6) and (7);
    - (viii) section 24;

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- (ix) section 25(1)(b) and (2) to (15);
  - (x) section 26(2) to (4);
  - (xi) in section 27(1), the words from “the National Assembly for Wales Commission” to the end;
  - (xii) section 27(2) to (4), (6) and (7);
  - (xiii) section 28;
  - (xiv) section 30;
  - (xv) section 34(1) and (2);
  - (xvi) sections 35 and 36;
  - (xvii) sections 38 to 43;
  - (xviii) section 51;
  - (xix) paragraphs 1, 2, 3(1), (2) and (4) to (7), 4 and 7 to 11 of Schedule 2;
  - (b) the following provisions in Part 2 (the Welsh Government)—
    - (i) sections 53 and 54;
    - (ii) sections 60 and 61;
    - (iii) sections 72 to 75;
    - (iv) sections 77 to 79;
    - (v) section 91;
  - (c) the following provisions in Part 4 (Acts of the Assembly)—
    - (i) in section 107(1), the words from “Acts of the National Assembly for Wales” to the end;
    - (ii) section 110;
    - (iii) section 111(1)(a) and (b), (2), (3) and (5);
  - (d) the following provisions in Part 5 (finance)—
    - (i) section 120(2);
    - (ii) sections 125 to 130;
    - (iii) sections 131 to 135;
    - (iv) sections 137 to 143;
    - (v) any provision of Schedule 8;
  - (e) the following provisions in Part 6 (miscellaneous and supplementary)—
    - (i) sections 146 to 148;
    - (ii) section 156(2) to (5).
- (3) Sub-paragraph (1) does not apply to any provision—
- (a) making modifications of so much of any enactment as is modified by this Act, or
  - (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Act of the Assembly.
- (4) Sub-paragraph (1) does not apply to any provision that is consequential on or incidental to provision made by virtue of—
- (a) sub-paragraph (2)(a)(i) (change of name of the Assembly),
  - (b) sub-paragraph (2)(a)(xi) (change of name of the Assembly Commission), or
  - (c) sub-paragraph (2)(c)(i) (change of name of Acts of the Assembly).

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- (5) Sub-paragraph (1), so far as it applies in relation to a provision of Part 5 not listed in sub-paragraph (2)(d), or section 159, does not apply to a provision of an Act of the Assembly if the provision is incidental to, or consequential on, a provision of an Act of the Assembly relating to budgetary procedures or devolved taxes.
- (6) In sub-paragraph (5) “budgetary procedures” are procedures for a financial year relating to—
- (a) the authorisation of the amount of resources that may be used or retained in that year by relevant persons or pursuant to a relevant enactment,
  - (b) the authorisation of the amount that may be paid out of the Welsh Consolidated Fund in that year to relevant persons or for use pursuant to a relevant enactment, or
  - (c) the scrutiny of the use of the amounts so authorised under paragraph (a) or (b) or of the exercise of borrowing powers by the Welsh Ministers.
- (7) In sub-paragraph (6)—
- (a) the reference to the use of resources is a reference to their expenditure, consumption or reduction in value;
  - (b) “relevant persons” means—
    - (i) the Welsh Ministers,
    - (ii) the First Minister,
    - (iii) the Counsel General,
    - (iv) the Assembly Commission,
    - (v) the Wales Audit Office, and
    - (vi) the Public Service Ombudsman for Wales;
  - (c) “relevant enactment” means an enactment that provides for payment out of the Welsh Consolidated Fund.
- (8) Sub-paragraph (1) does not apply in relation to a provision to which paragraph 5(3) applies.

### **Ministers of the Crown, government departments and other reserved authorities**

- 8 (1) A provision of an Act of the Assembly cannot—
- (a) confer or impose, or confer power by subordinate legislation to confer or impose, any function on a reserved authority,
  - (b) make modifications of, or confer power by subordinate legislation to make modifications of, the constitution of a reserved authority, including modifications relating to its assets and liabilities and its funding and receipts, or
  - (c) confer, impose, modify or remove, or confer power by subordinate legislation to confer, impose, modify or remove, functions specifically exercisable in relation to a reserved authority,
- unless the appropriate Minister consents to the provision.
- (2) Sub-paragraph (1) is subject to the exceptions in paragraph 9.
- (3) In this paragraph “reserved authority” means—
- (a) a Minister of the Crown or government department;
  - (b) any other public authority apart from a devolved Welsh authority.



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- (4) In this paragraph “public authority” means a body, office or holder of an office that has functions of a public nature.
- (5) In this paragraph the “appropriate Minister” means—
- (a) where the authority in question is Her Majesty’s Revenue and Customs, the Treasury;
  - (b) otherwise, the Secretary of State.
- 9 (1) This paragraph contains exceptions to paragraph 8.
- (2) Paragraph 8(1)(a) does not apply in relation to—
- (a) the Electoral Commission;
  - (b) the Food Standards Agency;
  - (c) the Water Services Regulation Authority;
  - (d) the Joint Committee on Vaccination and Immunisation;
  - (e) the Human Tissue Authority;
  - (f) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (g) NHS Blood and Transplant or Gwaed a Thrawsblaniadau’r GIG;
  - (h) the Open University.
- (3) Paragraph 8(1)(a) does not apply to the conferral or imposition on the traffic commissioners of a function relating to—
- (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) Paragraph 8(1)(a) does not apply to—
- (a) the conferral or imposition on a court of a devolved function (within the meaning of paragraph 6 of Schedule 7A);
  - (b) the conferral or imposition on a tribunal of a function involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) Paragraph 8(1)(c) does not apply to a provision to which paragraph 8(1)(a) applies or would apply but for sub-paragraph (2) of this paragraph.
- (6) Paragraph 8(1) does not apply in relation to—
- (a) a water or sewerage undertaker;
  - (b) the Consumer Council for Water;
  - (c) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality).
- (7) Paragraph 8(1) does not apply in relation to the funding of police and crime commissioners through council tax precepts.
- 10 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a public authority other than a devolved Welsh authority, unless the appropriate Minister consents to the provision.
- (2) This paragraph does not apply in relation to—

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- (a) a Minister of the Crown (as to which, see paragraph 11);
  - (b) the Electoral Commission;
  - (c) the Food Standards Agency;
  - (d) the Water Services Regulation Authority;
  - (e) a water or sewerage undertaker;
  - (f) the Consumer Council for Water;
  - (g) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality);
  - (h) the Joint Committee on Vaccination and Immunisation;
  - (i) the Human Tissue Authority;
  - (j) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
  - (k) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG;
  - (l) the Open University.
- (3) This paragraph does not apply to the removal or modification of a function of the traffic commissioners relating to—
- (a) the registration of local bus services, or
  - (b) the application and enforcement of traffic regulation conditions in relation to those services.
- (4) This paragraph does not apply to—
- (a) the removal or modification of a devolved function (within the meaning of paragraph 6 of Schedule 7A) of a court;
  - (b) the removal or modification of a function of a tribunal involving, or connected with, making a decision in relation to a matter that is not a reserved matter.
- (5) This paragraph does not apply in relation to the funding of police and crime commissioners through council tax precepts.
- (6) In this paragraph “public authority” and “appropriate Minister” have the same meaning as in paragraph 8.
- 11 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify—
- (a) any function of a Minister of the Crown that relates to a qualified devolved function,
  - (b) any function of a Minister of the Crown exercisable in relation to the Welsh language,
  - (c) any function of a Minister of the Crown 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,
  - (d) any function of a Minister of the Crown under Chapter 1 of Part 3, or section 58, of the Marine and Coastal Access Act 2009,
  - (e) any power of the Secretary of State under section 6 of the Railways Act 2005 (financial assistance relating to railway services etc), or
  - (f) any function of the Treasury under section 138(2) or 141(4),
- unless the appropriate Minister consents to the provision.

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- (2) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown not falling within sub-paragraph (1) unless the Welsh Ministers have consulted the appropriate Minister about the provision.
- (3) In this paragraph “qualified devolved function” means a function that—
- (a) is conferred or imposed on or transferred to the Welsh Ministers, the First Minister or the Counsel General by any Act (whenever passed) or by an instrument made under any Act (whenever made), and
  - (b) is to any extent exercisable—
    - (i) concurrently or jointly with a Minister of the Crown, or
    - (ii) only with the consent or agreement of, or after consultation with, a Minister of the Crown.
- (4) For the purposes of sub-paragraph (1)(a)—
- (a) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(i) are the qualified devolved functions so far as exercisable by the Minister;
  - (b) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(ii) are those concerning consent or agreement to, or consultation about, the exercise of the qualified devolved functions.
- (5) In this paragraph “appropriate Minister” has the same meaning as in paragraph 8.
- 12 (1) In any enactment (whenever passed or made) not contained in this Act —
- (a) a reference to provision within the legislative competence of the Assembly does not include provision that could be made in an Act of the Assembly only with the consent of a Minister of the Crown (under paragraph 8, 10 or 11 or otherwise);
  - (b) a reference to provision outside that competence includes provision that could be made in an Act of the Assembly only with such consent.
- (2) But paragraph 11(2) is to be ignored for the purposes of any such references.

## PART 2

### GENERAL EXCEPTIONS FROM PART 1

#### Restatement

- 13 (1) Part 1 does not prevent an Act of the Assembly—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
  - (b) repealing or revoking any spent enactment,  
or conferring power by subordinate legislation to do so.
- (2) For the purposes of paragraph 1, the law on reserved matters includes any restatement in an Act of the Assembly or an Assembly Measure, or subordinate legislation under such an Act or Measure, of the law on reserved matters if the subject-matter of the restatement is a reserved matter.

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

### Subordinate legislation

- 14 Part 1 does not prevent an Act of the Assembly making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised;
  - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject;
  - (c) applying any enactment comprised in or made under an Act of the Assembly relating to the documents by which such powers may be exercised.”

## SCHEDULE 3

Section 4

### NEW SCHEDULE 9A TO THE GOVERNMENT OF WALES ACT 2006

This Schedule sets out the new Schedule 9A to the Government of Wales Act 2006, to be inserted after Schedule 9 to that Act—

## “SCHEDULE 9A

Section 157A

### DEVOLVED WELSH AUTHORITIES

The Adjudication Panel for Wales or Panel Dyfarnu Cymru.

An admission appeal panel, constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998, for schools in Wales.

The advisory committee for Wales established under section 5 of the Food Standards Act 1999.

The Advisory Panel on Substance Misuse or Panel Cyngori ar Gamddefnyddio Sylweddau.

The Advisory Panel to the Welsh Language Commissioner or Panel Cyngori Comisiynydd y Gymraeg.

The Agricultural Advisory Panel for Wales or Panel Cyngori ar Amaethyddiaeth Cymru.

The Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru.

The All-Wales Medicines Strategy Group or Grŵp Strategaeth Meddyginiaethau Cymru Gyfan.

The Arts Council for Wales or Cyngor Celfyddydau Cymru.

The Assembly Commission or Comisiwn y Cynulliad.

