

# Wales Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Wales Office, are published separately as Bill 5 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Alun Cairns has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Wales Bill are compatible with the Convention rights.

# Wales Bill

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**B I L L**

TO

Amend the Government of Wales Act 2006 and make provision about the functions of the Welsh Ministers; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

CONSTITUTIONAL ARRANGEMENTS

*Permanence of the National Assembly for Wales and Welsh Government*

**1 Permanence of the National Assembly for Wales and Welsh Government**

In the Government of Wales Act 2006, after Part 2 (the Welsh Government) insert— 5

**“PART 2A**

PERMANENCE OF THE ASSEMBLY AND WELSH GOVERNMENT

**92A Permanence of the Assembly and Welsh Government**

- (1) The Assembly and the Welsh Government are a permanent part of the United Kingdom’s constitutional arrangements. 10
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to signify the commitment of the Parliament and Government of the United Kingdom to the Assembly and the Welsh Government. 15
- (3) In view of that commitment it is declared that the Assembly and the Welsh Government are not to be abolished except on the basis of a decision of the people of Wales voting in a referendum.

**92B Recognition of Welsh law**

- (1) There is a body of Welsh law made by the Assembly and the Welsh Ministers.
- (2) The purpose of this section is, with due regard to the other provisions of this Act, to recognise the ability of the Assembly and the Welsh Ministers to make law forming part of the law of England and Wales.” 5

*Convention about Parliament legislating on devolved matters*

**2 Convention about Parliament legislating on devolved matters**

In section 107 of the Government of Wales Act 2006 (Acts of the National Assembly for Wales), after subsection (5) insert – 10

- “(6) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Assembly.”

*Legislative competence*

**3 Legislative competence** 15

- (1) For section 108 of the Government of Wales Act 2006 (legislative competence) substitute –

**“108A Legislative competence**

- (1) An Act of the Assembly is not law so far as any provision of the Act is outside the Assembly’s legislative competence. 20
- (2) A provision is outside that competence so far as any of the following paragraphs apply –
- (a) it extends otherwise than only to England and Wales;
  - (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales; 25
  - (c) it relates to reserved matters (see Schedule 7A);
  - (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions; 30
  - (e) it is incompatible with the Convention rights or with EU law.
- (3) But subsection (2)(b) does not apply to a provision that –
- (a) is ancillary to a provision of any Act of the Assembly or Assembly Measure or to a devolved provision of an Act of Parliament, and 35
  - (b) has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision. 40

- (4) For this purpose, a provision of an Act of Parliament is “devolved” if it would be within the Assembly’s legislative competence if it were contained in an Act of the Assembly (ignoring paragraphs 8 to 11 of Schedule 7B).
- (5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the Assembly is disregarded. 5
- (6) The question whether a provision of an Act of the Assembly relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances. 10
- (7) For the purposes of this Act a provision is ancillary to another provision if it –
- (a) provides for the enforcement of the other provision or is otherwise appropriate for making that provision effective, or
  - (b) is otherwise incidental to, or consequential on, that provision.” 15
- (2) For Schedule 7 to that Act (Acts of the Assembly) substitute –
- (a) the Schedule 7A set out in Schedule 1 to this Act, and
  - (b) the Schedule 7B set out in Schedule 2 to this Act.

#### 4 Wales public authorities

- (1) After section 157 of the Government of Wales Act 2006 insert – 20
- “157A “Wales public authority”**
- (1) In this Act “Wales public authority” means a public authority that –
- (a) meets the conditions in subsection (2), or
  - (b) is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions). 25
- (2) A public authority meets the conditions in this section if its functions –
- (a) are exercisable only in relation to Wales, and
  - (b) are wholly or mainly functions that do not relate to reserved matters.
- (3) In determining for the purposes of this section whether functions of a public 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 this paragraph) be conferred or imposed by provision falling within the Assembly’s legislative competence (by virtue of section 108A(3)). 30 35
- (4) Where the conditions in subsection (2) 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. 40
- (5) Her Majesty may by Order in Council amend Schedule 9A –
- (a) so as to remove or revise an entry, or
  - (b) so as to add or substitute a public authority whose functions –

- (i) are exercisable wholly or mainly in relation to Wales, and
  - (ii) are wholly or mainly functions that do not relate to reserved matters.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament and the Assembly. 5
- (7) Subsection (6) does not apply to a statutory instrument containing an Order in Council that only makes provision for – 10
- (a) the omission of an entry where the authority concerned has ceased to exist, or
  - (b) the variation of an entry in consequence of a change of name or transfer of functions. 15
- Such an Order in Council is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “public authority” means a body, office or holder of an office that has functions of a public nature.”
- (2) After Schedule 9 to that Act insert the Schedule 9A set out in Schedule 4 to this Act. 20

### *Elections*

## 5 Power to make provision about elections

- (1) For section 13 of the Government of Wales Act 2006 (power to make provision about elections etc) substitute – 25
- “13 Power of the Welsh Ministers to make provision about elections etc**
- (1) The Welsh Ministers may by order make provision that would be within the legislative competence of the Assembly, if included in an Act of the Assembly, as to –
- (a) the conduct of elections of Assembly members, 30
  - (b) the questioning of an election of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision – 35
- (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of the election expenses of candidates (and the creation of criminal offences in connection with the limitation of such expenses), 40
  - (d) for the combination of polls,
  - (e) for modifying the application of sections 6 and 8(2) where the poll at an election for the return of an Assembly constituency member is abandoned (or notice of it is countermanded), and 45

- (f) for modifying section 9(7) to ensure the allocation of the correct number of seats for the region.
  - (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying section 11(3) to (5).
  - (4) An order under subsection (1) may – 5
    - (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments, and
    - (b) so far as may be necessary in consequence of any provision made by an order under this section, make modifications of any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors. 10
  - (5) In subsection (4)(a) “the election enactments” means – 15
    - (a) the Representation of the People Acts,
    - (b) the Political Parties, Elections and Referendums Act 2000,
    - (c) the European Parliamentary Elections Act 2002, and
    - (d) any other enactments relating to parliamentary elections, European Parliamentary elections or local government elections. 20
  - (6) No return of an Assembly member at an election may be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied or incorporated in an order under this section.
  - (7) No order is to be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly. 25
- 13A Power of the Secretary of State to make provision about the combination of polls**
- (1) The Secretary of State may by regulations make provision for – 30
    - (a) the combination of polls at ordinary general elections of Assembly members with polls at the elections listed in subsection (2), and
    - (b) the combination of polls at extraordinary general elections of Assembly members, and by-elections for the return of Assembly members, with polls at the elections listed in subsections (2) and (3). 35
  - (2) The elections are – 40
    - (a) early parliamentary general elections,
    - (b) parliamentary by-elections, and
    - (c) European Parliamentary by-elections.
  - (3) The elections are – 45
    - (a) parliamentary general elections, and
    - (b) European Parliamentary general elections.
  - (4) The Secretary of State may not make regulations under this section without the agreement of the Welsh Ministers.

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- (5) Regulations under subsection (1) may –
- (a) apply or incorporate, with or without modifications or exceptions, any provision made by or under the election enactments, and
  - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections of Assembly members. 5
- (6) In subsection (5)(a) “the election enactments” has the meaning given by section 13(5). 10
- (7) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) In section 15 of the Representation of the People Act 1985 (combination of polls), after subsection (5C) insert – 15
- “(5D) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Wales, the Secretary of State must consult the Welsh Ministers.”
- 6 Timing of elections 20**
- (1) Section 3 of the Government of Wales Act 2006 (ordinary general elections) is amended as set out in subsections (2) to (5).
- (2) In subsection (1), for the words after “was held,” substitute “unless –
- (a) subsection (1A) prevents the poll being held on that day, or
  - (b) provision is made for the day of the poll by an order under section 4.” 25
- (3) After subsection (1) insert –
- “(1A) The poll is not to be held on the same date as the date of the poll at –
- (a) a parliamentary general election (other than an early parliamentary general election), or
  - (b) a European Parliamentary general election. 30
- (1B) Where subsection (1A) prevents the poll being held on the day specified in subsection (1), the poll is to be held on such day, subject to subsection (1A), as the Welsh Ministers may by order specify.”
- (4) In subsection (2), after “May” insert “or on the day specified by an order under subsection (1B)”. 35
- (5) After subsection (4) insert –
- “(5) No order is to be made under subsection (1B) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.” 40
- (6) Section 4 of that Act (power to vary date of ordinary general election) is amended in as set out in subsections (7) to (10).
- (7) In subsection (1) –

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- (a) at the beginning insert “Subject to section 3(1A),”;
- (b) for “The Secretary of State” substitute “Welsh Ministers”.
- (8) In subsection (4) for “Secretary of State considers” substitute “Welsh Ministers consider”.
- (9) Omit subsection (5). 5
- (10) In subsection (6), for “either House of Parliament” substitute “the Assembly”.
- (11) The Representation of the People Act 1983 is amended as set out in subsections (12) to (16).
- (12) In section 37 (ordinary day of local elections in England and Wales) – 10
- (a) in subsection (1), and in the heading, omit “and Wales”;
- (b) in subsection (2A) for the words after “under” substitute “section 37A.”
- (13) After that section insert –
- “37ZA Ordinary day of local elections in Wales**
- (1) In every year the ordinary day of election of councillors is the same for all local government areas in Wales and, subject to section 37B, and unless subsection (2) applies, is – 15
- (a) the first Thursday in May;
- (b) such other day as may be fixed by the Welsh Ministers by order made not later than 1st February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect. 20
- (2) The ordinary day of election of councillors is not the day specified in or fixed under subsection (1) if that day is the day of the poll at an ordinary general election of members of the National Assembly for Wales.
- (3) Where under subsection (2) the ordinary day of election of councillors is not the day specified in or fixed under subsection (1), it is such other day as the Welsh Ministers may by order specify. 25
- (4) The power to make an order under subsection (1)(b) or (3) is exercisable by statutory instrument.
- (5) A statutory instrument containing an order under subsection (3) 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.” 30
- (14) Section 37B (power to change date of local elections to date of European Parliamentary general election: Wales) is amended as follows.
- (15) After subsection (1) insert – 35
- “(1A) The Welsh Ministers may not make an order under this section if the date of the poll at the European Parliamentary general election is the same date as the poll at an ordinary general election of members of the National Assembly for Wales.”
- (16) In subsection (4)(b), for “37(1)(b)” substitute “37ZA(1)(b)”. 40

**7 Electoral registration: the digital service**

- (1) Section 10ZC of the Representation of the People Act 1983 (registration of electors in Great Britain) is amended as set out in subsections (2) to (4).
- (2) In subsection (4) –
- (a) for “this section, so far as” substitute “this section –  
(a) so far as”; 5
  - (b) at the end insert “, and  
(b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.” 10
- (3) After subsection (5) insert –
- “(5A) The power of the Welsh Ministers to make regulations by virtue of subsection (4) is not exercisable without the agreement of a Minister of the Crown. 15
- (5B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (4) In subsection (6), after the definition of “election in Scotland” insert –
- ““election in Wales” means – 20
- (a) an election of Assembly members, or
  - (b) a local government election in Wales;”.
- (5) Section 10ZD of that Act (registration of electors in Great Britain: alterations) is amended as set out in subsections (6) to (8).
- (6) In subsection (4) – 25
- (a) for “this section, so far as” substitute “this section –  
(a) so far as”; 30
  - (b) at the end insert “, and  
(b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.” 30
- (7) After subsection (5) insert –
- “(5A) The power of the Welsh Ministers to make regulations by virtue of subsection (4) is not exercisable without the agreement of a Minister of the Crown. 35
- (5B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (8) In subsection (6), after “election in Scotland” insert “, election in Wales”. 40
- (9) Section 53 of that Act (power to make regulations about registration etc) is amended as set out in subsections (10) to (12).
- (10) In subsection (9) –

- (a) for “this section, so far as” substitute “this section –
  - (a) so far as”;
  - (b) at the end insert “, and
    - (b) so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.” 5
- (11) After subsection (10) insert –
  - “(10A) The power of the Welsh Ministers to make regulations by virtue of subsection (9) is not exercisable without the agreement of a Minister of the Crown. 10
  - (10B) A statutory instrument containing regulations made by the Welsh Ministers by virtue of subsection (9) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (12) In subsection (11), after the definition of “election in Scotland” insert – 15
  - ““election in Wales” means –
    - (a) an election of Assembly members, or
    - (b) a local government election in Wales;”.

