



# Wales Act 2017

## 2017 CHAPTER 4

### PART 2

#### LEGISLATIVE AND EXECUTIVE COMPETENCE: FURTHER PROVISION

##### *Harbours: consultation and consent requirements*

### **38 Sections 34 to 37: supplementary**

- (1) The duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) does not apply in relation to the exercise of a function if it is not reasonably practicable to comply with it in relation to the exercise of the function.
- (2) If the duty to consult in section 34(1) or (2), section 35(1) or section 36(1) does not apply in relation to the exercise of a function by reason of subsection (1), the Secretary of State must as soon as is reasonably practicable inform the Welsh Ministers of the exercise of the function and of the reasons for its exercise.
- (3) If the duty to consult in section 35(4) does not apply in relation to the exercise of a function by reason of subsection (1), the Welsh Ministers must as soon as is reasonably practicable inform the Secretary of State of the exercise of the function and of the reasons for its exercise.
- (4) A failure to comply with a duty to consult in section 34(1) or (2), section 35(1) or (4) or section 36(1) in relation to the exercise of a function does not affect the validity of its exercise.
- (5) The Secretary of State may make regulations modifying the application of sections 34, 35, 36 and this section in relation to the harbours, or descriptions of harbour, specified in the regulations.
- (6) Before making regulations under subsection (5), the Secretary of State must consult the Welsh Ministers.
- (7) The regulations may in particular—

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**Changes to legislation:** *Wales Act 2017, Section 38 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) disapply a requirement for a Minister of the Crown to consult the Welsh Ministers before exercising a function;
  - (b) disapply a requirement for the Welsh Ministers to consult or obtain the consent of the Secretary of State before exercising a function;
  - (c) change a requirement to consult into a requirement to obtain consent, and vice versa;
  - (d) provide that a Minister of the Crown must consult, or obtain the consent of, the Welsh Ministers before exercising a function not mentioned in section 34, 35 or 36, in the circumstances set out in the regulations;
  - (e) provide that the Welsh Ministers must consult, or obtain the consent of, the Secretary of State before exercising a function not mentioned in section 35, in the circumstances set out in the regulations.
- (8) Regulations under subsection (5) may make—
- (a) different provision for different purposes or cases, and
  - (b) consequential, incidental, supplementary, transitional and saving provision.
- (9) Regulations under subsection (5) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

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**Commencement Information**

**II** S. 38 in force at 1.4.2018 by S.I. 2017/1179, reg. 3(g)

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**Changes and effects yet to be applied to :**

- specified provision(s) transitional and savings provisions for commencing S.I. 2017/1179 by [S.I. 2018/278](#) [reg. 2](#)[Sch.](#)