The Auditor General for Wales or Archwilydd Cyffredinol Cymru.

The Board of Community Health Councils in Wales or Bwrdd Cyngorau Iechyd Cymuned Cymru.

The Children’s Commissioner for Wales or Comisiynydd Plant Cymru.

The Commissioner for Older People in Wales or Comisiynydd Pobl Hyn Cymru.

A Community Health Council in Wales.

The Counsel General or Cwnsler Cyffredinol.

A county council, county borough council or community council in Wales.

The Education Workforce Council or Cyngor y Gweithlu Addysg.

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

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An exclusion appeal panel, constituted in accordance with regulations under section 52 of the Education Act 2002, for schools in Wales.

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.

The First Minister or Prif Weinidog.

The Flood and Coastal Erosion Committee or Pwyllgor Llifogydd ac Erydu Arfordirol.

The Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau'r Dyfodol Cymru.

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru.

Hybu Cig Cymru or Meat Promotion Wales.

The Independent Groundwater Complaints Administrator.

The Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol.

A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.

The Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru.

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

The Mental Health Review Tribunal for Wales.

The National Assembly for Wales Commissioner for Standards or Comisiynydd Safonau ar gyfer Cynulliad Cenedlaethol Cymru.

The National Assembly for Wales Remuneration Board or Bwrdd Taliadau Cynulliad Cenedlaethol Cymru.

The National Independent Safeguarding Board or Bwrdd Diogelu Annibynnol Cenedlaethol.

The National Library of Wales or Llyfrgell Genedlaethol Cymru.

The National Museum of Wales or Amgueddfa Genedlaethol Cymru.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.

The Natural Resources Body for Wales or Corff Adnoddau Naturiol Cymru.

An NHS Trust established under section 18 of the National Health Service (Wales) Act 2006.

A panel constituted under regulation 9 of the Independent Review of Determinations (Adoption) (Wales) Regulations 2006.

A panel established under regulation 21 of the Social Services Complaints Procedure (Wales) Regulations 2005.

The person appointed by the Welsh Ministers under section 3 of the Local Government and Housing Act 1989.

The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

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

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Qualifications Wales or Cymwysterau Cymru.

A regulated institution within the meaning of the Higher Education (Wales) Act 2015 (ignoring section 26 of that Act) other than an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).

A rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal).

The Royal Commission on the Ancient and Historical Monuments of Wales or Comisiwn Brenhinol Henebion Cymru.

Social Care Wales or Gofal Cymdeithasol Cymru.

The Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru.

The Sports Council for Wales or Cyngor Chwaraeon Cymru.

A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004.

A tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27).

The Valuation Tribunal for Wales or Tribiwnlys Prisiau Cymru.

The Wales Audit Office or Swyddfa Archwilio Cymru.

The Welsh Dental Committee or Pwyllgor Deintyddol Cymru.

The Welsh Language Commissioner or Comisiynydd y Gymraeg.

The Welsh Language Partnership Council or Gyngor Partneriaeth y Gymraeg.

The Welsh Language Tribunal or Tribiwnlys y Gymraeg.

The Welsh Medical Committee or Pwyllgor Meddygol Cymru.

The Welsh Ministers or Gweinidogion Cymru.

The Welsh Nursing and Midwifery Committee or Pwyllgor Nyrsio a Bydwreigiaeth Cymru.

The Welsh Optometric Committee or Pwyllgor Optegol Cymru.

The Welsh Pharmaceutical Committee or Pwyllgor Fferyllol Cymru.

The Welsh Revenue Authority or Awdurdod Cyllid Cymru.

The Welsh Scientific Advisory Committee or Pwyllgor Ymgynghorol Gwyddonol Cymru.

The Welsh Therapies Advisory Committee or Pwyllgor Cynghorol Therapiau Cymru.”

## SCHEDULE 4

Section 21

### NEW SCHEDULE 3A TO THE GOVERNMENT OF WALES ACT 2006

This Schedule sets out the new Schedule 3A to the Government of Wales Act 2006, to be inserted after Schedule 3 to that Act—

“SCHEDULE 3A

Section 59A

FUNCTIONS OF MINISTERS OF CROWN ETC EXERCISABLE  
 CONCURRENTLY OR JOINTLY WITH WELSH MINISTERS

**Functions exercisable concurrently with Welsh Ministers**

- 1 (1) Functions specified in the table below, so far as exercisable in relation to Wales (or, in the case of functions under the Sea Fish (Conservation) Act 1967 or the Sea Fisheries Act 1968, the Welsh zone), are exercisable concurrently with the Welsh Ministers.
- (2) A function specified in the table that is exercisable subject to a requirement for the approval or consent of the Treasury or the Minister for the Civil Service is exercisable by the Welsh Ministers subject to that requirement except as noted in the table.

<i>Act</i>	<i>Functions</i>
Ministry of Transport Act 1919	Functions of a Minister of the Crown under section 17 (power to make advances).
Industrial Organisation and Development Act 1947	Functions of the Board of Trade under section 11 (grants to the Council of Industrial Design and to design centres).  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.
Prevention of Damage by Pests Act 1949	Functions of a Minister of the Crown of carrying out research under or in connection with the Act.
Landlord and Tenant Act 1954	Certification functions of a Minister of the Crown under— (a) section 57(1) to (6), and (b) section 58.
Science and Technology Act 1965	Functions of a Minister of the Crown under section 5 (funding of scientific research), except so far as relating to Research Councils.  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Agriculture Act 1967	Notification functions of a Minister of the Crown under section 54(3).
Slaughter of Poultry Act 1967	Functions of a Minister of the Crown under section 4 (power of entry).
Sea Fish (Conservation) Act 1967	Functions of a Minister of the Crown or the Marine Management Organisation under— (a) section 4 (licensing of fishing boats), and (b) section 4A (licensing of vessels receiving trans-shipped fish).

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<i>Act</i>	<i>Functions</i>
	<p>Functions of a Minister of the Crown under section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act).</p> <p><i>Note:</i> the functions under sections 4 and 4A are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</p>
Sea Fisheries Act 1968	<p>Functions of a Minister of the Crown under section 5(1) and (2)(a) (regulation of conduct of fishing operations).</p>
Transport Act 1968	<p>Functions of a Minister of the Crown under section 57 (grants for research or development in connection with transport services, etc).</p> <p><i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.</p>
Local Government Grants (Social Need) Act 1969	<p>Functions of the Secretary of State under the Act.</p> <p><i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</p>
Employment and Training Act 1973	<p>Functions of the Secretary of State under section 2, except for—</p> <ul style="list-style-type: none"> <li>(a) any function of making arrangements for the principal purpose of helping all those (as distinct from a particular section of the population of Wales) without work to find employment and to help employers to fill vacancies, and</li> <li>(b) any function ancillary to that function.</li> </ul> <p>Functions of a Minister of the Crown under—</p> <ul style="list-style-type: none"> <li>(a) section 4 (disclosure of information),</li> <li>(b) section 5 (powers to appoint advisers and make payments), and</li> <li>(c) section 11(3) (payments in respect of injuries etc).</li> </ul> <p><i>Note:</i> the functions under sections 2 and 5(3) are exercisable by the Welsh Ministers free from any requirement for Treasury approval, and the functions under section 5(2)(b) are exercisable by the Welsh Ministers free from any requirement for the approval of the Minister for the Civil Service.</p>
Local Government Act 1974	<p>Function of a Minister of the Crown of giving notice, other than a notice of discharge, under section 32(3) (non-disclosure of documents).</p>
Import of Live Fish (England and Wales) Act 1980	<p>Functions of a Minister of the Crown under—</p>



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<i>Act</i>	<i>Functions</i>
	<p>(a) section 1 (power to limit the import etc of fish and fish eggs), and</p> <p>(b) section 3(2) (authorisation of act done for scientific or research purpose).</p> <p><i>Note:</i> the functions under section 1 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</p>
Wildlife and Country-side Act 1981	<p>Functions of the Secretary of State under—</p> <p>(a) section 2(6) (power to declare period of special protection for birds), and</p> <p>(b) section 16 (power to grant licences).</p>
Industrial Development Act 1982	<p>Functions of a Minister of the Crown under the Act, except for functions under sections 1, 8(5) and (7), 10, 13A, 15 and 16.</p> <p><i>Note:</i> the functions under sections 5, 7, 8 (except subsections (5) and (7)), 12 and 13 are exercisable by the Welsh Ministers free from any requirement for Treasury consent or approval.</p>
Inheritance Tax Act 1984	<p>Functions of the Secretary of State under section 230 (acceptance of property in satisfaction of tax) where there is both a Welsh interest and another interest in the property to which the section applies.</p>
Food Act 1984	<p>Functions of a Minister of the Crown under section 69A (information).</p>
Food and Environmental Protection Act 1985	<p>Functions of a Minister of the Crown under—</p> <p>(a) section 1(1) (power to make emergency orders),</p> <p>(b) section 3(1) and (2) (authorisation of investigating officers and enforcement officers),</p> <p>(c) section 13 (powers to test and to charge for testing), and</p> <p>(d) section 17 (codes of practice).</p>
Local Government Finance Act 1988	<p>Functions of the Secretary of State under section 88B (special grants) so far as they relate to police and crime commissioners.</p> <p><i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</p>
Road Traffic Act 1988	<p>Functions of the Secretary of State under—</p> <p>(a) section 39(1) (road safety information or advice), and</p> <p>(b) section 40 (payments for road safety measures).</p>

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

<i>Act</i>	<i>Functions</i>
	<i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.
Official Secrets Act 1989	Functions of the Secretary of State to prescribe persons or classes of member or employee for the purposes of paragraphs (f) and (g) of section 12(1) (meaning of “Crown servant”), where exercisable in respect of bodies or offices in relation to which both the Welsh Ministers and a Minister of the Crown exercise functions.
Town and Country Planning Act 1990	Functions of a Minister of the Crown under— (a) section 304 (grants for research and education), and (b) section 321 (local inquiries).  <i>Note:</i> the functions under section 304 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Planning (Listed Buildings and Conservation Areas) Act 1990	Functions of the Secretary of State under paragraph 6(6) of Schedule 3 (powers of direction regarding disclosure of evidence in local inquiries).
Planning (Hazardous Substances) Act 1990	Functions of a Minister of the Crown under— (a) section 38(1) (contribution to compensation payable by local authority), and (b) paragraph 6(6) of the Schedule (powers of direction regarding disclosure of evidence in local inquiries).  <i>Note:</i> the functions under section 38(1) are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Food Safety Act 1990	Functions of the Secretary of State under section 47 of paying remuneration and allowances.  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.
Social Security Act 1990	Functions of the Secretary of State under section 15 (grants for the improvement of energy efficiency in certain dwellings etc).  <i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.
Transport and Works Act 1992	Functions of the Secretary of State under section 9 (schemes of national significance).
Clean Air Act 1993	Functions of a Minister of the Crown under section 46(1) (functions in relation to Crown premises).