*Other provision about legislation by the Assembly*

**8 Super-majority requirement for certain legislation 20**

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

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

- (1) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (2) (but not if the provision is incidental to or consequential on another provision of the Bill). 25
- (2) The matters are –
  - (a) the name of the Assembly,
  - (b) the persons entitled to vote as electors at an election for membership of the Assembly, 30
  - (c) the system by which members of the Assembly are returned,
  - (d) the specification or number of constituencies, regions or any equivalent electoral area, and
  - (e) the number of members to be returned for each constituency, region or equivalent electoral area. 35
- (3) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it –
  - (a) decide whether or not, in the view of the Presiding Officer, any provision of the Bill relates to a protected subject-matter, and
  - (b) state that decision. 40
- (4) If the Presiding Officer decides that any provision of the Bill relates to a protected subject-matter, the Bill is not passed unless the number of

Assembly members voting in favour of it at the final stage is at least two-thirds of the total number of Assembly seats.

- (5) A statement under subsection (3)(b) must be made in both English and Welsh; but, subject to that, the form of the statement and the manner in which it is to be made are to be determined under the standing orders. 5
- (6) The standing orders –
- (a) may provide for a statement under subsection (3)(b) to be published, and
  - (b) if they do so, must provide for it to be published in both English and Welsh. 10

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

- (1) The Counsel General or the Attorney General may refer the question whether any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision.
- (2) Subject to subsection (3), the Counsel General or the Attorney General 15
- (a) at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has decided under section 111A(3) that a provision of the Bill relates to a protected subject-matter, or 20
  - (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has decided under section 111A(3) that no provision of the Bill relates to a protected subject-matter, unless the number of Assembly members voting in favour of the Bill at its passing is at least two-thirds of the total number of Assembly seats. 25
- (3) No reference may be made in relation to a Bill –
- (a) by the Counsel General if the Counsel General has notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or 30
  - (b) by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if the Bill has, since the notification, been approved or rejected in accordance with standing orders made by virtue of section 111(7).” 35

## **9 Super-majority requirement: amendments relating to procedure etc**

- (1) Section 111 of the Government of Wales Act 2006 (proceedings on Bills) is amended as set out in subsections (2) to (5).
- (2) In subsection (6), before paragraph (a) insert – 40
- “(za) the Supreme Court decides on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer’s decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter,”. 45

- (3) After subsection (6) insert –
- “(6A) The standing orders must provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), on a reference made in relation to the Bill under section 111B(2)(a) (reference following Presiding Officer’s decision that Bill contains protected subject-matter), the Supreme Court decides that no provision that is subject to the reference relates to a protected subject-matter.” 5
- (4) For subsection (7) substitute –
- “(7) The standing orders must, in particular, ensure that –
- (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (6)(a), (b) or (c), and 10
- (b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (6)(za) or (6A),
- is subject to a final stage at which it can be approved or rejected.” 15
- (5) In subsection (8) –
- (a) after “109(5)” insert “, 111A(3) and (4), 111B(2)(b)”;
- (b) for “which has been amended on reconsideration” substitute “to which subsection (7)(a) or (b) applies”.
- (6) In section 112 of that Act – 20
- (a) in the heading, at the end insert “(legislative competence)”;
- (b) in subsection (2)(b) omit “subsequent”.
- (7) In section 114 of that Act (power of Secretary of State to intervene), in subsection (4) –
- (a) in paragraph (b) omit “subsequent”; 25
- (b) in paragraph (c), after “section” insert “111B or”.
- (8) In section 115 of that Act (Royal Assent) –
- (a) in subsection (2)(a), after “section” insert “111B or”;
- (b) after subsection (3) insert –
- “(3A) The Presiding Officer may not submit a Bill for Royal Assent if the Supreme Court has decided on a reference made in relation to the Bill under section 111B(2)(b) (reference following Presiding Officer’s decision that Bill does not contain protected subject-matter) that any provision of the Bill relates to a protected subject-matter unless, since the decision, the Bill has been approved in accordance with standing orders made by virtue of section 111(7).” 30
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## 10 Introduction of Bills: justice impact assessment

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

### “110A Introduction of Bills: justice impact assessment 40

- (1) The standing orders must include provision requiring the person in charge of a Bill, on or before the introduction of the Bill, to make a written statement setting out the potential impact (if any) on the justice

system in England and Wales of the provisions of the Bill (a “justice impact assessment”).

- (2) The form of the justice impact assessment and the manner in which it is to be made are to be determined under the standing orders.
- (3) The standing orders must provide for the justice impact assessment to be published.” 5

## 11 Submission of Bills for Royal Assent: role of Presiding Officer

- (1) In section 115 of the Government of Wales Act 2006, in subsections (1), (2) and (3), for “Clerk” substitute “Presiding Officer”.
- (2) In consequence of the amendments made by subsection (1) – 10
  - (a) in section 112(3) of that Act (scrutiny of Bills by Supreme Court for legislative competence: notification of lack of reference), in paragraphs (a) and (b), for “Clerk” substitute “Presiding Officer”;
  - (b) in section 113(2)(a) of that Act (ECJ references), for “Clerk” substitute “Presiding Officer”; 15
  - (c) in section 114 of that Act (power of Secretary of State to intervene), in subsections (2) and (5), for “Clerk” substitute “Presiding Officer”.

*Other provision about the Assembly*

## 12 Financial control, accounts and audit

- (1) The Government of Wales Act 2006 is amended as follows. 20
- (2) Omit section 119.
- (3) After section 130 insert –
  - “130A Financial control, accounts and audit
    - (1) Welsh legislation must provide –
      - (a) for proper accounts to be prepared by the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and by other persons to whom sums are paid out of the Welsh Consolidated Fund, of their expenditure and receipts, 25
      - (b) for the Welsh Ministers to prepare an account of payments into and out of the Fund, 30
      - (c) for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2),
      - (d) for access by persons exercising those functions to such documents as they may reasonably require, 35
      - (e) for members of the staff of the Welsh Government and Assembly Commission designated for the purpose to be answerable to the Assembly in respect of the expenditure and receipts of each part of the Welsh Government or Assembly Commission, and 40

- (f) for the publication of Assembly accounts and of reports on such accounts and for the laying of such accounts and reports before the Assembly.
  - (2) The functions referred to in subsection (1)(c) are –
    - (a) issuing credits for the payment of sums out of the Fund; 5
    - (b) examining Assembly accounts (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 124), and certifying and reporting on them;
    - (c) carrying out examinations into the economy, efficiency and effectiveness with which the First Minister, the Welsh Ministers, the Counsel General, the Assembly Commission and other persons to whom sums are paid out of the Welsh Consolidated Fund have used their resources in discharging their functions. 10
  - (3) Standing orders must provide for the consideration by the Assembly of accounts and reports laid before it in pursuance of subsection (1)(f). 15
  - (4) Persons (other than the Auditor General for Wales) charged with the exercise of any function mentioned in subsection (2) or other like function conferred by Welsh legislation are not subject, in the exercise of that or any ancillary function, to the direction or control of any member of the Welsh Government or of the Assembly. 20
  - (5) Subsection (2)(b) does not apply to accounts prepared by the Auditor General for Wales.
  - (6) This section does not require Welsh legislation to impose any requirement that is imposed by any other legislation. 25
  - (7) In this section –
    - “Assembly accounts” means any accounts prepared in pursuance of subsection (1)(a) or (b);
    - “Welsh legislation” means provision made by or under an Act of the Assembly, and “other legislation” means provision made by any other enactment.” 30
- 13 Composition of Assembly committees**
- In the Government of Wales Act 2006 omit section 29 (composition of committees).
- 14 Assembly proceedings: participation by UK Ministers etc** 35
- In the Government of Wales Act 2006 –
- (a) omit section 32 (participation by UK Ministers etc);
  - (b) omit section 33 (consultation about UK Government’s legislative programme).

**15 Change of name of the Assembly etc: translation of references**

- (1) After section 150 of the Government of Wales Act 2006 insert –
- “150A Change of name of the Assembly etc: translation of references**
- (1) Subsection (2) applies if an Act of the Assembly, or subordinate legislation made under an Act of the Assembly, changes the name of – 5
- (a) the National Assembly for Wales,
  - (b) the National Assembly for Wales Commission, or
  - (c) Acts of the National Assembly for Wales.
- (See paragraph 7(2)(a)(i) and (xii) and paragraph 7(2)(c)(i) of Schedule 7B.) 10
- (2) Unless the context requires otherwise, a reference to the National Assembly for Wales, the National Assembly for Wales Commission or an Act of the National Assembly for Wales (as the case may be) in –
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or 15
  - (b) any other instrument or document,
- is to be read as, or as including, a reference to the new name.”
- (2) In section 158 of that Act (interpretation), in subsection (2), after “116C(2)” insert “, 150A(2)”.

*Welsh rates of income tax: removal of referendum requirement* 20

**16 Welsh rates of income tax: removal of referendum requirement**

- (1) The Wales Act 2014 is amended as follows.
- (2) Omit –
- (a) section 12 and Schedule 1 (referendum about commencement of income tax provisions), 25
  - (b) section 13 (proposal for referendum by Assembly), and
  - (c) the italic heading before section 12.
- (3) In section 14 (commencement of income tax provisions etc if majority in favour) –
- (a) omit subsection (1); 30
  - (b) in the heading omit “etc if majority in favour”.
- (4) In section 23 (reports on the implementation and operation of Part 2) omit subsection (8).
- (5) In section 29 (commencement) –
- (a) in subsection (2)(b) for “referendum-related” substitute “income tax”; 35
  - (b) in subsection (4) –
    - (i) for “referendum-related” substitute “income tax”;
    - (ii) omit “(commencement if majority in favour at referendum)”.

*Executive competence etc*

**17 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. 5
- (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. 10  
If they are functions to which subsection (4) applies, they are exercisable by the Welsh Ministers concurrently with any relevant Minister of the Crown. 15
- (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; 20
  - (d) functions in relation to observing and implementing obligations under EU law.
- (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; 25
  - “within devolved competence” and “outside devolved competence” are to be read in accordance with subsections (7) and (8). 30
- (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. 35
- (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. 40
- (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 45

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”; 5
    - (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) – 10
    - (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. 15
    - (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. 20
  - (As regards the Welsh Ministers, see section 58A.)”

