



# Wales Act 2017

## 2017 CHAPTER 4

### PART 1

#### CONSTITUTIONAL ARRANGEMENTS

##### *Executive competence etc*

#### 19 Functions of Welsh Ministers

(1) After section 58 of the Government of Wales Act 2006 insert—

**“58A Executive ministerial functions**

- (1) Executive ministerial functions, so far as exercisable within devolved competence, are exercisable by the Welsh Ministers.
- (2) Executive ministerial functions that are ancillary to a function of the Welsh Ministers exercised outside devolved competence are also exercisable by the Welsh Ministers.
- (3) Functions exercisable by the Welsh Ministers under subsection (1) or (2) are not exercisable by a Minister of the Crown unless they are functions to which subsection (4) applies.

If they are functions to which subsection (4) applies, they are exercisable by the Welsh Ministers concurrently with any relevant Minister of the Crown.

- (4) This subsection applies to—
  - (a) functions ancillary to a function of the Welsh Ministers that is exercisable concurrently or jointly with a Minister of the Crown;
  - (b) functions ancillary to a function of a Minister of the Crown;
  - (c) functions that are not ancillary to another function;
  - (d) functions in relation to observing and implementing obligations under EU law.

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*Status: This is the original version (as it was originally enacted).*

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(5) In this section—

“executive ministerial function” means a function of Her Majesty of a kind that is exercisable on Her behalf by a Minister of the Crown (including a function involving expenditure or other financial matters), but not a function conferred or imposed by or by virtue of any legislation or the prerogative;

“within devolved competence” and “outside devolved competence” are to be read in accordance with subsections (7) and (8).

(6) For the purposes of this section a function is “ancillary to” another function if or to the extent that it is exercisable with a view to facilitating, or in a way that is conducive or incidental to, the exercise of the other function.

(7) It is outside devolved competence—

- (a) to make any provision by subordinate legislation that would be outside the legislative competence of the Assembly if it were included in an Act of the Assembly (see section 108A), or
- (b) to confirm or approve any subordinate legislation containing such provision.

(8) In the case of a function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that a provision of an Act of the Assembly conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly.”

(2) In section 70 of that Act (financial assistance)—

(a) in subsection (1)—

- (i) for “The Welsh Ministers” substitute “The First Minister”;
- (ii) for “the Welsh Ministers consider” substitute “the First Minister considers”;
- (iii) for “they aim” substitute “the Minister aims”;
- (iv) for “their functions” substitute “the Minister’s functions”;

(b) in subsection (2)—

- (i) for “The Welsh Ministers” substitute “The First Minister”;
- (ii) for “by them” substitute “by the Minister”;

(c) for subsection (3) substitute—

“(3) This section applies in relation to the Counsel General as in relation to the First Minister.

(As regards the Welsh Ministers, see section 58A.)”

(3) In section 71 of that Act (incidental etc powers of Welsh Ministers etc), for subsection (2) substitute—

“(2) This section applies to the First Minister and the Counsel General.

(As regards the Welsh Ministers, see section 58A.)”