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<i>Act</i>	<i>Functions</i>
Welsh Language Act 1993	<p>Functions under—</p> <ul style="list-style-type: none"> <li>(a) section 25 (powers to give Welsh names to statutory bodies etc), and</li> <li>(b) section 26 (powers to prescribe Welsh forms).</li> </ul>
National Lottery etc. Act 1993	<p>Functions of the Secretary of State under section 26(1) (directions to distributing bodies) so far as it relates to the National Lottery Charities Board and the New Opportunities Fund but excluding any power to give a direction to such bodies as to—</p> <ul style="list-style-type: none"> <li>(a) the allocation of resources to Wales (or any part of Wales) or between Wales (or any part of Wales) and any other part of the United Kingdom, or</li> <li>(b) conditions that apply to the whole of the United Kingdom.</li> </ul> <p>Functions of the Secretary of State under section 26(2) (directions to National Heritage Memorial Fund) but excluding any power to give a direction to the Fund as to—</p> <ul style="list-style-type: none"> <li>(a) the allocation of resources to Wales (or any part of Wales) or between Wales (or any part of Wales) and any other part of the United Kingdom, or</li> <li>(b) conditions that apply to the whole of the United Kingdom.</li> </ul> <p>Functions of the Secretary of State under section 26(5) (consultation) so far as it relates to concurrently exercisable functions under section 26(1) or 26(2).</p>
Housing Act 1996	<p>Functions of the Secretary of State under section 185 (persons from abroad: eligibility for housing assistance).</p>
Human Rights Act 1998	<p>Functions of a Minister of the Crown under section 5(2) (joinder of Minister etc as a party to proceedings) in respect of any proceedings in which a court is considering whether to make a declaration of incompatibility within the meaning of section 4 of the Human Rights Act 1998 in respect of—</p> <ul style="list-style-type: none"> <li>(a) subordinate legislation made by the Assembly, or</li> <li>(b) subordinate legislation made, in relation to Wales, by a Minister of the Crown in the exercise of a function that is exercisable by the Assembly.</li> </ul>
Pollution Prevention and Control Act 1999	<p>Functions under section 2 (regulation of polluting activities) exercisable by the Secretary of State—</p>

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<i>Act</i>	<i>Functions</i>
	<ul style="list-style-type: none"> <li>(a) in relation to a cross-border body, but</li> <li>(b) not in relation to offshore oil and gas exploration and exploitation,</li> </ul>
2	<ul style="list-style-type: none"> <li>(1) The functions listed in sub-paragraph (2), so far as exercisable in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone, are exercisable concurrently with the Welsh Ministers.</li> <li>(2) The functions are— <ul style="list-style-type: none"> <li>(a) functions of a Minister of the Crown under the following provisions of the Sea Fish (Conservation) Act 1967— <ul style="list-style-type: none"> <li>(i) section 1(3), (4) and (6) (size limits for fish carried by fishing boat);</li> <li>(ii) section 3(1), (3) and (4) (regulation of nets and other fishing gear);</li> <li>(iii) section 5 (power to restrict fishing for sea fish);</li> <li>(iv) section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act);</li> </ul> </li> <li>(b) functions of a Minister of the Crown or the Marine Management Organisation under the following provisions of the Sea Fish (Conservation) Act 1967— <ul style="list-style-type: none"> <li>(i) section 4 (licensing of fishing boats);</li> <li>(ii) section 4A (licensing of vessels receiving trans-shipped fish);</li> </ul> </li> <li>(c) functions of a Minister of the Crown under the following provisions of the Sea Fisheries Act 1968— <ul style="list-style-type: none"> <li>(i) section 5(1) and (2)(a) (regulation of conduct of fishing operations);</li> <li>(ii) section 7(1)(g) and (2) (appointment of British sea-fishery officers);</li> </ul> </li> <li>(d) functions of a Minister of the Crown under the following provisions of the Fisheries Act 1981— <ul style="list-style-type: none"> <li>(i) section 15 (schemes of financial assistance);</li> <li>(ii) section 16 (administration schemes by Sea Fish Industry Authority);</li> </ul> </li> <li>(e) functions of a Minister of the Crown under section 30(2) of the Fisheries Act 1981 (enforcement of Community rules).</li> </ul> </li> <li>(3) Any provision of section 4 or 4A of the Sea Fish (Conservation) Act 1967 requiring the consent of the Treasury to the exercise of a function does not apply in relation to the exercise of the function by the Welsh Ministers by virtue of this paragraph.</li> <li>(4) In this paragraph “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.</li> </ul>
3	<ul style="list-style-type: none"> <li>(1) The powers to make regulations under sections 10ZC, 10ZD and 53 of the Representation of the People Act 1983 (registration of electors), so far as they are exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, are exercisable by the Welsh Ministers concurrently with that Minister.</li> <li>(2) In sub-paragraph (1)—</li> </ul>

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“elections in Wales” means—

- (a) an election of Assembly members, or
- (b) a local government election (within the meaning given by section 203 of the Representation of the People Act 1983) in Wales;

“UK digital service” means a digital service provided by a Minister of the Crown for the registration of electors.

### Functions exercisable jointly with Welsh Ministers

- 4 Functions specified in the table below are exercisable jointly with the Welsh Ministers.

<i>Act or instrument</i>	<i>Functions</i>
Crime and Disorder Act 1998	Functions of the Secretary of State under section 6 in relation to strategies for combatting crime and disorder or re-offending in areas in Wales.
Marine and Coastal Access Act 2009	<p>Functions of the Secretary of State under sections 45, 46 and 47 (preparation, review and amendment of marine policy statement) in relation to a marine policy statement prepared by the Secretary of State and the Welsh Ministers acting jointly (or by the Secretary of State, the Welsh Ministers and one or more other authorities acting jointly).</p> <p>Functions of the Secretary of State under Schedule 5 (preparation or amendment of marine policy statement) that are exercisable jointly with the Welsh Ministers by virtue of paragraph 2(2)(b) of that Schedule.</p> <p>Functions of the Secretary of State under subsection (6) of section 70 (inquiries) that are exercisable jointly with the Welsh Ministers by virtue of subsection (7) of that section.</p>
Marine Strategy Regulations 2010 (S.I. 2010/1627)	<p>Functions of the Secretary of State under regulation 19 (directions to, and assistance from, public authorities) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation.</p> <p>Functions of the Secretary of State under regulation 20 (guidance) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation.</p>

### Functions exercisable concurrently or jointly with Welsh Ministers

- 5 Functions of the Secretary of State under section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) so far as they relate to—
- (a) the carriage of goods by an inland waterway that is partly in Wales, or

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- (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales (within the meaning of that section), are exercisable concurrently or jointly with the Welsh Ministers.

### Interpretation

- 6 For the purposes of the entry relating to the Inheritance Tax Act 1984 in the table in paragraph 1—
- (a) a Welsh interest exists where—
- (i) the property in question is located in Wales, or
- (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Wales or disposed of or transferred to a body or institution in Wales;
- (b) another interest exists where—
- (i) the property in question is located outside Wales, or
- (ii) the person liable to pay tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed outside Wales or disposed of or transferred to a body or institution outside Wales.”

## SCHEDULE 5

Section 60

### PRESIDENT OF WELSH TRIBUNALS

#### PART 1

#### APPOINTMENT

##### *Duty to fill vacancies*

- 1 (1) If there is a vacancy in the office of President of Welsh Tribunals, the Lord Chief Justice must appoint a person to that office.
- (2) Sub-paragraph (1) does not apply to a vacancy while the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers all agree that it may remain unfilled.
- (3) In this Schedule “the Lord Chief Justice” means the Lord Chief Justice of England and Wales.

##### *The two routes to appointment: agreement under this paragraph or selection under Part 2*

- 2 (1) The Lord Chief Justice, before he or she may appoint a person to the office of President of Welsh Tribunals, must consult—
- (a) the Lord Chancellor, and
- (b) the Welsh Ministers.
- (2) Sub-paragraphs (3) and (4) apply if—

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- (a) the outcome of consultation under sub-paragraph (1) is agreement between the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers as to the person to be appointed, and
  - (b) the person holds or has held office as—
    - (i) an ordinary judge of the Court of Appeal in England and Wales, or
    - (ii) a puisne judge of the High Court.
- (3) The Lord Chief Justice must appoint the person to the office of President of Welsh Tribunals, subject to sub-paragraph (4).
- (4) Where the person—
- (a) declines to be appointed, or does not agree within a time specified to him or her for that purpose, or
  - (b) is otherwise not available within a reasonable time to be appointed,
- the Lord Chief Justice must, instead of appointing the person, consult afresh under sub-paragraph (1).
- (5) If the Lord Chief Justice has consulted under sub-paragraph (1) but sub-paragraphs (3) and (4) do not apply following that consultation, he or she must make a request to the Judicial Appointments Commission (“the Commission”) for a person to be selected for appointment to the office of President of Welsh Tribunals.

## PART 2

### SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

#### *Eligibility for selection*

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if he or she satisfies the judicial-appointment eligibility condition on a 7-year basis.

#### *The selection process*

- 4 (1) On receiving a request from the Lord Chief Justice under paragraph 2(5) the Commission must appoint a selection panel.
- (2) The panel must have an odd number of members not less than five.
- (3) The members of the panel must include—
- (a) at least two who are non-legally-qualified,
  - (b) at least two judicial members, and
  - (c) at least two members of the Commission.

Contributions to meeting more than one of the requirements may be made by the same person’s membership of the panel.

- (4) The panel must —
- (a) determine the selection process to be applied;
  - (b) apply the selection process;
  - (c) make a selection accordingly.
- (5) As part of the selection process the panel must consult—

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- (a) the Lord Chancellor;
  - (b) the Welsh Ministers.
- (6) One person only must be selected for the appointment to which a request relates.
- (7) Sub-paragraph (4) applies to selection under this paragraph and to selection under regulations made under paragraph 7.
- (8) A selection panel is a committee of the Commission.

#### *Merit and good character*

- 5 (1) This paragraph applies to any selection by a selection panel appointed under paragraph 4.
- (2) Selection must be solely on merit.
- (3) A person must not be selected unless the selection panel body is satisfied that he or she is of good character.
- (4) Neither “solely” in sub-paragraph (2), nor Part 5 of the Equality Act 2010 (public appointments etc), prevents the selection panel, where two persons are of equal merit, from preferring one of them over the other for the purpose of increasing diversity within—
- (a) the group of persons who hold offices for which there is selection by panels appointed by the Commission, or
  - (b) a sub-group of that group.

#### *Encouragement of diversity*

- 6 (1) A selection panel appointed under paragraph 4, in performing its functions under this Part, must have regard to the need to encourage diversity in the range of persons available for selection.
- (2) This paragraph is subject to paragraph 5.