## 18 Implementation of EU law

- (1) After section 58A of the Government of Wales Act 2006 (inserted by section 17 above) insert –
- “58B Implementation of EU law: general**
- (1) Section 2(2) of the European Communities Act 1972 (secondary legislation implementing EU obligations, etc) applies to the Welsh Ministers as if they were a Minister of the Crown or government department designated by Order in Council under that provision. 25
  - (2) But subsection (1) confers no power to make provision that would be outside the legislative competence of the Assembly if it were included in an Act of the Assembly (see section 108A). 30
  - (3) In particular, it confers no power to make provision that may be included in an Act of the Assembly only –
    - (a) with the consent of the appropriate Minister (see paragraphs 8(1), 10(1) and 11(1) of Schedule 7B), or 35
    - (b) after consultation with the appropriate Minister (see paragraph 11(2) of that Schedule),
 unless that consent has been given or that consultation has been carried out.
  - (4) Subsection (1) does not restrict any power conferred on a Minister of the Crown or government department by an Order in Council under section 2(2) of the European Communities Act 1972. 40

- (5) In section 2(4) of the European Communities Act 1972 as it has effect by virtue of subsection (1) above, the reference to an Act of Parliament is to be read as a reference to an Act of the Assembly.
- (6) A statutory instrument containing any order, rules, regulations or scheme made by virtue of this section, if made without a draft having been approved by resolution of the Assembly, is subject to annulment in pursuance of a resolution of the Assembly; and paragraph 2(2) of Schedule 2 to European Communities Act 1972 does not apply to such an instrument. 5
- (7) In this section “appropriate Minister” has the same meaning as in paragraph 8 of Schedule 7B.” 10
- (2) In section 59 of that Act (implementation of EU law) –
  - (a) in the heading, at the end insert “: designation of Welsh Ministers, etc”;
  - (b) after subsection (2) insert –
    - “(2A) Any such restrictions or conditions do not apply in relation to the power that the Welsh Ministers have under that section by virtue of section 58B above.”; 15
  - (c) in subsection (3), for “that power” substitute “a power exercisable by virtue of a designation under section 2(2) of the European Communities Act 1972”. 20

## 19 Transfer of Ministerial functions

- (1) In section 58 of the Government of Wales Act 2006 (transfer of Ministerial functions), in subsection (1)(b), for “concurrently with the Minister of the Crown,” substitute “–
  - (i) concurrently or jointly with a Minister of the Crown, or 25
  - (ii) only with the agreement of, or after consultation with, a Minister of the Crown,”.
- (2) In Part 2 of Schedule 3 to that Act (exercise of transferred functions), in paragraph 6(a) and (b) omit “in relation to a cross-border body or an English border area”. 30
- (3) After section 59 of that Act insert –
  - “59A Shared powers
  - Schedule 3A, which sets out functions of Ministers of the Crown and others that are exercisable concurrently or jointly with the Welsh Ministers, has effect.” 35
- (4) After Schedule 3 to that Act insert the Schedule 3A set out in Schedule 3 to this Act.

## 20 Transferred Ministerial functions

- In section 58 of the Government of Wales Act 2006, after subsection (2) insert –
  - “(2A) An Order in Council under this section may make in relation to a previously transferred function – 40
    - (a) provision increasing or reducing (whether geographically or otherwise) the extent of the previous transfer;

(b) provision to the effect that the function is exercisable –	
(i) concurrently or jointly with a Minister of the Crown, or	
(ii) only with the agreement of, or after consultation with, a Minister of the Crown.	
(2B) In subsection (2A) “previously transferred function” means a function exercisable by the Welsh Ministers, the First Minister or the Counsel General by virtue of –	5
(a) a previous Order in Council under this section,	
(b) Schedule 3A, or	
(c) an Order in Council under section 22 of the Government of Wales Act 1998 and –	10
(i) paragraph 30 of Schedule 11 to this Act, or	
(ii) an Order in Council under paragraph 31 of that Schedule;	
and “previous transfer” is to be read accordingly.”	15
<b>21 Consultation about cross-border bodies</b>	
Omit section 63 of the Government of Wales Act 2006 (consultation about cross-border bodies).	
 <b>PART 2</b>  	
LEGISLATIVE AND EXECUTIVE COMPETENCE: FURTHER PROVISION	20
 <i>Onshore petroleum</i>  	
<b>22 Onshore petroleum licensing</b>	
(1) Section 8A of the Petroleum Act 1998 (interpretation of Part 1) is amended as follows.	
(2) In subsection (1A), after paragraph (a) insert –	25
“(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.	
(3) In subsection (2), after paragraph (a) insert –	
“(aa) in relation to the Welsh onshore area, the Welsh Ministers;”.	
(4) At the end insert –	
“(5) The Welsh onshore area is 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).	30
(6) In subsection (5) “Wales” has the same meaning as in the Government of Wales Act 2006.	
(7) The English onshore area is the area of England and the sea adjacent to England 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).”	35

### 23 Onshore petroleum: existing licences

- (1) The Secretary of State may make amendments to –
- (a) any model clause, to the extent that, under Part 1 of the Petroleum Act 1998, it is incorporated, or has effect as if incorporated, in an existing licence, and 5
  - (b) any other provision of an existing licence.
- (2) The Secretary of State may exercise the power in subsection (1) only if the Secretary of State considers that it is necessary or expedient to do so in consequence of –
- (a) the exceptions mentioned in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006 (licensing of and access to petroleum within Welsh onshore area), or 10
  - (b) section 22.
- (3) In the case of an existing licence granted in respect of an area (“the licence area”) of which part only was within the Welsh onshore area at the time the licence was granted –
- (a) the Secretary of State may direct that it is to have effect as a licence in respect of an area comprising that part and a separate licence in respect of an area comprising the rest of the licence area, and 15
  - (b) subsection (1) applies in relation to each of those licences as it applies in relation to the existing licence. 20
- (4) The power to make amendments under subsection (1)(a) is exercisable by regulations made by statutory instrument.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 25
- (6) In this section –
- “existing licence” means a licence, granted before the day on which section 22 comes into force, under –
- (a) section 3 of the Petroleum Act 1998, or
  - (b) section 2 of the Petroleum (Production) Act 1934, 30
- in respect of an area all or part of which is within the Welsh onshore area;
- “Welsh onshore area” has the meaning given by Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.

### 24 Onshore petroleum: right to use deep-level land in Wales 35

- (1) The Infrastructure Act 2015 is amended as follows.
- (2) In section 45 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) –
- (a) in subsection (1), for “the right of use” substitute “–
- (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and 40
  - (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;

- (b) after subsection (1) insert—
- “(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right to use deep-level land in Wales for the purposes of exploiting petroleum.” 5
- (3) In section 46 (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy)—
- (a) in subsection (1), for “the right of use” substitute “—
- (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and 10
- (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.”;
- (b) after subsection (1) insert—
- “(1A) The Welsh Ministers may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of the right to use deep-level land in Wales for the purposes of exploiting petroleum.” 15
- (4) In section 49 (advice on likely impact of onshore petroleum on the carbon budget)—
- (a) in subsection (1), after “activity” insert “in England”; 20
- (b) in subsection (3), after “effect” insert “in England”;
- (c) in subsection (7), for the definition of “petroleum got through onshore activity” substitute—
- ““petroleum got through onshore activity in England” means petroleum got from the strata in which it exists in its natural condition by activity carried out on land in England (excluding land covered by the sea or any tidal waters);” 25

### *Road transport*

- 25 Roads: speed limits, pedestrian crossings and traffic signs** 30
- (1) The Road Traffic Regulation Act 1984 is amended as follows.
- (2) In section 17 (traffic regulation on special roads), after subsection (3ZA) insert—
- “(3ZAA) The power to make provision of the following kinds by regulations under subsection (2) is exercisable by the Welsh Ministers— 35
- (a) provision with respect to a particular special road in Wales;
- (b) provision for regulating the speed of vehicles on special roads in Wales.”
- (3) In section 25 (pedestrian crossing regulations)—
- (a) in subsection (1), for “national authority” substitute “relevant authority”; 40
- (b) after subsection (6) insert—
- “(7) 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; 5
  - (c) otherwise, means the Secretary of State.”
- (4) In section 64 (general provisions as to traffic signs) –
  - (a) for “national authority”, in each place, substitute “relevant authority”; 10
  - (b) after subsection (6) insert –
    - “(6A) 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; 15
      - (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.” 20
- (5) In section 86 (speed limits for particular classes of vehicles), in subsection (7) –
  - (a) in paragraph (a) omit “and Wales”;
  - (b) after paragraph (a) insert –
    - “(aa) as respects the driving of vehicles on roads in Wales, is the Welsh Ministers;” 25
- (6) In section 87 (exemption of emergency vehicles from speed limits) (as amended by section 19 of the Road Safety Act 2006) –
  - (a) in subsection (1)(b), for “national authority” substitute “relevant authority”;
  - (b) after subsection (6) insert – 30
    - “(7) In this section “relevant authority” –
      - (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) otherwise, means the Secretary of State.” 35
- (7) In section 88 (temporary speed limits), in subsection (7A) –
  - (a) in paragraph (a) omit “and Wales”;
  - (b) after paragraph (a) insert –
    - “(aa) in relation to roads in Wales, is the Welsh Ministers;”.
- (8) In section 142(1) (general interpretation), in the definition of “national authority”, after paragraph (a) insert –
  - “(aa) in relation to Wales, means the Welsh Ministers;”. 40

## 26 Bus service registration and traffic commissioners

- (1) The Transport Act 1985 is amended as set out in subsections (2) and (3).

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- (2) In section 6 (registration of local bus services), after subsection (10) insert –
- “(11) The power to make regulations under subsection (9)(g), (i) and (j), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (3) In section 7 (application of traffic regulation conditions to local bus services), after subsection (15) insert – 5
- “(16) The power to make regulations under subsections (6)(d), (9) and (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- (4) Section 4C of the Public Passenger Vehicles Act 1981 (power of senior traffic commissioner to give guidance and directions) is amended as set out in subsections (5) and (6). 10
- (5) In subsection (1), in the second sentence, after “subsection (5) below” insert “and, in relation to Wales, to subsection (6) below”.
- (6) After subsection (5) insert – 15
- “(6) The senior traffic commissioner may not give guidance or directions under this section as to the exercise of a function so far as the function could (apart from paragraph 8 of Schedule 7B to the Government of Wales Act 2006) be conferred or imposed by provision falling within the legislative competence of the National Assembly for Wales.” 20
- 27 Taxis: transfer of functions to Welsh Ministers**
- (1) The Transport Act 1985 is amended as follows.
- (2) In section 10 (immediate hiring of taxis at separate fares), after subsection (9) insert –
- “(9A) The power to make regulations under subsections (5)(c) and (8), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).” 25
- (3) In section 13 (provisions supplementary to sections 10 to 12), after subsection (4) insert –
- “(5) The power to make an order under subsection (1) for the purpose of supplementing section 10 or 11, so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State); and the reference to the Secretary of State in subsection (4) is to be read accordingly.” 30
- Harbours* 35
- 28 Transfer of executive functions in relation to Welsh harbours**
- (1) The functions mentioned in subsection (2) are (so far as not already transferred under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)) transferred to the Welsh Ministers.
- (2) The functions are functions exercisable by a Minister of the Crown under or by virtue of – 40

- (a) section 21 of the Sea Fish Industry Act 1951 (fishery harbours);
  - (b) the following provisions of the Harbours Act 1964 –
    - (i) sections 11 and 43(1) (loans for harbour works);
    - (ii) sections 14 to 17 and Schedule 3 (harbour revision orders, harbour authority appointment orders and harbour empowerment orders); 5
    - (iii) section 18 and Schedule 4 (harbour reorganisation schemes);
    - (iv) section 19 (compensation for loss of office etc in consequence of harbour orders and schemes);
    - (v) sections 30 and 31 (harbour charges and dues); 10
    - (vi) section 39(4) (extension of order-making power under section 21(8) of the Sea Fish Industry Act 1951);
    - (vii) sections 41 and 42 (provision of information, accounts etc);
    - (viii) section 60 (power to amend local Acts);
  - (c) the following provisions of the Docks and Harbours Act 1966 – 15
    - (i) section 36 (provision of inland clearance depots);
    - (ii) sections 42 and 43 (further provision about harbour reorganisation schemes);
  - (d) section 5(2) of the Ports (Finance) Act 1985 (orders amending local Acts etc); 20
  - (e) the following provisions of the Pilotage Act 1987 –
    - (i) section 1 (orders about competent harbour authorities);
    - (ii) section 8(3) (directions about pilotage exemption certificates);
    - (iii) section 10(6) (appeals in respect of pilotage charges);
    - (iv) section 12 (information and directions as to joint arrangements); 25
    - (v) section 13 (resolution of disputes between harbour authorities);
    - (vi) paragraph 4 of Schedule A1 (appeals in relation to decisions on authorisation of EEA pilots);
  - (f) Part 1 of the Ports Act 1991, other than section 11(8);
  - (g) any provision contained in a local Act (including an Act confirming a provisional order); 30
- so far as exercisable in relation to harbours that are wholly in Wales, other than harbours that are reserved trust ports.
- (3) In determining for the purposes of subsection (2)(b) whether a function is exercisable by a Minister of the Crown under or by virtue of a provision of the Harbours Act 1964, any order made under section 42A of that Act (delegation of functions) is to be ignored. 35
  - (4) Where a function mentioned in subsection (2) relates to two or more harbours, that function is transferred to the Welsh Ministers only to the extent that both or all of the harbours to which it relates are wholly in Wales and are not reserved trust ports. 40
  - (5) This section does not operate to transfer to the Welsh Ministers a function to the extent that, if exercised, it would result in a cross-border harbour being created.
  - (6) Sections 33 to 35 make further provision about – 45
    - (a) the exercise of some of the functions transferred by this section and by section 29 in relation to cross-border harbours, and

- (b) the exercise of certain functions relating to pilotage by the Secretary of State in relation to waters in Wales, and by the Welsh Ministers in relation to waters in England.
- (7) In this section –  
 “cross-border harbour” has the meaning given in section 33; 5  
 “reserved trust port” has the meaning given in section 31;  
 “Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).
- 29 Transfer of executive functions: amendments of the Harbours Act 1964**
- (1) The Harbours Act 1964 is amended as follows. 10
- (2) In section 17 (harbour orders: procedure), in subsection (2C), for the words from “fishery” to “National Assembly for Wales” substitute “harbour that is wholly in Wales, other than a reserved trust port, as references to the Welsh Ministers”.
- (3) In section 17E (harbour closure orders: devolution) – 15  
 (a) in subsection (1), for “fishery harbours in Wales” substitute “harbours that are wholly in Wales, other than reserved trust ports”;  
 (b) after subsection (1) insert –  
 “(1A) Before making a closure order that transfers functions to a harbour authority for a harbour that is wholly or partly in England or a reserved trust port, the Welsh Ministers must obtain the consent of the Secretary of State.” 20
- (4) In section 40A (directions made by harbour authorities in respect of ships), in subsection (4)(a), for “fishery harbour in Wales” substitute “harbour that is wholly in Wales other than a reserved trust port”. 25
- (5) In section 57(1) (interpretation), at the appropriate place insert –  
 ““reserved trust port” has the meaning given in section 31 of the Wales Act 2016;”.
- (6) In Schedule 3 (procedure for making harbour orders), in paragraph 25(6)(a), for sub-paragraph (ii) substitute – 30  
 “(ii) a harbour that is wholly in Wales other than a reserved trust port, the Welsh Ministers;”.
- 30 Transfer of harbour functions: application of general provisions**
- (1) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under sections 28 and 29 as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act – 35  
 (a) Part 2 of Schedule 3 (exercise of transferred functions);  
 (b) paragraph 13 of Schedule 3 (continued validity of things done);  
 (c) paragraphs 1, 2(2) and 4 of Schedule 4 (transfers of property, rights and liabilities). 40
- (2) Where a function transferred under section 28 is exercisable by a delegate by virtue of an order made under section 42A of the Harbours Act 1964, the provisions mentioned in subsection (1) are to be read as if references to a

Minister of the Crown or to the Secretary of State were, or included, references to the delegate.

- (3) The application by subsection (1)(c) of paragraphs 1 and 2(2) of Schedule 4 to the Government of Wales Act 2006 in relation to the transfer of functions under sections 28 and 29 is subject to any contrary provision made in regulations made by the Secretary of State. 5
- (4) Regulations under subsection (3) may make—
  - (a) different provision for different purposes or cases (including different provision for different harbours or different descriptions of harbour);
  - (b) transitional or saving provision. 10
- (5) Regulations under subsection (3) must be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

### 31 Reserved trust ports

- (1) A harbour is a reserved trust port if, on the principal appointed day (within the meaning given by section 53), it is a harbour, dock, pier or boatslip that is owned or managed by a harbour authority that—
  - (a) is a relevant port authority within the meaning of Part 1 of the Ports Act 1991 (see section 1(3) of that Act), and
  - (b) meets the annual turnover requirement. 20
- (2) The annual turnover requirement is the turnover requirement set out in section 11 of the Ports Act 1991.
- (3) Section 11 of that Act, in its application for the purposes of this section, has effect as if for subsection (1) there were substituted—
  - “(1) A relevant port authority meet the annual turnover requirement if the annual turnover of the authority’s port undertaking exceeded the turnover limit in the case of at least two of the last three accounting years of the authority for which accounts have been submitted under section 42(5) of the Harbours Act 1964.” 25

### 32 Development consent 30

- (1) Section 24 of the Planning Act 2008 (development consent for construction or alteration of harbour facilities) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
  - “(a) will be—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or
    - (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and will be, or will form part of, a reserved trust port, and”. 35
- (3) In subsection (2), for paragraph (a) substitute—
  - “(a) the harbour facilities are—
    - (i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or 40

- (ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and are, or form part of, a reserved trust port, and”.
- (4) In subsection (6), after the definition of “container ship” insert –  
 ““reserved trust port” has the meaning given in section 31 of the Wales Act 2016;”.

### 33 Cross-border harbours

- (1) Where –
- (a) a Minister of the Crown proposes to exercise a relevant function in relation to a cross-border harbour, and
  - (b) the exercise of that function would, in the opinion of the Minister, be likely to have a material effect in Wales,
- the Minister of the Crown must first consult the Welsh Ministers (except where section 35(1) applies). 10
- (2) Where a Minister of the Crown proposes to exercise a function under the Harbours Act 1964 in such a way that it would result in a cross-border harbour being created, the Minister of the Crown must first consult the Welsh Ministers (except where section 35(1) applies). 15
- (3) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duties in subsections (1) and (2) apply to the delegate as they apply to a Minister of the Crown. 20
- (4) The following are “relevant functions” –
- (a) making an order under section 21 of the Sea Fish Industry Act 1951;
  - (b) making a harbour revision order under section 14 or 15 of the Harbours Act 1964, other than an order of the type described in section 7(5) of the Pilotage Act 1987 (order extending limits of pilotage jurisdiction);
  - (c) making an order under any of the following sections of the Harbours Act 1964 –
    - (i) section 15A (orders about port appointments);
    - (ii) section 16 (harbour empowerment orders);
    - (iii) section 17A (closure orders);
    - (iv) section 18 (orders for harbour reorganisation schemes);
    - (v) section 40A (orders designating harbour authority);
    - (vi) section 60 (orders amending local Acts);
  - (d) making regulations under section 19 of that Act (compensation for loss of office etc);
  - (e) approving a charge to which section 31 of that Act applies, or giving directions with respect to such a charge, under section 31(6)(a) or (b) of that Act (harbour dues);
  - (f) giving or refusing consent under section 36(1) of the Docks and Harbours Act 1966 (inland clearance depots);
  - (g) making an order under section 5(2) of the Ports (Finance) Act 1985 (order amending local enactments in consequence of borrowing powers etc);
  - (h) giving or refusing consent under section 5(1) of the Ports Act 1991 (control over issue or disposal of securities etc);

- (i) giving directions under section 5(2) of that Act (directions about issue or disposal of securities etc);
  - (j) making a decision under section 9(6) of that Act (decision confirming port transfer scheme);
  - (k) giving directions under section 10(2) or (3) of that Act (directions requiring port authority to form a company or submit a scheme); 5
  - (l) making a scheme under section 12(1) of that Act (required port transfer scheme).
- (5) In this section –
- “cross-border harbour” means a harbour that is partly in England and partly in Wales; 10
  - “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; 15
  - “Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).
- 34 Cross-border exercise of pilotage functions 20**
- (1) Where –
- (a) the Secretary of State proposes to exercise a relevant pilotage function, and
  - (b) the function would be exercised in relation to waters in Wales,
- the Secretary of State must first consult the Welsh Ministers (except where section 35(1) applies). 25
- (2) Where –
- (a) the Welsh Ministers propose to exercise a relevant pilotage function other than a function mentioned in subsection (4)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first obtain the consent of the Secretary of State. 30
- (3) Where –
- (a) the Welsh Ministers propose to exercise a function mentioned in subsection (4)(e) or (h), and
  - (b) the function would be exercised in relation to waters in England,
- the Welsh Ministers must first consult the Secretary of State (except where section 35(1) applies). 35
- (4) The following are “relevant pilotage functions” –
- (a) making an order under section 1(3) of the Pilotage Act 1987 (order about exercise of pilotage jurisdiction); 40
  - (b) making an order under section 1(4) or (4A) of that Act (orders about competent harbour authorities);
  - (c) making an order of the type described in section 7(5) of that Act (harbour revision order extending limits of pilotage jurisdiction of a harbour authority); 45
  - (d) making a direction under section 8(3) of that Act (pilotage exemption certificates);

- (e) approving a charge imposed by virtue of section 10 of that Act, or giving directions with respect to such a charge, under section 31(6) of the Harbours Act 1964 as applied by section 10(6) of the Pilotage Act 1987;
  - (f) making directions under section 12(2) or (3) of the Pilotage Act 1987 (joint arrangements); 5
  - (g) settling a dispute under section 13 of that Act (resolution of dispute between authorities);
  - (h) deciding an appeal under paragraph 4 of Schedule A1 to that Act (decisions on authorisation of EEA pilots). 10
- (5) In this section “England” and “Wales” have the same meanings as in section 33.