#### *Regulations about selection*

- 7 (1) The Lord Chancellor must by regulations made with the agreement of the Lord Chief Justice and the Welsh Ministers—
- (a) make further provision about the process to be applied in a case where the Commission receives a request under paragraph 2(5);
  - (b) make further provision about—
    - (i) membership of selection panels appointed under paragraph 4, and
    - (ii) the process that is to be applied in a case where a selection panel is required to be appointed under that paragraph;
  - (c) secure, subject to paragraph 8 and any provision within sub-paragraph (2)(d) that is included in the regulations, that in every case referred to paragraph (a) or (b)(ii) there will come a point in the process when a selection has to be accepted, either unconditionally or subject only to matters such as the selected person’s willingness and availability, by or on behalf of the Lord Chief Justice.
- (2) The regulations may in particular—



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- (a) provide for process additional to the selection process applied under paragraph 4(4), including post-acceptance process;
  - (b) make provision as to things that are, or as to things that are not, to be done—
    - (i) as part of the selection process applied under paragraph 4(4), or
    - (ii) in determining what that process is to be;
  - (c) provide for paragraph 4(4)(c) not to apply where, or to the extent that, the Commission decides that the selection process applied under paragraph 4(4) has not identified candidates of sufficient merit for it to comply with paragraph 4(4)(c);
  - (d) give powers to the Lord Chief Justice, including—
    - (i) power to require a selection panel to reconsider a selection under paragraph 4(4) or any subsequent selection,
    - (ii) power to reject a selection under paragraph 4(4) or any subsequent selection, and
    - (iii) power to require the reconsideration of a decision mentioned in paragraph (c);
  - (e) provide for particular action to be taken by the Commission or a selection panel after the panel has complied with paragraph 4;
  - (f) provide for the dissolution of a selection panel appointed under paragraph 4;
  - (g) provide for a person to cease to be a member of such a panel where the person’s membership of the panel ceases to contribute to meeting a requirement about the panel’s members;
  - (h) provide for a person to become a member of such a panel where another person ceases to be a member of the panel or where another person’s membership of the panel ceases to contribute to meeting a requirement about the panel’s members;
  - (i) make provision for or in connection with assessments, whether pre-acceptance or post-acceptance, of the health of persons selected;
  - (j) provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise functions given to the Lord Chief Justice by the regulations;
  - (k) make provision as to the meaning of “non-legally-qualified” and “judicial member” in paragraph 4(3).
- (3) Regulations under this paragraph—
- (a) may make different provision for different purposes;
  - (b) may make transitory, transitional or saving provision.
- (4) The power to make regulations under this paragraph is exercisable by statutory instrument.

A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (5) This paragraph is subject to paragraph 8.

#### *Withdrawal and modification of requests*

- 8 (1) The Lord Chief Justice may withdraw a request under paragraph 2(5)—
- (a) with the agreement of the Welsh Ministers, or

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- (b) if, after consulting Welsh Ministers, the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.
- (2) The Lord Chief Justice may modify a request under paragraph 2(5) with the agreement of the Welsh Ministers.
- (3) If a request is withdrawn in part or modified, the selection panel may, if it thinks it appropriate because of the withdrawal or modification, change any selection already made pursuant to the request, except a selection already accepted.
- (4) The Lord Chief Justice may not withdraw a request under sub-paragraph (1)(b) if a selection made pursuant to the request—
  - (a) has been accepted unconditionally or subject only to matters such as the selected person’s willingness and availability, or
  - (b) in exercise of power conferred by regulations under paragraph 7, has been rejected or required to be reconsidered.
- (5) Any withdrawal or modification of a request must be by notice in writing to the Commission.
- (6) In the case of a withdrawal of a request, the notice must state whether it is under sub-paragraph (1)(a) or (b).
- (7) In the case of a withdrawal under sub-paragraph (1)(b), the notice must state why the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.
- (8) If or to the extent that a request is withdrawn—
  - (a) the preceding provisions of this Part of this Schedule cease to apply in relation to it;
  - (b) any selection made on it is to be disregarded.
- (9) Withdrawal of a request to any extent does not affect the power of the Lord Chief Justice to make another request in the same or different terms.

*Effect of acceptance of selection*

- 9 (1) Subject to the following provisions of this paragraph, where the Lord Chief Justice accepts a selection made under paragraph 4(4) he or she must appoint the person selected.
- (2) Before making the appointment the Lord Chief Justice may direct the Commission to make arrangements in accordance with the direction—
  - (a) for any assessment of the health of the person selected that the Lord Chief Justice considers appropriate, and
  - (b) for a report of the assessment to be made to the Lord Chief Justice.
- (3) Sub-paragraph (4) applies in any of the following circumstances—
  - (a) the Lord Chief Justice notifies the Commission that he or she is not satisfied on the basis of a report under sub-paragraph (2)(b), having consulted the Welsh Ministers, that the health of the person selected is satisfactory for the purposes of the appointment;
  - (b) the person selected declines to be appointed, or does not agree within a time specified to him for that purpose;

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- (c) the person selected is otherwise not available within a reasonable time to be appointed.
- (4) Where this sub-paragraph applies—
- (a) the selection accepted and any previous selection for the appointment are to be disregarded;
  - (b) the request pursuant to which the selection was made continues to have effect;
  - (c) any subsequent selection pursuant to that request may be made in accordance with the same or a different selection process.

### PART 3

#### TERMS OF OFFICE

##### *Tenure, removal, resignation etc*

- 10 (1) If—
- (a) a person is appointed to the office of President of Welsh Tribunals on terms that provide for him or her to retire from the office at a particular time specified in those terms (“the end of the fixed term”), and
  - (b) the end of the fixed term is earlier than the time at which the person is required by the 1993 Act to retire from the office,
- the person shall, if still holding the office at the end of the fixed term, vacate the office at the end of the fixed term.
- (2) Subject to sub-paragraph (1) (and to the 1993 Act), a person appointed to the office of President of Welsh Tribunals holds that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (3) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under sub-paragraph (2).
- (4) In this paragraph “the 1993 Act” means the Judicial Pensions and Retirement Act 1993.
- 11 A person who holds the office of President of Welsh Tribunals may at any time resign that office by giving the Lord Chief Justice notice in writing to that effect.
- 12 (1) The Lord Chief Justice, if satisfied by means of a medical certificate that a person holding the office of President of Welsh Tribunals—
- (a) is disabled by permanent infirmity from the performance of the duties of the office, and
  - (b) is for the time being incapacitated from resigning the office,
- may, subject to sub-paragraph (2), by instrument under his or her hand declare the person to have vacated the office; and the instrument has the equivalent effect for all purposes as if the person had on the date of the instrument resigned the office.
- (2) A declaration under sub-paragraph (1) with respect to a person is of no effect unless it is made with the concurrence of—
- (a) the Lord Chancellor, and

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- (b) the Welsh Ministers.

*Remuneration, allowances and expenses*

- 13 The Welsh Ministers may pay to the President of Welsh Tribunals whatever amounts they determine in respect of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Oaths*

- 14 (1) A person appointed to the office of President of Welsh Tribunals must take the required oaths in the presence of—
- (a) the Lord Chief Justice, or
  - (b) another holder of high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005) who is nominated by the Lord Chief Justice for the purpose of taking the oaths from the person.
- (2) Sub-paragraph (1) applies whether or not the person has previously taken the required oaths after accepting another office.
- (3) In this paragraph “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.

SCHEDULE 6

Section 69

MINOR AND CONSEQUENTIAL AMENDMENTS

**PART 1**

AMENDMENTS OF THE GOVERNMENT OF WALES ACT 2006

- 1 The Government of Wales Act 2006 is amended as follows.
- 2 Omit sections 103 to 106A (commencement of Assembly Act provisions) and the italic heading before section 103.
- 3 (1) Section 109 (legislative competence: supplementary) is amended as follows.
- (2) In subsection (1), for “Schedule 7” substitute “Schedule 7A or 7B”.
  - (3) In subsection (4), for paragraphs (a) and (b) substitute “has been laid before, and approved by a resolution of, each House of Parliament and the Assembly.”
  - (4) For subsection (5) substitute—
    - “(5) Any alteration of Schedule 7A or 7B, whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise, does not (unless an enactment provides otherwise) affect—

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- (a) the validity of an Act of the Assembly passed before the alteration takes effect, or
- (b) the previous or continuing operation of such an Act of the Assembly.”

4 In section 114 (power to intervene in certain cases), in subsection (1)(a), for the words from “any matter” to the end substitute “a reserved matter”.

5 (1) Section 116 (Welsh Seal and Letters Patent) is amended as follows.

(2) In the heading, for “and Letters Patent” substitute “: Letters Patent and proclamations”.

(3) In subsection (3), at the end insert “and all royal proclamations under section 4(2) and section 5(4), which have passed under the Welsh Seal”.

6 In section 116B (status of officials of body that collects and manages devolved taxes), in subsection (3), for the words from “treated” to the end substitute “not to be regarded as falling outside the Assembly’s legislative competence by virtue of section 108A(2)(b) or (c)”.

7 In section 116M (duty to disclose information on Welsh land transactions to HMRC), in subsection (1), for “A person who is a member of the Welsh Government” substitute “The Welsh Revenue Authority”.

8 (1) Section 157 (orders and directions) is amended as follows.

(2) In the heading, after “Orders” insert “, regulations”.

(3) In subsection (1), after “an order” insert “or regulations”.

9 In section 158 (interpretation), in subsection (1), at the appropriate place insert—  
““property” includes rights and interests of any description.”.

10 (1) Section 159 (index of defined expressions) is amended as follows.

(2) Omit the entry for “the Assembly Act provisions”.

(3) In the entry for “Assembly’s legislative competence (in relation to Acts of the Assembly)”, for “section 108” substitute “section 108A”.

(4) Insert at the appropriate places—

“ancillary (in relation to a provision)	section 108A(7)”
“property	section 158(1)”
“reserved matters	Schedule 7A”
“devolved Welsh authority	section 157A”.

11 In section 161 (commencement) omit subsection (7).

12 In Schedule 3 (transfer etc of functions: further provision), in paragraph 3(2), for “section 58” substitute “section 58(1)”.

13 Omit Schedule 6 (referendums on commencement of Assembly Act provisions).

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- 14 In Schedule 10 (minor and consequential amendments) omit paragraphs 14, 15, 16 and 17.