### 35 Sections 33 and 34: supplementary

- (1) The duty to consult in section 33(1) or (2) or section 34(1) or (3) 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 (for reasons of urgency or for any other reasons). 15
- (2) If the duty to consult in section 33(1) or (2) or section 34(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. 20
- (3) If the duty to consult in section 34(3) 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 33(1) or (2) or section 34(1) or (3) in relation to the exercise of a function does not affect the validity of its exercise. 25
- (5) The Secretary of State may make regulations modifying the application of sections 33, 34 and this section in relation to the harbours, or descriptions of harbour, specified in the regulations. 30
- (6) Before making regulations under subsection (5), the Secretary of State must consult the Welsh Ministers.
- (7) The regulations may in particular –
  - (a) disapply a requirement for a Minister of the Crown to consult the Welsh Ministers before exercising a function; 35
  - (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 33 or 34, in the circumstances set out in the regulations; 40
  - (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 34, in the circumstances set out in the regulations. 45

- (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. 5
- (10) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

*Planning for electricity generating stations*

**36 Development consent for generating stations with 350MW capacity or less**

- (1) Section 15 of the Planning Act 2008 (generating stations) is amended as set out in subsections (2) to (6). 10
- (2) In subsection (1), for “or (3)” substitute “, (3), (3A) or (3B)”.
- (3) In subsection (2)(a) omit “or Wales”.
- (4) After subsection (3) insert—
  - “(3A) A generating station is within this subsection if— 15
    - (a) it is in Wales,
    - (b) it does not generate electricity from wind, and
    - (c) its capacity is more than 350 megawatts.
  - (3B) A generating station is within this subsection if— 20
    - (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
    - (b) its capacity is more than 350 megawatts.”
- (5) In subsection (4)—
  - (a) in paragraph (a) omit “or Wales”;
  - (b) in paragraph (b), after “except” insert “the Welsh zone or”. 25
- (6) After subsection (4) insert—

““Welsh zone” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (7) Section 36 of the Electricity Act 1989 (consent required for construction etc of generating stations) is amended as set out in subsections (8) to (11). 30
- (8) In subsection (1), (4) and (5)(a), for “Secretary of State” substitute “appropriate authority”.
- (9) In subsection (2)—
  - (a) in paragraph (a)—
    - (i) at the beginning insert “in the case of a generating station otherwise than in Wales,”; 35
    - (ii) at the end omit “and”;
  - (b) in paragraph (b), after “extended” insert “otherwise than in Wales”;

- (c) after paragraph (b) insert –
- “(c) in the case of a generating station in Wales, does not exceed the devolved capacity, that is to say, 350 megawatts; and
- (d) in the case of a generating station which is to be constructed or extended in Wales, will not exceed the devolved capacity when it is constructed or extended;”
- (10) In subsection (7), for “the Secretary of State” substitute –
- “(a) the Welsh Ministers, if they are the appropriate authority, or  
(a) the Secretary of State, in all other cases.”
- (11) After subsection (9) insert –
- “(10) In this section “appropriate authority” means –
- (a) the Scottish Ministers, in relation to a generating station in or to be constructed in Scotland;
- (b) the Welsh Ministers, in relation to a generating station in or to be constructed in Welsh waters that –
- (i) does not exceed the devolved capacity, that is to say, 350 megawatts;
- (ii) in the case of a generating station which is to be constructed or extended, will not exceed the devolved capacity when constructed or extended;
- (c) the Secretary of State, in all other cases.”
- (11) In this section –
- “Scotland” has the same meaning as in section 32(2) (see section 32(3));
- “Welsh waters” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;
- “Welsh zone” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (12) In section 36C of the Electricity Act 1989 (variation of consents under section 36), in subsection (6) –
- (a) in the definition of “appropriate authority” –
- (i) after paragraph (a) insert –
- “(ab) the Welsh Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts;”;
- (ii) in paragraph (b), at the end insert “and does not relate to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts”;
- (b) in the definition of “regulations”, after paragraph (a) insert –
- “(aa) the Welsh Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350 megawatts;”;

- (c) at the end insert –  
““Welsh waters” has the meaning given in section 36.”

- (13) In section 90 of the Town and Country Planning Act 1990 (development with government authorisation), in subsections (2) and (2ZA), after “the Secretary of State” insert “or the Welsh Ministers”. 5

### 37 Generating stations and public rights of navigation

- (1) Section 36A of the Electricity Act 1989 (declarations extinguishing etc public rights of navigation) is amended as set out in subsections (2) to (5).
- (2) In subsection (1) –  
(a) for “the Secretary of State or the Scottish Ministers” substitute “the appropriate authority”; 10  
(b) for “he or (as the case may be) they” substitute “the appropriate authority”.
- (3) In subsection (2), for “The Secretary of State or the Scottish Ministers” substitute “The appropriate authority”. 15
- (4) In subsection (6) –  
(a) for “the Secretary of State or the Scottish Ministers” substitute “the appropriate authority”;  
(b) for “him or them”, in both places, substitute “the appropriate authority”. 20
- (5) In subsection (7), after “In this section –” insert –  
““appropriate authority” has the same meaning as in section 36;”.
- (6) Section 36B of that Act (duties in relation to navigation) is amended as set out in subsections (7) to (10).
- (7) In subsection (1) – 25  
(a) for “Neither the Secretary of State nor the Scottish Ministers may” substitute “The appropriate authority may not”;  
(b) for “he considers, or (as they case may be) they consider,” substitute “the appropriate authority considers”.
- (8) In subsection (2), for “both of the Secretary of State and of the Scottish Ministers” substitute “of the appropriate authority”. 30
- (9) In subsection (3), for “the Secretary of State or (as the case may be) the Scottish Ministers” substitute “the appropriate authority”.
- (10) In subsection (4)(a), for “the Secretary of State and the Scottish Minister have exercised or will exercise their powers” substitute “the appropriate authority has exercised or will exercise its powers”. 35
- (11) Section 100 of the Energy Act 2004 (further provision relating to public rights of navigation) is amended as set out in subsections (12) to (14).
- (12) In subsection (1) omit “the consenting authority”.
- (13) In subsections (3), (6) and (7), for “the consenting authority” substitute “the appropriate authority”. 40

- (14) In subsection (8), after “In this section –” insert –  
 ““appropriate authority” has the same meaning as in section 36 of the Electricity Act 1989;”.

### **38 Associated development of overhead lines**

- (1) Section 37 of the Electricity Act 1989 (consent required for overhead lines) is amended as set out in subsection (2) and (3). 5
- (2) In subsection (1), for “(2)” substitute “(2A)”.
- (3) After subsection (2) insert –
- “(2A) Subsection (1) above shall not apply in relation to an electric line that is associated with the construction or extension of a generating station consented to by the Welsh Ministers if the nominal voltage of the line is no greater 132 kilovolts.” 10
- (4) In section 16 of the Planning Act 2008 (electric lines), after subsection (3A) insert –
- “(3B) The installation of an electric line above ground is not within section 14(1)(b) if the line is associated with the construction or extension of a generating station consented to by the Welsh Ministers and the nominal voltage of the line is expected to be no greater than 132 kilovolts.” 15

### **39 Alignment of associated development consent** 20

- (1) Section 115 of the Planning Act 2008 (development for which development consent may be granted) is amended as follows.
- (2) In subsection (2)(c), for “or (4)” substitute “, (4) or (4A)”.
- (3) After subsection (4) insert –
- “(4A) Development is within this subsection if the development within subsection (1)(a) with which it is associated is – 25
- (a) the construction or extension of a generating station that is or (when constructed or extended) is expected to be within section 15(3A) or (3B), or
- (b) the installation of an electric line that is or (when installed) is expected to be within section 14(1)(b).” 30

#### *Equal opportunities*

### **40 Equal opportunities: public sector equality duty**

- (1) The Equality Act 2010 is amended as follows.
- (2) In section 152 (power to specify public authorities: consultation and consent) – 35
- (a) in subsection (2), for the words after “must” substitute “consult the Commission, and after making such an order they must inform a Minister of the Crown.”;
- (b) in the heading omit “and consent”.

- (3) In section 154 (power to impose specific duties: cross-border authorities), in the second column of the table in subsection (3), for the words “The Welsh Ministers must consult a Minister of the Crown before” in both places substitute “The Welsh Ministers must inform a Minister of the Crown after”.

#### **41 Public sector duty regarding socio-economic inequalities**

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- (1) The Equality Act 2010 is amended as follows.
- (2) In section 1 (public sector duty), in subsection (2A), after paragraph (a) insert –  
“(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers;”.
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- (3) In section 2 (power to amend section 1) omit subsections (7), (9) and (10).
- (4) Section 216 (commencement) is amended as follows.
- (5) In subsection (3), for “subsection (4)” substitute “subsections (4) and (6)”.
- (6) After subsection (5) insert –  
“(6) The following provisions of Part 1 come into force on such day as the Welsh Ministers may by order appoint –  
(a) section 1, so far as it applies to a relevant authority as defined by section 2(6);  
(b) section 2, so far as it confers a power on the Welsh Ministers;  
(c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a).”
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- (7) Section 209 does not apply to an order under subsection (6).”

#### *Marine licensing and conservation*

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

- (1) The Marine and Coastal Access Act 2009 is amended as set out in subsections (2) to (4). 25
- (2) In section 113 (the appropriate licensing authority) –  
(a) in subsection (4), for “and the Welsh inshore region” substitute “, the Welsh inshore region and the Welsh offshore region”;  
(b) in subsection (5), after paragraph (b) insert –  
“(ba) in relation to the Welsh offshore region, any activity falling within the subject matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).”
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- (3) In section 236 (enforcement of marine licensing regime), in subsection (2) –  
(a) in paragraph (a), for “or the Welsh inshore region” substitute “, the Welsh inshore region or the Welsh offshore region”;  
(b) after paragraph (a) insert –  
“(aa) any activity in the Welsh offshore region falling within the subject matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).”
- 35  
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- (4) In section 240 (marine licensing: oil and gas and other reserved matters), in subsection (1) –
- (a) in paragraph (b), for “or the Welsh inshore region” substitute “, the Welsh inshore region or the Welsh offshore region”;
  - (b) after paragraph (b) insert – 5
    - “(ba) any activity in the Welsh offshore region falling within the subject matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).”
- (5) The Marine Licensing (Exempted Activities) (Wales) Order 2011 (S.I. 2011/559 (W.81)) is amended as set out in subsection (6) to (8). 10
- (6) In Article 4 (exemption from need for marine licence), in paragraph (1), for “or the Welsh inshore region” substitute “, the Welsh inshore region or the Welsh offshore region”.
- (7) In Article 32 (bored tunnels), in paragraph (4), for “and the Welsh inshore region” substitute “, the Welsh inshore region and the Welsh offshore region”. 15
- (8) In Article 34 (loading of a vehicle or vessel etc for incineration outside Wales and the Welsh inshore region) –
- (a) in the heading, for “and the Welsh inshore region” substitute “, the Welsh inshore region and the Welsh offshore region”;
  - (b) in paragraph (1)(b), for “and the Welsh inshore region” substitute “, the Welsh inshore region and the Welsh offshore region”. 20

#### 43 Marine conservation zones

- (1) Part 5 of the Marine and Coastal Access Act 2009 is amended as follows.
- (2) In section 116 (marine conservation zones) –
- (a) in subsection (5)(a), after “Wales” insert “or the Welsh offshore region”;
  - (b) after subsection (5) insert – 25
    - “(5A) The Welsh Ministers may not designate an area as an MCZ without the agreement of the Secretary of State if any part of the proposed MCZ lies in the Welsh offshore region.”
- (3) In section 119 (consultation before designation) – 30
- (a) in subsection (6), after “Wales” insert “or the Welsh offshore region”;
  - (b) omit subsection (9)(a).
- (4) In section 125 (general duties of public authorities in relation to MCZs), in subsection (11)(a), after “Wales” insert “or the Welsh offshore region”.