## PART 2

### AMENDMENTS RELATING TO ONSHORE PETROLEUM

#### *Petroleum Act 1998 (c. 17)*

- 15 (1) Section 4 of the Petroleum Act 1998 (licences: further provisions) is amended as follows.
- (2) In subsections (1A), (1B) and (1C), after “Scottish Ministers” insert “or the Welsh Ministers”.
- (3) After subsection (3A) insert—
- “(3B) Any regulations made by the Welsh Ministers shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (4) After subsection (4A) insert—
- “(4B) As soon as practicable after granting a licence under section 3, the Welsh Ministers shall publish notice of the fact in such manner as they think appropriate stating—
- (a) the name of the licensee; and
- (b) the situation of the area in respect of which the licence has been granted.”
- 16 (1) Section 4A of that Act (onshore hydraulic fracturing: safeguards) is amended as follows.
- (2) In subsection (1), after “well consent” insert “for a well situated in the English onshore area”.
- (3) After subsection (1) insert—
- “(1A) The Welsh Ministers must not issue a well consent for a well situated in the Welsh onshore area that is required by an onshore licence for England or Wales unless the well consent imposes—
- (a) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
- (b) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Welsh Ministers’ consent for it to take place (a “hydraulic fracturing consent”).”
- (4) In subsection (3), after “made” insert “to the Secretary of State”.
- (5) After subsection (3) insert—
- “(3A) Where an application is made to the Welsh Ministers, the Welsh Ministers may not issue a hydraulic fracturing consent unless—
- (a) they are satisfied that—

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- (i) the conditions in column 1 of the following table are met, and
    - (ii) the conditions in subsection (6) are met, and
  - (b) they are otherwise satisfied that it is appropriate to issue the consent.”
- (6) In subsections (4) and (5), after “Secretary of State” insert “or the Welsh Ministers”.
- (7) In subsection (7), for “which the Secretary of State thinks appropriate” substitute “thought to be appropriate by the Secretary of State or the Welsh Ministers”.
- 17 (1) Section 4B of that Act (section 4A: supplementary provision) is amended as follows.
  - (2) In subsection (4)(a) and (b), after “areas” insert “in the English onshore area”.
  - (3) In subsection (7)—
    - (a) in paragraph (a) omit “in relation to England”;
    - (b) omit paragraph (b).
  - (4) After subsection (7) insert—
    - “(7A) The Welsh Ministers may, by regulations made by statutory instrument, specify—
      - (a) the descriptions of areas in the Welsh onshore area that are “protected groundwater source areas”, and
      - (b) the descriptions of areas in the Welsh onshore area that are “other protected areas”,for the purposes of section 4A.
    - (7B) A statutory instrument that contains regulations under subsection (7A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.
    - (7C) Before making regulations under subsection (7A)(a), the Welsh Ministers must consult the Natural Resources Body for Wales.”
  - (5) In subsection (8)—
    - (a) in paragraph (a) of the definition of “relevant environmental regulator”, for “England” substitute “the English onshore area”;
    - (b) in paragraph (b) of that definition, for “Wales” substitute “the Welsh onshore area”;
    - (c) in the definition of “well consent”, after “OGA” insert “or the Welsh Ministers”.
  - (6) In subsection (9)—
    - (a) after “this section” insert “(as it applies to the English onshore area)”;
    - (b) after “of the power” insert “by the Secretary of State”.
  - (7) After subsection (9) insert—
    - “(9A) The power of the Welsh Ministers to make regulations under section 4 includes power to make such amendments of the definition of “onshore licence for England and Wales” in this section (as it applies to the Welsh onshore area) as they consider appropriate in consequence of any exercise by them of the power under section 4.”

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(8) In subsection (10)(a), after “appropriate” insert “as regards an application for a hydraulic fracturing consent in relation to land in the English onshore area”.

(9) At the end insert—

“(12) The Welsh Ministers may, by regulations made by statutory instrument—

- (a) make such amendments of column 2 of the table in section 4A as the Welsh Ministers consider appropriate as regards an application for a hydraulic fracturing consent in relation to land in the Welsh onshore area, and
- (b) make such other amendments of section 4A or this section as the Welsh Ministers consider appropriate in consequence of provision made under paragraph (a).

(13) A statutory instrument that contains regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

18 In section 7(2)(d) of that Act (ancillary rights)—

- (a) omit “and” at the end of sub-paragraph (i);
- (b) after sub-paragraph (i) insert—
  - “(ia) the Welsh Ministers, in relation to licences granted in relation to the Welsh onshore area, and”.

*Oil Taxation Act 1975 (c. 22)*

19 (1) Section 12 of the Oil Taxation Act 1975 (interpretation of Part 1) is amended as follows.

(2) In subsection (1), in paragraph (b) of the definition of “licensee”, for “the OGA” substitute “—

- (i) the Welsh Ministers, where the rights relate to oil in the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), or
- (ii) the OGA, where the rights relate to oil elsewhere.”.

(3) In subsection (1A)(a)(ii) (authorities that can revoke licences), after “Scottish Ministers” insert “, the Welsh Ministers”.

20 In Schedule 1 to that Act (determination of oil fields), in paragraph 1(2), after paragraph (ab) insert—

- “(ac) is the Welsh Ministers if the area is such that licences can be granted by the Welsh Ministers for all of it under Part 1 of the Petroleum Act 1998;
- (ad) is the OGA and the Welsh Ministers acting jointly if the area is such that licences can be granted for part of it by the OGA and for part of it by the Welsh Ministers;”.

*Taxation of Chargeable Gains Act 1992 (c. 12)*

21 (1) Section 196 of the Taxation of Chargeable Gains Act 1992 is amended as follows.

(2) In subsection (1)(a) and (b), for “Oil and Gas Authority” substitute “appropriate authority”.



- (3) Omit subsection (3).
- (4) In subsection (5), after “section—” insert—
  - ““appropriate authority”, in relation to a UK licence means—
  - (a) in the case of a licence under Part 1 of the Petroleum Act 1998—
    - (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
    - (ii) otherwise, the Oil and Gas Authority;
  - (b) in the case of a licence under the Petroleum (Production) Act (Northern Ireland) 1964, the Department for the Economy;”.

*Finance Act 1993 (c. 34)*

- 22 (1) Section 185 of the Finance Act 1993 (abolition of petroleum revenue tax for oil fields with development consent on or after 16 March 1993) is amended as follows.
- (2) In subsection (1C)(a) and (b), for “OGA” substitute “appropriate authority”.
- (3) In subsection (2)(b), for “OGA” substitute “appropriate authority”.
- (4) After subsection (2) insert—
  - “(2A) In subsections (1C) and (2), “the appropriate authority” means—
  - (a) in relation to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
  - (b) otherwise, the OGA.”

*Capital Allowances Act 2001 (c. 2)*

- 23 In section 556(2)(a) of the Capital Allowances Act 2001 (definition of “relevant authority”), for “, the Oil and Gas Authority” substitute “—
  - (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
  - (ii) otherwise the Oil and Gas Authority, and”.

*Energy Act 2004 (c. 20)*

- 24 In section 188 of the Energy Act 2004 (power to impose charges to fund energy functions), at the end insert—
  - “(13) This section applies in relation to the Welsh Ministers as it applies in relation to the Secretary of State, and in its application to the Welsh Ministers it is to be read as if—
  - (a) for subsections (6) and (7) there were substituted—
    - “(6) Regulations under this section must be made by statutory instrument and are subject to annulment in pursuance of a resolution of the National Assembly for Wales.
    - (7) Section 192(4) applies in relation to the power of the Welsh Ministers to make regulations under subsection (6) as it

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applies in relation to an order or regulations made by the Secretary of State or the Treasury.

- (7A) The references in this section to relevant energy functions are references to the functions of the Welsh Ministers under Part 1 of the Petroleum Act 1998.”, and
- (b) the reference in subsection (11) to the Consolidated Fund were a reference to the Welsh Consolidated Fund.”

*Corporation Tax Act 2010 (c. 4)*

- 25 (1) Section 332DA of the Corporation Tax Act 2010 (restriction where field qualified for field allowance as new field) is amended as follows.
- (2) In subsection (5), for “OGA” substitute “relevant national authority”.
- (3) After subsection (5) insert—
- “(5A) The relevant national authority” is—
- (a) where the relevant project relates to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
- (b) otherwise, the OGA.”
- 26 In section 356IB of that Act (authorisation of development: oil fields), in subsection (2), in the definition of “national authority”—
- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (a) insert—
- “(aa) the Welsh Ministers, or”.
- 27 In section 356J of that Act (authorisation of development: drilling and extraction sites), in subsection (4), in the definition of “national authority”—
- (a) omit “or” or at the end of paragraph (a);
- (b) after paragraph (a) insert—
- “(aa) the Welsh Ministers, or”.

*Infrastructure Act 2015 (c. 7)*

- 28 (1) Section 45 of the Infrastructure Act 2015 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.
- (2) In subsection (4)—
- (a) for “The regulations” substitute “Regulations under subsection (1)”;
- (b) in paragraph (a), at the end insert “to which the regulations relate”;
- (c) in paragraph (b), for “this section” substitute “subsection (1)”.
- (3) After subsection (4) insert—
- “(4A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—
- (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;

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- (b) the making of payments in accordance with regulations under subsection (1A).”
- (4) In subsection (5), for “this section” substitute “subsection (1)”.
- (5) At the end insert—
  - “(6) Before making any regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”
- 29 (1) Section 46 of that Act (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.
  - (2) In subsection (3), in paragraph (b), at the end insert “to which the regulations relate”.
  - (3) In subsection (5)—
    - (a) for “The regulations” substitute “Regulations under subsection (1)”;
    - (b) in paragraph (a), at the end insert “to which the regulations relate”;
    - (c) in paragraph (b), for “this section” substitute “subsection (1)”.
  - (4) After subsection (5) insert—
    - “(5A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—
      - (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;
      - (b) the giving of notice in accordance with regulations under subsection (1A).”
  - (5) In subsection (6), for “this section” substitute “subsection (1)”.
  - (6) After subsection (6) insert—
    - “(6A) Before making regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”
- 30 (1) Section 47 of that Act (payment and notice schemes: supplementary provision) is amended as follows.
  - (2) In subsection (2), after “Regulations” insert “made by the Secretary of State”.
  - (3) After subsection (2) insert—
    - “(2A) Regulations made by the Welsh Ministers under section 45 or 46 may confer a function on—
      - (a) the Welsh Ministers, or
      - (b) any other person apart from a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).”
  - (4) In subsection (5), after “review of” insert “the Secretary of State’s powers under”.
  - (5) In subsection (6)—
    - (a) in paragraph (a), for “45”, in both places, substitute “45(1)”;
    - (b) in paragraph (b), for “46”, in both places, substitute “46(1)”.
  - (6) In subsection (7)—

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- (a) for “45” substitute “45(1)”;
  - (b) for “46” substitute “46(1)”.
- 31 (1) Section 48 of that Act (interpretation) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Secretary of State may make regulations setting out the definition of “landward area” as it applies in relation to—
- (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.
- (1B) The Welsh Ministers may make regulations setting out the definition of “landward area” as it applies in relation to the right to use deep-level land in Wales for the purposes of exploiting petroleum within the Welsh onshore area.
- (1C) Until regulations are made under subsection (1A) or (1B), “landward area” means those parts of the landward area, within the meaning of the 2014 Regulations, that are in England and Wales.”
- (3) In subsection (2)—
- (a) before the definition of “deep geothermal energy” insert—
    - ““the 2014 Regulations” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 (S.I. 2014/1686), as in force on the day on which subsections (1A) to (1C) come into force;”;
  - (b) after the definition of “deep-level land” insert—
    - ““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;”;
  - (c) omit the definition of “landward area”;
  - (d) at the end insert—
    - ““Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act);
    - “Welsh onshore area” has the same meaning as in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.”
- (4) Omit subsection (3).
- 32 (1) Section 55 of that Act (regulations and orders) is amended as follows.
- (2) In subsection (4)—
- (a) in the opening words, after “instrument” insert “made by the Secretary of State”;
  - (b) in paragraph (c), after “47” insert “, 48”.
- (3) After subsection (5) insert—

“(5A) A statutory instrument made by the Welsh Ministers containing regulations under section 45, 46 or 48 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

(4) In subsection (6)(b), after “(4)” insert “or (5A)”.