*Miscellaneous* 35

#### 44 Intervention in case of serious adverse impact on sewerage services etc

- (1) In section 114 of the Government of Wales Act 2006 (power to intervene in relation to Assembly Bills), in subsection (1), after paragraph (b) insert –
- “(ba) might have a serious adverse impact on sewerage services in England or sewerage systems in England,”. 40
- (2) In section 152 of the Government of Wales Act 2006 (intervention in case of functions relating to water etc) –

- (a) in subsection (1) omit “or” at the end of paragraph (b) and after paragraph (c) insert –
  - “(d) sewerage services in England, or
  - (e) sewerage systems in England.”;
- (b) in the heading, after “water” insert “or sewerage”.

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#### **45 Transfer of functions in relation to excepted energy buildings**

- (1) The functions conferred or imposed on the Secretary of State by or under the Building Act 1984, so far as exercisable in relation to excepted energy buildings in Wales, are transferred to the Welsh Ministers.
- (2) But subsection (1) does not operate to transfer any functions that are reserved by the following provisions of the 2009 TFO –
  - (a) Article 3(b) (functions exercisable by Secretary of State as a Crown authority);
  - (b) Article 3(c) (powers of commencement etc);
  - (c) Article 4 (energy performance requirements and energy assessors for existing buildings).
- (3) The following provisions of the Government of Wales Act 2006 apply in relation to the transfer of functions under subsection (1) as they apply in relation to a transfer of functions by an Order in Council made under section 58 of that Act –
  - (a) Part 2 of Schedule 3 (exercise of functions transferred under section 58);
  - (b) paragraph 1 of Schedule 4 (general transfer of property, rights and liabilities).
- (4) In this section –
  - “excepted energy building” has the meaning given in the Schedule to the 2009 TFO;
  - “the 2009 TFO” means the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019).

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#### **46 Renewable energy incentive schemes**

- (1) After section 148 of the Government of Wales Act 2006 insert –

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*“Consultation with Welsh Ministers*

##### **148A Renewal energy incentive schemes**

- (1) The Secretary of State must consult the Welsh Ministers before –
  - (a) establishing a renewable energy incentive scheme that applies in Wales, or
  - (b) amending such a scheme as it relates to Wales.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.

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- (3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.
- (4) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel. 5  
This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel— 10
- (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) section 100 of that Act (renewable heat incentives);
  - (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).” 15
- (2) Where, before the commencement of this section, the Secretary of State has consulted, or is consulting, the Welsh Ministers regarding a renewable energy incentive scheme within the meaning of section 148A of the Government of Wales Act 2006 (inserted by subsection (1) above), that consultation is to be treated as fulfilling the obligation in that section. 20

### PART 3

#### MISCELLANEOUS

#### 47 Provision of information to the Office for Budget Responsibility

After section 66 of the Government of Wales Act 2006 insert— 25

##### “66A Provision of information to the Office for Budget Responsibility

- (1) The Office for Budget Responsibility has a right of access at any reasonable time to all information held by— 30
- (a) the Welsh Ministers, or
  - (b) any Wales public authority specified in regulations made by the Secretary of State,
- that it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances). 35
- (2) The Office is entitled to require from any person holding or accountable for such information any assistance or explanation that the Office reasonably thinks necessary for that purpose.
- (3) No regulations are to be made under subsection (1)(b) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament. 40
- (4) This section is subject to any enactment or rule of law that operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.”

#### 48 Gas and Electricity Markets Authority

- (1) In section 37 of the Government of Wales Act 2006 (witnesses and documents: power to call), after subsection (6) insert –
- “(6A) Subsection (1) applies in relation to requirements imposed on a person in connection with the discharge of the functions of the Gas and Electricity Markets Authority in relation to Wales with the omission of the words after paragraph (b).” 5
- (2) In section 5 of the Utilities Act 2000 (annual and other reports of Authority) –
- (a) in subsection (5)(aa), after “the Scottish Ministers” insert “and the Welsh Ministers”; 10
- (b) after subsection (5A) insert –
- “(5B) The Welsh Ministers shall lay a copy of each annual report before the National Assembly for Wales.”
- (3) In section 5XA of that Act (laying of accounts before Scottish Parliament) –
- (a) in the heading, after “Scottish Parliament” insert “and Welsh Assembly”; 15
- (b) in subsection (2), after “the Scottish Ministers” insert “and the Welsh Ministers”;
- (c) after subsection (3) insert –
- “(3A) The Welsh Ministers must lay a copy of whatever is sent to them under subsection (2) before the National Assembly for Wales.” 20

#### 49 Licensing of coal-mining operations: approval by Welsh Ministers

After section 26 of the Coal Industry Act 1994 insert –

- “26A Licences for coal-mining operations in Wales: approval by Welsh Ministers”** 25
- (1) If or to the extent that a licence under this Part authorises coal-mining operations in relation to coal in Wales, it shall have effect only if the Welsh Ministers notify the Authority that they approve the authorisation.
- (2) In this section “Wales” has the meaning given in section 158(1) of the Government of Wales Act 2006.” 30

#### 50 Office of Communications

- (1) Section 1 of the Office of Communications Act 2002 (the Office of Communications) is amended as set out in subsections (2) to (5).
- (2) In subsection (3), after paragraph (aa) insert – 35
- “(ab) a member appointed by the Welsh Ministers;”.
- (3) After subsection (3A) insert –
- “(3B) Before appointing a member under subsection (3)(ab) the Welsh Ministers must consult the Secretary of State.”
- (4) In subsection (5), before “and (b),” insert “, (ab)”. 40

- (5) After subsection (11) insert –
- “(12) Paragraphs 1 and 2 of the Schedule apply in relation to the appointment made under subsection (3)(ab) as if –
- (a) any reference to the Secretary of State were to the Welsh Ministers, and 5
- (b) after the paragraph 2(7) treated as inserted by subsection (11) there were inserted –
- “(8) Before the Welsh Ministers remove a person from office they must consult the Secretary of State.””
- (6) The Schedule to that Act is amended as set out in subsections (7) and (8). 10
- (7) In paragraph 11 (accounts and audit) –
- (a) in sub-paragraph (3)(c), after “the Scottish Ministers” insert “and the Welsh Ministers”;
- (b) after sub-paragraph (4) insert –
- “(5) The Welsh Ministers shall lay a copy of the statement and report sent to them under sub-paragraph (3) before the National Assembly for Wales.” 15
- (8) In paragraph 12 (annual report) –
- (a) in sub-paragraph (1), for “and the Scottish Ministers” substitute “, the Scottish Ministers and the Welsh Ministers”; 20
- (b) after sub-paragraph (4) insert –
- “(5) The Welsh Ministers shall lay a copy of every report sent to them under this paragraph before the National Assembly for Wales.”

#### PART 4 25

##### GENERAL

### 51 Consequential provision

- (1) Schedule 5 contains minor and consequential amendments.
- (2) The Secretary of State may by regulations make such consequential provision in connection with any provision of this Act as the Secretary of State considers appropriate. 30
- (3) Regulations under subsection (2) may amend, repeal, revoke or otherwise modify –
- (a) an enactment contained in primary legislation, or
- (b) an instrument made under an enactment contained in primary legislation. 35
- (4) Regulations under subsection (2) may make –
- (a) different provision for different purposes or cases;
- (b) provision generally or for specific cases;
- (c) provision subject to exceptions; 40
- (d) provision for the delegation of functions;
- (e) transitional or saving provision.

- (5) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (2) that includes provision amending or repealing any provision of primary legislation 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
- (7) Any other statutory instrument containing regulations under subsection (2), if made without a draft having been approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (8) In this section “primary legislation” means –
  - (a) an Act of Parliament;
  - (b) a Measure or Act of the National Assembly for Wales.

## 52 Transitional provision and savings

- (1) Schedule 6 contains transitional provision and savings. 15
- (2) The Secretary of State may by regulations make any other transitional or saving provision that may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) Regulations under subsection (2) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act. 20
- (4) Regulations under subsection (2) may make –
  - (a) different provision for different purposes or cases;
  - (b) provision generally or for specific cases;
  - (c) provision subject to exceptions.
- (5) Nothing in Schedule 6 limits the power conferred by subsection (2). 25
- (6) Nothing in that Schedule, or in any provision made by virtue of subsection (2), prejudices the operation of sections 16 and 17 of the Interpretation Act 1978.
- (7) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (8) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament. 30

## 53 Commencement

- (1) The following provisions come into force on the day on which this Act is passed –
  - (a) section 51(2) to (8); 35
  - (b) section 52 and Schedule 6;
  - (c) this section;
  - (d) section 54.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed – 40
  - (a) sections 1 and 2;
  - (b) section 15;

- (c) section 16;  
(d) section 17.
- (3) Section 3 and Schedules 1 and 2 come into force on the day appointed by the Secretary of State by regulations under this subsection (“the principal appointed day”). 5  
Before making regulations under this subsection the Secretary of State must consult the Welsh Ministers and the Presiding Officer of the National Assembly for Wales.
- (4) The other provisions of this Act come into force on whatever day or days the Secretary of State appoints by regulations. 10  
Regulations under subsection (3) may appoint the principal appointed day for any of those provisions.
- (5) The power to make regulations under this section is exercisable by statutory instrument.
- (6) The principal appointed day, or a day appointed under subsection (4), must be after the end of the period of four months beginning with the day on which the regulations appointing that day are made. 15
- (7) Regulations under this section (other than regulations bringing into force section 3 and Schedules 1 and 2) may appoint different days for different purposes. 20

#### 54 Short title

This Act may be cited as the Wales Act 2016.

## SCHEDULES

### SCHEDULE 1

Section 3

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

- 1 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— 5

#### “SCHEDULE 7A

Section 108A

#### RESERVED MATTERS

#### PART 1

#### GENERAL RESERVATIONS

10

##### *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; 15
  - (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 20
  - (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. 25
- (4) In this paragraph “executive function” does not include a function conferred or imposed by or by virtue of any legislation or the prerogative. 30

##### *Public service*

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

*Political parties*

- 4 The following are reserved matters –
- (a) the registration of political parties;
  - (b) funding of political parties and of their members and officers; 5
  - (c) accounting requirements in relation to political parties; but this is subject to paragraph 5.
- 5 Paragraph 4 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. 10

*Single legal jurisdiction of England and Wales*

- 6 (1) The following are reserved matters –
- (a) courts (including, in particular, their creation and jurisdiction);
  - (b) judges (including, in particular, their appointment and remuneration); 15
  - (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); 20
  - (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).) 25
- (2) Sub-paragraph (1)(a) does not reserve –
- (a) conferring or imposing a particular devolved function on a court in civil proceedings, or
  - (b) modifying or removing a particular devolved function of a court in civil proceedings, 30
- where doing so is ancillary to a provision of an Act of the Assembly or an Assembly Measure.
- (3) A function is a “devolved function” if it –
- (a) involves deciding an appeal from a decision that relates to a matter which is not a reserved matter, or an application for an order that relates to such a matter, but 35
  - (b) is not a function of, or connected with, deciding an appeal from another court or from a tribunal to which paragraph 7 applies.
- (4) Sub-paragraph (1) does not reserve the provision of advisory and support services in respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question. 40

*Tribunals*

- 7 (1) Tribunals, including – 45
- (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.5
  - (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. 10
  - (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)).20
  - (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. 25
- Foreign affairs etc* 30
- 8 (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;
    - (c) relations with other international organisations.35
  - (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.40
  - (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. 5

*Defence*

- 9 (1) The following are reserved matters—
- (a) the defence of the realm;
  - (b) the naval, military or air forces of the Crown, including reserve forces; 10
  - (c) visiting forces;
  - (d) international headquarters and defence organisations;
  - (e) trading with the enemy and enemy property.
- (2) Sub-paragraph (1) does not reserve the conferral of enforcement powers in relation to sea fishing on any person who is not a member of a force referred to in sub-paragraph (1)(b). 15

PART 2

SPECIFIC RESERVATIONS

- Preliminary* 20
- 10 The matters to which any of the Sections in this Part apply are reserved matters.
- 11 A Section applies to any matter described or referred to in it when read with any exceptions or interpretation provisions in that Section. 25
- 12 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 30
- Section A1
- A1 Fiscal, economic and monetary policy
- 13 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. 35
- Exceptions*
- Devolved taxes, including their collection and management.