### PART 3

#### OTHER AMENDMENTS

##### *National Audit Act 1983 (c. 44)*

33 (1) Section 6 of the National Audit Act 1983 (public departments etc) is amended as follows.

(2) In subsection (3) omit paragraphs (aa) and (ab).

(3) In subsection (3)(b) omit the words “, Schedule 9 to the National Health Service (Wales) Act 2006”.

(4) Omit subsection (3A).

34 (1) Section 8 of that Act (right to obtain documents and information) is amended as follows.

(2) In subsection (1) omit the words “and except in relation to an examination under section 6 above in respect of the Welsh Ministers or the National Assembly for Wales Commission”.

(3) Omit subsections (3), (4) and (5).

35 In section 9 of that Act (reports to House of Commons) omit subsection (2).

##### *Road Traffic Regulation Act 1984 (c. 27)*

36 (1) Section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) is amended as follows.

(2) After subsection (3ZC) insert—

“(3ZCA) In relation to special roads in Wales, that power of the Secretary of State is exercisable only after consultation with the Welsh Ministers.”

(3) After subsection (3A) insert—

“(3B) Before making regulations under subsection (2), the Welsh Ministers must consult the National Park authority for any National Park that would be affected by the regulations.”

37 (1) Section 65 of that Act (powers of traffic authorities as to placing of traffic signs) is amended as follows.

(2) For “national authority”, in each place, substitute “relevant authority”.

(3) In subsection (3), after “Secretary of State” insert “or the Welsh Ministers”.

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- (4) In subsection (3ZB), after “with” insert “the Welsh Ministers and”.
- (5) In subsection (3ZC), for the words from “giving” to “Ministers” substitute “the Welsh Ministers or the Scottish Ministers give a general direction under subsection (1) they”.
- (6) After subsection (4) insert—
- “(5) 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.”
- 38 In section 72 of that Act (powers exercisable by parish or community councils), in subsection (4), after “by the highway authority” insert “, the Welsh Ministers”.
- 39 (1) Section 81 of that Act (general speed limit for restricted roads) is amended as follows.
- (2) In subsection (3), after paragraph (a) insert—
- “(aa) if made by the Welsh Ministers, is to be made by statutory instrument and approved by a resolution of the National Assembly for Wales;”.
- (3) In subsection (4), after “with” insert “the Welsh Ministers and”.
- (4) In subsection (5), for the words from “making” to “Ministers” substitute “the Welsh Ministers or the Scottish Ministers make an order under subsection (2) they”.
- 40 In section 83 of that Act (provisions as to directions under section 82(2)), after subsection (3) insert—
- “(4) The power of the Welsh Ministers to make an order under subsection (1) is exercisable by statutory instrument.”
- 41 (1) Section 85 of that Act (traffic signs for indicating speed restrictions) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) The power of the Welsh Ministers to give general directions under subsection (2) is exercisable by statutory instrument.”
- (3) In subsection (9), after “with” insert “the Welsh Ministers and”.
- (4) In subsection (10), for the words from “giving” to “Ministers” substitute “the Welsh Ministers or the Scottish Ministers give any general directions under subsection (2) they”.
- 42 (1) Section 88 of that Act (temporary speed limits) is amended as follows.
- (2) After subsection (8) insert—
- “(8A) The first order to be made under subsection (1)(b) by the Welsh Ministers is not to be made until a draft of the order has been laid before and approved by a resolution of the National Assembly for Wales.”

(3) After subsection (11) insert—

“(11A) The power of the Welsh Ministers to make an order under subsection (4) is exercisable by statutory instrument.

(11B) A statutory instrument containing an order made by the Welsh Ministers under subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

43 (1) Section 134 of that Act (regulations) is amended as follows.

(2) After subsection (3A) insert—

“(3B) Before making regulations under section 25 or 64 the Secretary of State must consult with the Welsh Ministers.”

(3) After subsection (8) insert—

“(9) Any power conferred by this Act on the Welsh Ministers to make regulations is exercisable by statutory instrument.

(10) Before making regulations under a provision of this Act (except sections 103(1), 108 to 110, Schedule 4, Schedule 8 and Schedule 12), the Welsh Ministers must consult with such representative organisations as they think fit.

(11) A statutory instrument containing regulations made by the Welsh Ministers under this Act (except section 86) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) Regulations made by the Welsh Ministers under section 86 do not have effect unless approved by a resolution of the National Assembly for Wales.

(13) Before making regulations under section 25 or 64 the Welsh Ministers must consult with the Secretary of State.”

*Transport Act 1985 (c. 67)*

44 In section 134 of the Transport Act 1985 (regulations, rules and orders), after subsection (5) insert—

“(6) Regulations made by the Welsh Ministers under any of the specified provisions may make different provision for different cases to which the regulations apply, and may in particular—

- (a) make different provision as respects different areas; and
- (b) make different provision as respects different classes or descriptions of vehicles or as respects the same class or description of vehicles in different circumstances.

(7) The “specified provisions” are—

- (a) section 6(2), (3) and (9);
- (b) section 6A(11);
- (c) section 6B(5) and (7);
- (d) section 7(6)(d), (9) and (11);
- (e) section 10(5)(c) and (8).

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(8) An order made by the Welsh Ministers under section 13(1) may make different provision for different cases to which the order applies, and may in particular make different provision as respects different areas.”

45 In section 135 of that Act (procedure for making regulations, rules and orders), after subsection (4) insert—

“(5) The power of the Welsh Ministers to make regulations or an order under any of the specified provisions (see subsection (8)) is exercisable by statutory instrument.

(6) A statutory instrument containing regulations or an order made by the Welsh Ministers under any of the specified provisions is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(7) The Welsh Ministers must consult such representative organisations as they think fit before making regulations under any of the specified provisions.

(8) The “specified provisions” are—

- (a) section 6(2), (3) and (9);
- (b) section 6A(11);
- (c) section 6B(5) and (7);
- (d) section 7(6)(d), (9) and (11);
- (e) section 10(5)(c) and (8);
- (f) section 13(1).”

*Road Traffic Act 1988 (c. 52)*

46 In section 36 of the Road Traffic Act 1988 (offence of failing to comply with traffic sign)—

- (a) in subsections (1)(b) and (3)(a), for “national authority” substitute “relevant authority”;
- (b) in subsection (6), after “with” insert “the Welsh Ministers and”;
- (c) in subsection (7), for the words from “making” to “Ministers” substitute “the Welsh Ministers or the Scottish Ministers make regulations under subsection (5) they”;
- (d) in subsection (8)—
  - (i) for ““national authority”” substitute ““relevant authority””;
  - (ii) for “section 142(1)” substitute “section 64(6A)”.

*Electricity Act 1989 (c. 29)*

47 In section 36 of the Electricity Act 1989 (consents required for construction etc of generating stations), after subsection (8) insert—

“(8A) The Welsh Ministers may by regulations make provision about the grant of consents under section 36 in relation to generating stations in respect of which they are the appropriate authority, including in particular provision about—

- (a) the making and withdrawal of applications;
- (b) fees;
- (c) publicity and consultation requirements;



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- (d) rights to make representations;
  - (e) public inquiries;
  - (f) consideration of applications.
- (8B) The Welsh Ministers may by regulations make provision for applications in respect of which they are the appropriate authority to be determined by a person appointed by them for that purpose.”
- 48 In section 36C of that Act (variation of consents under section 36), after subsection (5) insert—
  - “(5A) Regulations may provide that, where the Welsh Ministers are the appropriate authority, applications under this section are to be determined by a person appointed by the Welsh Ministers for that purpose.”
- 49 In section 106 of that Act (regulations and orders)—
  - (a) after subsection (1A) insert—
    - “(1B) Any power of the Welsh Ministers to make orders under section 36 or 36C or paragraph 1(4) of Schedule 9 is exercisable by statutory instrument.”;
  - (b) after subsection (2) insert—
    - “(2A) Any statutory instrument containing regulations or an order made by the Welsh Ministers under section 36 or 36C or paragraph 1(4) of Schedule 9 shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- 50 (1) Schedule 8 to that Act (consents under sections 36 and 37) is amended as follows.
  - (2) In the heading, after “consents” insert “of the Secretary of State and the Scottish Ministers”.
  - (3) In paragraph 8 (supplemental), after sub-paragraph (1) insert—
    - “(1A) In this Schedule references to applications for consent shall not include applications to the Welsh Ministers.”
- 51 In paragraph 1 of Schedule 9 to that Act (preservation of amenity and fisheries)—
  - (a) in sub-paragraph (2)—
    - (i) for “his” substitute “its”;
    - (ii) for “Secretary of State” substitute “appropriate authority”;
  - (b) in sub-paragraph (3), before ““building”” insert—
    - ““appropriate authority” has the meaning given by section 36(10)(b) or (c) of this Act;”;
  - (c) in sub-paragraph (4), for “Secretary of State” substitute “appropriate authority”.

*Human Fertilisation and Embryology Act 1990 (c. 37)*

- 52 In section 45A of the Human Fertilisation and Embryology Act 1990 (power to make consequential provision), in subsection (4), for the words from “a Measure” to “an Act of the Assembly)” substitute “an Act of the Assembly”.

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*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 53 In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (retirement provisions: the relevant offices), after the entry for the Senior President of Tribunals insert—  
“President of Welsh Tribunals”.

*Government of Wales Act 1998 (c. 38)*

- 54 In section 145 of the Government of Wales Act 1998 (examinations into use of resources) omit subsection (6).
- 55 In Schedule 6 to that Act (Her Majesty’s Chief Inspector of Education and Training in Wales) omit paragraph 9.

*Care Standards Act 2000 (c. 14)*

- 56 In Schedule 2 to the Care Standards Act 2000 (the Children’s Commissioner for Wales) omit paragraph 12.

*Local Government Act 2000 (c. 22)*

- 57 In section 7 of the Local Government Act 2000 (power to modify enactments concerning plans etc: Wales), in subsection (9), for the words after “For the purposes of subsection (8),” substitute “section 108A of the Government of Wales Act 2006 (legislative competence) has effect as if subsection (2)(c) of that section and paragraph 1 of Schedule 7B to that Act were omitted.”
- 58 In section 77 of that Act (adjudications) omit subsection (5).

*Female Genital Mutilation Act 2003 (c. 31)*

- 59 (1) Section 5C of the Female Genital Mutilation Act 2003 (guidance) is amended as follows.
- (2) In subsection (4)(a), for “a body exercising devolved Welsh functions” substitute “a devolved Welsh authority”.
- (3) For subsection (5) substitute—  
“(5) In subsection (4)(a) “devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

*Energy Act 2004 (c. 20)*

- 60 (1) Section 192 of the Energy Act 2004 (powers exercisable by statutory instrument) is amended as follows.
- (2) In subsection (1), after “the Secretary of State” insert “, the Welsh Ministers”.
- (3) In subsection (2)(a), after “regulations” insert “made by the Secretary of State or the Treasury”.
- (4) After subsection (2) insert—  
“(2A) Where —

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- (a) this Act provides for an order or regulations made by the Welsh Ministers to be subject to the negative resolution procedure, and
  - (b) a draft of the order or regulations has not been required, in accordance with this or any other enactment, to be laid before and approved by a resolution of the National Assembly for Wales,
- the statutory instrument containing the order or regulations shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

- (5) In subsection (3), for “the power” substitute “a power of the Secretary of State or the Treasury”.
- (6) In subsection (4), after “the Secretary of State” insert “, the Welsh Ministers”.
- 61 In Schedule 16 to that Act (applications and proposals for notices under section 95), in paragraph 9(a), after “the Secretary of State” insert “or the Welsh Ministers”.

*Constitutional Reform Act 2005 (c. 4)*

- 62 In section 109 of the Constitutional Reform Act 2005 (disciplinary powers: interpretation), in subsection (5), after paragraph (da) insert—
- “(db) President of Welsh Tribunals;”.

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

- 63 In Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 (appointment etc) omit paragraph 20.

*Commissioners for Revenue and Customs Act 2005 (c. 11)*

- 64 In section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality), in subsection (2)(j), for “the Welsh Ministers” substitute “the Welsh Revenue Authority”.

*Commissioner for Older People (Wales) Act 2006 (c. 30)*

- 65 In Schedule 1 to the Commissioner for Older People (Wales) Act 2006 (the Commissioner) omit paragraph 14.

*Legislative and Regulatory Reform Act 2006 (c. 51)*

- 66 (1) Section 24 of the Legislative and Regulatory Reform Act 2006 (functions to which sections 21 and 22 apply) is amended as follows.
- (2) Omit the definition of “Welsh regulatory function” in subsection (10).
- (3) After that subsection insert—
- “(11) For the purposes of this section a regulatory function is a “Welsh regulatory function” if or to the extent that it is exercisable in relation to Wales and is a function which—
- (a) could be conferred by provision falling within the legislative competence of the National Assembly for Wales (see section 108A of the Government of Wales Act 2006), or

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(b) relates to matters in respect of which functions are exercisable by the Welsh Ministers.”

67 In section 27 of that Act (power to make orders, rules and schemes), in subsection (6), for paragraph (c) substitute—

“(c) so far as they are powers that—

(i) could be conferred by provision falling within the legislative competence of the National Assembly for Wales, or

(ii) are exercisable in relation to matters in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government,

shall also be exercisable by the Welsh Ministers.”

*Tribunals, Courts and Enforcement Act 2007 (c. 15)*

68 (1) Section 47 of the Tribunals, Courts and Enforcement Act 2007 (co-operation in relation to judicial training, guidance and welfare) is amended as follows.

(2) In subsection (4)(a) and (b), after “the Senior President of Tribunals” insert “or the President of Welsh Tribunals”.

(3) In subsection (5)(c)—

(a) omit “or” at the end of sub-paragraph (iii);

(b) at the end insert “, or

(v) a judge, or other member, of a tribunal listed in section 59 of the Wales Act 2017 (the Welsh tribunals).”

*Statistics and Registration Service Act 2007 (c. 18)*

69 In section 66 of the Statistics and Registration Service Act 2007 (devolved statistics), for subsection (3) substitute—

“(3) In this Part “Welsh devolved statistics” means statistics which relate to the exercise of functions by a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006), other than statistics produced by a person acting on behalf of—

(a) the Crown, or

(b) a public authority,

in the exercise of functions that could not be conferred by provision falling within the legislative competence of the National Assembly for Wales (see section 108A of that Act).”

*Consumers, Estate Agents and Redress Act 2007 (c. 17)*

70 In section 37 of the Consumers, Estate Agents and Redress Act 2007 (extension of the functions of Citizens Advice etc), in subsection (5), for the words from “a Measure” to “an Act of the Assembly” substitute “an Act of the Assembly”.

*Regulatory Enforcement and Sanctions Act 2008 (c. 13)*

- 71 In section 74 of the Regulatory Enforcement and Sanctions Act 2008 (general interpretation), in paragraph (a) of the definition of “devolved Welsh matter”, for “section 108” substitute “section 108A”.

*Human Fertilisation and Embryology Act 2008 (c. 22)*

- 72 In section 64 of the Human Fertilisation and Embryology Act 2008 (power to make consequential and transitional provision etc), in subsection (6), for the words from “a Measure” to “an Act of the Assembly)” substitute “an Act of the Assembly”.

*Climate Change Act 2008 (c. 27)*

- 73 In section 70 of the Climate Change Act 2008 (interpretation), in subsections (4)(b) and (6)(b), for “relating to matters within” substitute “capable of being conferred by provision falling within”.

*Planning Act 2008 (c. 29)*

- 74 In section 149A of the Planning Act 2008 (deemed consent under a marine licence), in subsection (3)(b), after “the Secretary of State” insert “or the Welsh Ministers”.
- 75 Omit section 202 of that Act (powers of National Assembly for Wales).
- 76 In Schedule 5 to that Act (provision relating to, or to matters ancillary to, development), in paragraphs 30A and 30B, after “the Secretary of State” insert “or the Welsh Ministers”.

*Marine and Coastal Access Act 2009 (c. 23)*

- 77 In section 12 of the Marine and Coastal Access Act 2009 (certain consents under section 36 of the Electricity Act 1989), in subsection (3)—
- (a) in paragraph (a) omit “or”;
  - (b) after paragraph (b) insert—
    - “(c) any area of the Welsh inshore region, or
    - (d) any area of the Welsh offshore region.”
- 78 In section 13 of that Act (safety zones: functions under section 95 of the Energy Act 2004), in subsection (3)—
- (a) in paragraph (a) omit “or”;
  - (b) after paragraph (b) insert—
    - “(c) any area of the Welsh inshore region, or
    - (d) any area of the Welsh offshore region.”
- 79 In section 60 of that Act (meaning of “retained functions” etc), in subsection (4), in paragraph (c) of the definition of “secondary devolved Welsh functions”, for “relating to matters within” substitute “they are capable of being conferred by provision falling within”.
- 80 (1) Section 78 of that Act (special procedure for applications relating to harbour works) is amended as follows.
- (2) In subsection (5), after “subsection (6)(c) or (d)” insert “or (6A)(b)”.

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- (3) In subsection (6), at the beginning insert “Subject to subsection (6B),”.
- (4) After that subsection insert—
- “(6A) The Welsh Ministers may by regulations—
- (a) make provision falling within subsection (7) for cases where—
- (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
- (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
- (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
- (ii) they have concluded that one of the applications is not going to be made.
- (6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the harbour order authority.”
- 81 (1) Section 79 of that Act (special procedure for applications relating to certain electricity works) is amended as follows.
- (2) In subsection (5), after “subsection (6)(c) or (d)” insert “or (6A)(b)”.
- (3) In subsection (6), at the beginning insert “Subject to subsection (6B),”.
- (4) After that subsection insert—
- “(6A) The Welsh Ministers may by regulations—
- (a) make provision falling within subsection (7) for cases where—
- (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
- (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
- (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
- (ii) they have concluded that one of the applications is not going to be made.
- (6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the generating station authority.”
- (5) In subsection (9), in the definition of “generating station authority”, at the end insert—

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

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“(c) the Welsh Ministers, in any case where the generating station application falls (or would fall) to be determined by the Welsh Ministers;”.

*Welfare Reform Act 2009 (c. 24)*

82 In section 45 of the Welfare Reform Act 2009 (the appropriate authority by which regulations under section 41 are made), in subsection (2)(b), for the words from “a Measure” to “an Act of the Assembly” substitute “an Act of the Assembly”.

*Equality Act 2010 (c. 15)*

83 (1) Section 2 of the Equality Act 2010 (power to amend section 1) is amended as follows.

(2) In subsection (6), for the words from “an authority” to “correspond” substitute “a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) whose functions correspond”.

(3) In subsection (11) omit paragraph (b).

84 (1) Section 157 of that Act (interpretation) is amended as follows.

(2) For subsection (2) substitute—

“(2) A relevant Welsh authority is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) other than the Assembly Commission.”

(3) For subsection (5) substitute—

“(5) A function is a devolved Welsh function if—

- (a) it relates to a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (b) provision conferring the function would be within the legislative competence of the National Assembly for Wales.”

*Flood and Water Management Act 2010 (c. 29)*

85 In section 28 of the Flood and Water Management Act 2010 (power to make further amendments), in subsection (3), for paragraph (a) substitute—

“(a) the Welsh Ministers, where the amendment—

- (i) relates to a matter in respect of which functions may be exercised by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (ii) would be within the legislative competence of the National Assembly for Wales if contained in an Act of the Assembly, and”.

*Budget Responsibility and National Audit Act 2011 (c. 4)*

86 In Schedule 5 to the Budget Responsibility and National Audit Act 2011 (consequential amendments relating to Part 2) omit paragraphs 26 to 28.

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

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- 87 Omit Schedule 6 to that Act (amendments of Schedules 5 and 7 to the Government of Wales Act 2006).

*Police Reform and Social Responsibility Act 2011 (c. 13)*

- 88 In Schedule 16 to the Police Reform and Social Responsibility Act 2011 (minor and consequential amendments) omit paragraph 353.

*Localism Act 2011 (c. 20)*

- 89 In section 51 of the Localism Act 2011 (meaning of “public authority” and related terms), in subsection (6)(c), for “section 108” substitute “section 108A”.
- 90 In section 61 of that Act (meaning of “Welsh public authority” and related terms), in subsection (4), for “section 108” substitute “section 108A”.
- 91 In Schedule 13 to that Act (Infrastructure Planning Commission: transfer of functions to Secretary of State) omit paragraph 79.

*Welsh Language (Wales) Measure 2011 (nawm 1)*

- 92 In the Welsh Language (Wales) Measure 2011 omit section 124 (practice directions).

*Protection of Freedoms Act 2012 (c. 9)*

- 93 In Schedule 3 to the Protection of Freedoms Act 2012 (corresponding code of practice for Welsh devolved powers of entry), in paragraph 1(1), for the words after paragraph (a) substitute—
- “(b) associated powers.

The code may only contain provision that would be within the legislative competence of the National Assembly for Wales if contained in an Act of the Assembly.”

*The Special Educational Needs Tribunal for Wales Regulations 2012 (S.I. 2012/ 322 (W.53))*

- 94 In the Special Educational Needs Tribunal for Wales Regulations 2012 omit regulation 28 (general powers).