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

Section A2

A2 The currency

14 Coinage, legal tender and bank notes. 5

Section A3

A3 Financial services

15 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

Section A4

10

A4 Financial markets

16 Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

Section A5

A5 Dormant accounts

15

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

Head B – Home Affairs

Section B1

B1 Elections

20

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

18 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. 25

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

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

20 The subject-matter of section 37ZA(2) of the Representation of the People Act 1983 (coincidence of local government elections and Assembly elections). 30

21 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, 35
  - (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. 5
- 22 Any digital service provided by a Minister of the Crown for the registration of electors.
- 23 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 – 10
- 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 15
- (iii) provision by it of copies of regulations made by it or notice of the alteration or revocation of such regulations;
- (b) sections 2 to 4, 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs); 20
- (c) sections 12 and 21;
- Parts 2 to 4A (registration of parties, accounting, donations, loans etc);
- section 140A (gifts received by unincorporated associations); 25
- 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. 30
- 24 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 35
- (b) the date of the poll at an election for membership of the House of Commons or the European Parliament.
- 25 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 23 or 24. 40

*Interpretation*

- “Existing elections Acts” means – 45
- (a) the Representation of the People Act 1983,

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	(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,	5
	(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.	
	<p style="text-align: center;">Section B2</p>	10
	<p style="text-align: center;">B2 Nationality and immigration</p>	
26	Nationality.	
27	Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens.	
28	Free movement of persons within the European Economic Area.	15
29	Travel documents.	
	<p style="text-align: center;">Section B3</p>	
	<p style="text-align: center;">B3 National security and official secrets</p>	
30	National security.	
31	Special powers, and other special provisions, for dealing with terrorism.	20
32	The subject-matter of the Official Secrets Acts 1911 to 1989.	
	<p style="text-align: center;">Section B4</p>	
	<p>B4 Interception of communications, communications data and surveillance</p>	
33	Interception of communications.	25
34	Communications data.	
35	Covert surveillance by persons exercising public functions.	
36	Use of surveillance systems.	
	<i>Interpretation</i>	
	“Covert surveillance” includes the use of covert human intelligence sources.	30
	<p style="text-align: center;">Section B5</p>	
	<p style="text-align: center;">B5 Crime, public order and policing</p>	
37	The prevention, detection and investigation of crime.	
38	The maintenance of public order.	35

- 39 Policing.  
40 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. 5

## Section B6

## B6 Anti-social behaviour

- 41 The subject-matter of Parts 1 to 6 of the Anti-social Behaviour, Crime and Policing Act 2014. 10  
42 Dangerous dogs and dogs dangerously out of control.

## Section B7

## B7 Modern Slavery

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

## Section B8

## B8 Prostitution

- 44 Prostitution. 15

## Section B9

## B9 Emergency powers

- 45 Emergency powers. 20

## Section B10

## B10 Extradition

- 46 Extradition.

## Section B11

## B11 Rehabilitation of offenders

- 47 The subject-matter of the Rehabilitation of Offenders Act 1974. 25

## Section B12

## B12 Criminal records

- 48 Criminal records, including disclosure and barring.

Section B13

B13 Dangerous items

- |    |   |   |
|----|---|---|
| 49 | The subject-matter of the Firearms Acts 1968 to 1997. |   |
| 50 | The subject-matter of the Poisons Act 1972.           |   |
| 51 | Knives.   | 5 |

*Interpretation*

“Knives” includes—

- |     |                                |    |
|-----|--------------------------------|----|
| (a) | knife blades and razor blades; |    |
| (b) | axes;                          |    |
| (c) | swords.                        | 10 |

Section B14

B14 Misuse of and dealing in drugs or psychoactive substances

- |    |  |  |
|----|--|--|
| 52 | 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.	15
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Section B15

B15 Private security

- |    |                   |  |
|----|-------------------|--|
| 53 | Private security. |  |
|----|-------------------|--|

Section B16 20

B16 Entertainment and late night refreshment.

- |    |   |    |
|----|---|----|
| 54 | Classification of films and video recordings (including video games). |    |
| 55 | Licensing of—   |    |
|    | (a) the provision of entertainment, and                               | 25 |
|    | (b) late night refreshment.   |    |

Section B17

B17 Alcohol

- |    |                                 |  |
|----|---------------------------------|--|
| 56 | The sale and supply of alcohol. |  |
|----|---------------------------------|--|

Section B18 30

B18 Betting, gaming and lotteries

- |    |                                |  |
|----|--------------------------------|--|
| 57 | Betting, gaming and lotteries. |  |
|----|--------------------------------|--|

Section B19		
B19 Hunting		
58	Hunting with dogs.	
Section B20		
	B20 Scientific and educational procedures on live animals	5
59	Procedures on live animals for scientific or educational purposes.	
Section B21		
B21 Lieutenancies		
60	Lieutenancies.	
Section B22		10
B22 Charities and fund-raising		
61	Charities.	
62	Raising funds for charitable, benevolent or philanthropic purposes.	
	<i>Interpretation</i>	15
	“Funds” includes property other than money.	
Head C – Trade and Industry		
Section C1		
C1 Business associations and business names		
63	The creation, operation, regulation and dissolution of types of business association.	20
64	The regulation of the name under which an individual or business association carries on business.	
	<i>Exception</i>	
	The creation, operation, regulation and dissolution of particular public bodies, or public bodies of a particular type, established by or under any enactment.	25
	<i>Interpretation</i>	
	“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) and is established for the purpose of carrying on any kind of business, whether or not for profit.	30
	“Business” includes the provision of benefits to the members of an association.	

Section C2

C2 Insolvency and winding up

- 65 Insolvency.  
66 Winding up solvent business associations.

Section C3

5

C3 Competition

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

Section C4

C4 Intellectual property

10

- 68 Intellectual property.

*Exception*

Plant varieties and seeds.

Section C5

C5 Imports, exports and movement of plants etc

15

- 69 Prohibition and regulation of—  
(a) imports and exports, and  
(b) the movement of food, plants, animals and other things within the United Kingdom.

*Exceptions*

20

Prohibition and regulation which relates to food, plants, animals and related things, and which is 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.

25

Prohibition and regulation which relates to animal feeding stuffs, fertilisers or pesticides (or things treated by virtue of an enactment as pesticides), and which is for the purposes of protecting human, animal or plant health or the environment.

30

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 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.

35

- “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). 5
- “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). 10

## Section C6

## C6 Consumer protection

- 70 Regulation of –
- (a) the sale and supply of goods and services to consumers,
  - (b) guarantees in relation to such goods and services, 15
  - (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, 20
  - (f) auctions and mock auctions of goods and services, and
  - (g) hallmarking and gun barrel proofing.
- 71 Safety of, and liability for, services supplied to consumers.
- 72 The regulation of –
- (a) estate agents, 25
  - (b) timeshares, and
  - (c) package travel and package holidays.
- 73 The regulation of –
- (a) unsolicited goods and services, and
  - (b) trading schemes. 30
- 74 The subject-matter of Part 8 of the Enterprise Act 2002 (enforcement of certain consumer legislation).

*Exception*

Food, food products and food contact materials.

*Interpretation*

35

- “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. 40
- “Food products” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

## Section C7

### C7 Product standards, safety and liability

- |    |   |   |
|----|---|---|
| 75 | Technical standards and requirements in relation to products in pursuance of an obligation under EU law.  |   |
| 76 | 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. | 5 |
| 77 | Product safety and liability.   |   |
| 78 | Product labelling.  |   |

### *Exceptions* 10

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

### *Interpretation* 15

“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 9th July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93. 20

## Section C8

### C8 Weights and measures 25

- |    |   |  |
|----|---|--|
| 79 | Units and standards of weight and measurement.                              |  |
| 80 | Regulation of trade so far as involving weighing, measuring and quantities. |  |

## Section C9

### C9 Telecommunications and wireless telegraphy 30

- |    |   |  |
|----|---|--|
| 81 | Telecommunications and wireless telegraphy (including electromagnetic disturbance). |  |
| 82 | Internet services.  |  |
| 83 | Electronic encryption.  |  |

## Section C10

## C10 Post

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

*Exceptions* 5

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. 10

## Section C11

## C11 Research Councils

- 85 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. 15

- 86 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. 20

## Section C12

## C12 Industrial development

- 87 The subject-matter of –
- (a) section 1 of the Industrial Development Act 1982 (assisted areas), 25
  - (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), 30
- and the Industrial Development Advisory Board.

## Section C13

## C13 Protection of trading and economic interests

- 88 The subject-matter of –
- (a) Part 2 of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and 35
  - (b) the Protection of Trading Interests Act 1980.

Section C14

C14 Assistance in connection with exports of goods and services etc

- 89 The subject-matter of the Export and Investment Guarantees Act 1991.

Section C15

5

C15 Water and sewerage

- 90 Appointment and regulation of a water or sewerage undertaker whose area is not wholly or mainly in Wales.
- 91 Licensing and regulation of a water supply or sewerage licensee.

*Exceptions*

10

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.

15

*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.

20

Section C16

C16 Pubs Code Adjudicator and the Pubs Code

25

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

Section C17

C17 Sunday trading

- 93 Sunday trading.

30

Head D – Energy

Section D1

D1 Electricity

- 94 Generation, transmission, distribution and supply of electricity.

## Section D2

## D2 Oil and gas

- 95 Oil and gas, including—
- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas, 5
  - (b) pipelines and offshore installations,
  - (c) marine licensing 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, 10
  - (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. 15
- Access to land for the purpose of searching or boring for or getting petroleum under such a licence. 20

*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). 25

## Section D3

## D3 Coal

- 96 Coal, including—
- (a) the ownership and exploitation of coal, 30
  - (b) deep and opencast coal mining,
  - (c) subsidence relating to coal mining, and
  - (d) water discharge from coal mines.

*Exceptions*

- Land restoration. 35

## Section D4

## D4 Nuclear energy

- 97 Nuclear energy and nuclear installations, including—
- (a) nuclear safety, security and safeguards, and
  - (b) liability for nuclear occurrences. 40

98 The Office for Nuclear Regulation.

Section D5

D5 Heat and cooling

99 Production, distribution and supply of heat and cooling, including— 5

- (a) combined heat and power systems,
- (b) heat and cooling networks, and
- (c) renewable heat incentive schemes.