*Energy Act 2013 (c. 32)*

- 95 In Schedule 12 to the Energy Act 2013 (minor and consequential amendments) omit paragraph 90.

*Public Audit (Wales) Act 2013 (anaw 3)*

- 96 In Schedule 4 to the Public Audit (Wales) Act 2013 (minor and consequential amendments) omit paragraph 78.

*Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)*

- 97 In Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 (minor and consequential amendments) omit paragraph 43.



*Water Act 2014 (c. 21)*

- 98 In Schedule 7 to the Water Act 2014 (further amendments) omit paragraph 135.

*Wales Act 2014 (c. 29)*

- 99 In section 6 of the Wales Act 2014 (taxation: introductory) omit subsections (3) and (7) to (9).
- 100 In section 7 of that Act (amendments relating to the Commissioners for Revenue and Customs) omit subsection (14).
- 101 Omit section 22 of that Act (budgetary procedures).

*Counter-Terrorism and Security Act 2015 (c. 6)*

- 102 In section 29 of the Counter-Terrorism and Security Act 2015 (power to issue guidance), in subsection (4)(a), for “a Welsh authority” substitute “a devolved Welsh authority”.
- 103 In section 30 of that Act (power to give directions: general), in subsection (3), for “a Welsh authority” substitute “a devolved Welsh authority”.
- 104 (1) Section 35 of that Act (Chapter 1: interpretation) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) Devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”
- (3) For subsection (5) substitute—
- “(5) A function is a “devolved Welsh function” if—
- (a) it relates to a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
- (b) provision conferring the function would be within the legislative competence of the National Assembly for Wales.”

*Deregulation Act 2015 (c. 20)*

- 105 (1) Section 109 of the Deregulation Act 2015 (functions to which section 108 of that Act applies) is amended as follows.
- (2) In subsection (3)(c), for “relates to matters which are devolved Welsh matters” substitute “could be conferred by provision falling within the legislative competence of the National Assembly for Wales”.
- (3) In subsection (6) omit the definition of “devolved Welsh matter”.

*Small Business, Enterprise and Employment Act 2015 (c. 26)*

- 106 In section 18 of the Small Business, Enterprise and Employment Act 2015 (power to specify regulatory functions), in subsection (5)(c), for “section 108” substitute “section 108A”.

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

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- 107 In section 22 of that Act (meaning of “qualifying regulatory provisions” etc), in subsection (7)(c), for “section 108” substitute “section 108A”.
- 108 In section 39 of that Act (regulations about procurement), in subsection (4)—
- (a) after “if” insert “it is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) or if”;
  - (b) in paragraph (b) omit “or”;
  - (c) omit paragraph (c).
- 109 (1) Section 153C of that Act (power to relax restriction on public sector exit payments) is amended as follows.
- (2) In subsections (5)(b), (8)(a) and (8)(b), for “relevant Welsh authority” substitute “devolved Welsh authority”.
  - (3) In subsection (9), for the definition of “relevant Welsh authority” substitute—  
““devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”
- 110 In section 157 of that Act (power of Secretary of State to waive repayment requirement), in subsection (6)(b), for the words after “responsible authorities who” substitute “are devolved Welsh authorities within the meaning given by section 157A of the Government of Wales Act 2006”.

*Housing and Planning Act 2016 (c. 22)*

- 111 (1) Section 207 of the Housing and Planning Act 2016 (engagement with public authorities in relation to proposals to dispose of land) is amended as follows.
- (2) In subsection (6)—
    - (a) omit “or” at the end of paragraph (a);
    - (b) omit paragraph (b).
  - (3) After that subsection insert—  
“(6A) Regulations under subsection (3) may not be made so to require a devolved Welsh authority to carry out engagement under subsection (2).”
  - (4) In subsection (7), at the end insert—  
““devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”
- 112 (1) Section 208 of that Act (duty of public authorities to prepare report of surplus land holdings) is amended as follows.
- (2) For subsection (10) substitute—  
“(10) Regulations may not specify a devolved Welsh authority for the purposes of subsection (1).”
  - (3) In subsection (12), at the end insert—  
““devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).”

*Immigration Act 2016 (c. 19)*

- 113 In section 78 of the Immigration Act 2016 (meaning of “public authority”), in subsection (5), for “functions relate to a matter which is outside” substitute “functions are functions that could not be conferred by provision falling within”.

SCHEDULE 7

Section 70

TRANSITIONAL PROVISIONS

*Main transitional provisions about the Assembly’s legislative competence*

- 1 The amendments made by this Act do not affect—
- (a) the validity of an Act of the National Assembly for Wales passed before the amendments come into force, or
  - (b) the previous or continuing operation of such an Act of the Assembly.
- 2 (1) The amendments made by section 3 and Schedules 1 and 2 apply to an Act of the National Assembly for Wales only if the vote by the Assembly agreeing to the general principles of the Bill for the Act took place on or after the principal appointed day.
- (2) In this paragraph “the principal appointed day” has the same meaning as in section 71.

*Power to alter name of the Assembly etc; financial control, accounts and audit*

- 3 (1) After the period of two months beginning with the day on which this Act is passed, and before the principal appointed day, paragraph 5(2) in Part 2 of Schedule 7 to the Government of Wales Act 2006 (provisions of that Act which the Assembly may modify) has effect as if it contained references to the following—
- (a) in section 1(1) of that Act, the words from “the National Assembly for Wales” to the end;
  - (b) in section 27(1) of that Act, the words from “the National Assembly for Wales Commission” to the end;
  - (c) in section 107(1) of that Act, the words from “Acts of the National Assembly for Wales” to the end;
  - (d) section 30;
  - (e) sections 129 and 130;
  - (f) sections 131 to 143.
- (2) In this paragraph “the principal appointed day” has the same meaning as in section 71.

*Repeals of sections 105 and 106 of the 2006 Act*

- 4 (1) The repeal by this Act of section 105 of the Government of Wales Act 2006 does not affect the continuing operation of any amendment of an enactment made by an order under subsection (2) of that section.
- (2) That is subject to any amendment or repeal of such an enactment made by this Act.
- 5 (1) The repeal by this Act of section 106(2) of the Government of Wales Act 2006 does not affect the continuing operation of the saving made by that provision.

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- (2) That saving is that the ceasing to have effect of Part 3 of the Government of Wales Act 2006 on 5 May 2011 does not affect—
- (a) the continuing operation, on and after that date, of any Assembly Measure enacted before that date, or
  - (b) the continuing operation, after the enactment of the Measure, of any Assembly Measure enacted in accordance with section 106A of that Act (before its repeal by this Act).

#### *Transfer of functions*

- 6 (1) Nothing in a provision of this Act affects the validity of anything done by or in relation to a Minister of the Crown or other public authority before the provision comes into force.
- (2) Anything (including legal proceedings) that is in the process of being done by or in relation to a Minister of the Crown or other public authority at the time when a provision of this Act comes into force may, so far as it relates to a function transferred to the Welsh Ministers by virtue of that provision, be continued by or in relation to the Welsh Ministers.
- (3) Anything done (or having effect as if done) by or in relation to a Minister of the Crown or other public authority—
- (a) which is in force when a provision of this Act comes into force, and
  - (b) which was done for the purposes of or in connection with a function transferred by virtue of that provision,
- has effect as if done by or in relation to the Welsh Ministers, so far as that is required for continuing its effect.
- (4) This paragraph—
- (a) does not apply in relation to a transfer of functions under sections 29 and 30 or section 54(1);
  - (b) applies subject to any provision made by regulations under section 70(2).
- (5) In this paragraph “public authority” means a body, office or holder of an office that has functions of a public nature.

#### *Water Act 2014*

- 7 Until section 1 of the Water Act 2014 comes into force for all purposes, Section C15 in Part 2 of Schedule 7A to the Government of Wales Act 2006 has effect as if references to a water supply licensee included references to a licensed water supplier within the meaning given by section 17B(9) of the Water Industry Act 1991.

#### *Development consent for generating stations*

- 8 (1) The amendments made by sections 39 to 42 and paragraphs 47, 50 and 51 of Schedule 6 do not apply in relation to the determination of an application that is made before the date on which section 39 of this Act comes into force.
- (2) For the purposes of paragraph (1)—
- (a) an application under section 37 of the Planning Act 2008 is not made until its acceptance has been notified to the applicant under section 55 of that Act;

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- (b) an application under section 36 of the Electricity Act 1989 is not made until the requirements in paragraph 1(1) of Schedule 8 to that Act (as modified by paragraph 7A(3) of that Schedule) are met;
  - (c) an application under section 36C of the Electricity Act 1989 is not made until the appropriate authority (as defined in section 36C(6)) has given notice under regulation 4(6) of the Electricity Generating Stations (Variation of Consent) (England and Wales) Regulations 2013 ([S.I. 2013/648](#)).
- (3) Schedule 6 to the Planning Act 2008 has effect in relation to orders granting development consent for devolved Welsh generating stations as if—
- (a) references to the Secretary of State were references to the Welsh Ministers;
  - (b) the following were omitted—
    - (i) paragraph 2(11);
    - (ii) paragraph 3(5A);
    - (iii) paragraph 4(9);
    - (iv) the references to the Lands Tribunal for Scotland in paragraphs 6(6)(a) and 7(3)(d).
- (4) In this paragraph “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 (within the meaning of the Government of Wales Act 2006), and has a capacity of 350 megawatts or less.

#### *Marine licensing in the Welsh offshore region*

- 9 (1) The amendments made by section 46 do not apply in relation to the determination of an application for a marine licence where the application is made before the commencement date (even if it is determined later).
- (2) For the purposes of sub-paragraph (1), an application is not made until an applicant has supplied such information or produced such articles as in the opinion of the Secretary of State may be necessary or expedient to enable the Secretary of State to determine the application.
- (3) The amendments made by section 46 do not apply in relation to the determination of an appeal against—
- (a) a decision under section 71 of the Marine and Coastal Access Act 2009, or
  - (b) a notice issued under section 72, 90, 91, 102 or 104 of that Act,
- where the appeal is made before the commencement date (even if it is determined later).
- (4) In this paragraph—
- “commencement date” means the date on which section 46 comes into force;
  - “devolved offshore activity” means a licensable marine activity in the Welsh offshore region in respect of which the Welsh Ministers are the appropriate licensing authority.

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

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- (5) Expressions used in this paragraph and Part 4 of the 2009 Act have the same meaning in this paragraph as they have in that Part.

*Safety zones around renewable energy installations*

- 10 The amendments made by section 41 do not apply in relation to the determination of an application made under section 95(3)(a) of the Energy Act 2004 that is made before the date on which section 41 of this Act comes into force.
- 11 For the purposes of paragraph 10 an application is not made until the requirements of paragraph 3 of Schedule 16 to the Energy Act 2004 are met, including the supply of any information prescribed by regulations made under paragraph 3(2)(b) of that Schedule.