*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. 10

“Renewable heat incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, heat from sources of energy other than fossil fuel or nuclear fuel. 15

Section D6

D6 Energy conservation

100 Energy conservation.

*Exception* 20

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

Head E – Transport

Section E1

E1 Road transport 25

101 Road freight transport services in the United Kingdom (including goods vehicles operator licensing).

102 Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads. 30

103 Road traffic offences.

104 Driver licensing (including training, testing and certification).

105 Driving instruction.

106 Drivers’ hours.

107 Traffic regulation on special roads, other than regulation relating to speed limits or traffic signs. 35

108 Exemptions from speed limits.

109	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.	
110	International road transport services for passengers or goods.	
111	Public service vehicle operator licensing.	5
112	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.	
113	Vehicle insurance and vehicle registration.	
114	The subject-matter of Parts 2 and 3 of the Severn Bridges Act 1992 so far as relating to the second Severn crossing.	10

*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.	15
	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.	20
	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).	25

*Interpretation*

	“Second Severn crossing” means the bridge referred to as the new bridge in the Severn Bridges Act 1992.	30
	“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 E2

	E2 Rail transport	35
115	Railway services.	
116	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 –	40
	(a) financial assistance relating to the carriage of goods,	

- (b) financial assistance made in connection with a railway administration order, or
- (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. 5

*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). 10

Section E3

E3 Marine and waterway transport etc

- 117 Navigational rights and freedoms.
- 118 Shipping and technical and safety standards of vessels that are not ships (whether or not capable of navigation), including the subject-matter of – 15
  - (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. 20
- 119 Reserved trust ports and harbours not wholly in Wales.
- 120 Pilotage other than devolved pilotage.
- 121 Coastguard services and maritime search and rescue.
- 122 Hovercraft.

*Exceptions* 25

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.

Financial assistance for shipping services to, from or within Wales. 30

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

The subject-matter of the Fire and Rescue Services Act 2004.

*Interpretation* 35

“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. 40

“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 31 of the Wales Act 2016.

5

#### Section E4

##### E4 Air transport

123 Aviation, air transport, airports and aerodromes.

##### *Exceptions*

Financial assistance to providers or proposed providers of air transport services or airport facilities or services. 10

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. 15

#### Section E5

##### E5 Transport security

124 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. 20

#### Section E6

##### E6 Other matters

125 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 30

(b) Part 12 of the Equality Act 2010 (disabled persons: transport).

126 Technical specifications for fuel or other energy sources or processes for use in road, rail, marine, waterway or air transport.

127 Carriage of dangerous goods (including transport of radioactive material). 35

*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. 5

Head F – Social Security, Child Support, Pensions and Compensation

Section F1

F1 Social security schemes 10

128 Social security schemes supported from public funds.

129 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. 15

*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). 20

*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 – 25

- (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 or liabilities for local taxes. 30

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

Section F2

F2 Child Support

130 Child support maintenance. 35

131 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 – 40

- (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 F3

	F3 Occupational and Personal Pensions	5
132	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	10
	(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.	15
	“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.	20

## Section F4

	F4 Public sector compensation	
133	Compensation for or in respect of public sector workers in respect of –	25
	(a) incapacity or death as a result of injury or illness,	
	(b) loss of office or employment, or	
	(c) loss or diminution of emoluments.	
134	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).	30

*Exception*

	Schemes for the payment of compensation, and regulation of amounts as mentioned in paragraph 134, for or in respect of –	35
	(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. 5
- “Public sector worker” means a person holding office or employed in the public sector.

Section F5

- F5 Armed forces compensation etc 10
- 135 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 15
  - (c) loss or diminution of emoluments.
- 136 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). 20
- 137 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. 25

*Interpretation*

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

Head G – Professions

Section G1 30

G1 Architects, auditors, health professionals and veterinary surgeons

- 138 Regulation of –
- (a) the profession of architect,
  - (b) the profession of auditor,
  - (c) health professions, and 35
  - (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; 5
  - the Opticians Act 1989;
  - the Osteopaths Act 1993;
  - the Chiropractors Act 1994;
  - the Nursing and Midwifery Order 2001 (S.I. 2002/253); 10
  - 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. 15

## Head H – Employment

## Section H1

## H1 Employment and industrial relations

- 139 Employment rights and duties and industrial relations, including the subject-matter of – 20
- (a) the Employers’ Liability (Compulsory Insurance) Act 1969,
  - (b) the Employment Agencies Act 1973,
  - (c) the Pneumoconiosis etc (Workers’ Compensation) Act 1979, 25
  - (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, 30
  - (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, 35
  - (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), 40
  - (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 H2

H2 Industrial training boards

- 140 The following boards –
- (a) the Construction Industry Training Board;
  - (b) the Engineering Construction Industry Training Board; 5
  - (c) the Film Industry Training Board for England and Wales.

Section H3

H3 Job search and support

- 141 Arrangements for assisting persons to select, train for, obtain and retain employment, and to obtain suitable employees. 10

*Exceptions*

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

*Interpretation* 15

- “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. 20
- “Employees” includes partners and other business associates.

Head J – Health, Safety and Medicines

Section J1

J1 Abortion 25

- 142 Abortion.

Section J2

J2 Xenotransplantation

- 143 Xenotransplantation.

Section J3 30

J3 Embryology, surrogacy and genetics

- 144 Human genetics, human fertilisation, human embryology, surrogacy arrangements.

## Section J4

J4 Medicines, medical supplies, biological substances etc		
145	Medicinal products, including manufacture, authorisations for use and regulation of prices.	
146	Regulation of prices of other medical supplies.	5
147	Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).	
148	Veterinary medicinal products, including manufacture, authorisations for use and regulation of prices.	10
149	Specified feed additives.	
150	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.	15
151	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).	20
	“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.	25

## Section J5

## J5 Welfare foods

152	Schemes established by regulations under section 13 of the Social Security Act 1988 (benefits under schemes for improving nutrition: pregnant women, mothers and children).	30
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## Section J6

## J6 Health and safety

153	The subject-matter of Part 1 of the Health and Safety at Work etc. Act 1974.	
154	The Health and Safety Executive and the Employment Medical Advisory Service.	35
155	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; 5
- (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, 10but does not include any other aspect of fire safety.

Head K – Media, Culture and Sport

Section K1

K1 Media 15

156 Broadcasting and other media.

157 The British Broadcasting Corporation.

Section K2

K2 Public lending right

158 Public lending right. 20

Section K3

K3 Government Indemnity Scheme

159 Government indemnities for objects on loan.

Section K4

K4 Property accepted in satisfaction of tax 25

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

Section K5

K5 Sports grounds 30

161 Safety of sports grounds.

## Head L – Justice

## Section L1

## L1 The legal profession, legal services and claims management services

- |     |  |   |
|-----|--|---|
| 162 | The legal profession and legal services. |   |
| 163 | Claims management services.              | 5 |

## Section L2

## L2 Legal aid

- |     |            |  |
|-----|------------|--|
| 164 | Legal aid. |  |
|-----|------------|--|

## Section L3

## L3 Coroners

- |     |  |    |
|-----|--|----|
| 165 | The subject-matter of Part 1 of the Coroners and Justice Act 2009. | 10 |
|-----|--|----|

## Section L4

## L4 Arbitration

- |     |              |  |
|-----|--------------|--|
| 166 | Arbitration. |  |
|-----|--------------|--|

## Section L5

## L5 Mental capacity

- |     |   |  |
|-----|---|--|
| 167 | The subject-matter of the Mental Capacity Act 2005. |  |
|-----|---|--|

## Section L6

## L6 Personal data

- |     |                              |    |
|-----|------------------------------|----|
| 168 | Protection of personal data. | 20 |
|-----|------------------------------|----|

## Section L7

## L7 Information rights

- |     |  |  |
|-----|--|--|
| 169 | Public access to information held by a public authority. |  |
|-----|--|--|

*Exception*

- |   |  |    |
|---|--|----|
| Public access to information held by –  |  | 25 |
| (a) the Assembly,   |  |    |
| (b) the Assembly Commission,  |  |    |
| (c) the Welsh Government, or  |  |    |
| (d) any Welsh public authority,   |  |    |
| unless supplied by a Minister of the Crown or government department and held in confidence. |  | 30 |

*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); 5
  - (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. 10

Section L8

L8 Public sector information

- 170 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). 15

Section L9

L9 Public records

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

Section L10 20

L10 Compensation for persons affected by crime and miscarriages of justice

- 172 Compensation for –
- (a) persons affected by crime;
  - (b) miscarriages of justice.

Section L11 25

Section L11 Prisons and offender management

- 173 (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); 30
  - (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 – 35
- (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. 5  
The provision of health care, social care, education or training.

*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. 10  
“Escort functions” includes functions of the kind mentioned in section 80(1) of the Criminal Justice Act 1991.  
“Probation” includes matters of the kind mentioned in section 1(1)(a) to (f) of the Offender Management Act 2007.

Section L12 15

L12 Family relationships and children

- 174 Marriage, civil partnership and cohabitation.  
175 Parenthood, parental responsibility, child arrangements and adoption.  
176 The subject-matter of Parts 4 and 5 of the Children Act 1989 and other proceedings related to the care, supervision or protection of children. 20  
177 Civil remedies in respect of domestic violence, domestic abuse and female genital mutilation.

*Exception* 25

- 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.

*Interpretation*

- “Child arrangements” includes the subject-matter of Part 2 of the Children Act 1989. 30

Section L13

L13 Gender recognition

- 178 Gender recognition.

Section L14 35

L14 Registration of births, deaths and places of worship

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

Head M – Land and Agricultural Assets

Section M1

M1 Registration of land and land charges

- |     |  |   |
|-----|--|---|
| 180 | The subject-matter of –  | 5 |
|     | (a) the Land Charges Act 1972,   |   |
|     | (b) the Land Registration Act 2002, and                                  |   |
|     | (c) Part 1 of the Commonhold and Leasehold Reform Act 2002 (commonhold). |   |

Section M2

M2 Local land charges 10

- |     |                     |
|-----|---------------------|
| 181 | Local land charges. |
|-----|---------------------|

*Exception*

Fees.

Section M3

M3 Registration of agricultural charges and debentures 15

- |     |   |
|-----|---|
| 182 | The subject-matter of sections 9 and 14 of, and the Schedule to, the Agricultural Credits Act 1928. |
|-----|---|

Section M4

M4 Development and buildings

- |     |  |    |
|-----|--|----|
| 183 | Planning (including the subject-matter of Parts 2 to 8 of the Planning Act 2008) but only in relation to –                         | 20 |
|     | (a) relevant nationally significant infrastructure projects,   |    |
|     | (b) overhead electric lines other than devolved associated lines, and  |    |
|     | (c) railways,  | 25 |
|     | except this does not affect the reservation of the subject-matter of sections 14 and 16 of the Harbours Act 1964 by paragraph 119. |    |
| 184 | Community Infrastructure Levy.   |    |
| 185 | Compulsory purchase of land.   |    |
| 186 | The regulation of –  | 30 |
|     | (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.  |    |

*Interpretation* 35

“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), (f), (g) or (j) of section 14(1) of the Planning Act 2008.

#### Head N – Miscellaneous

#### Section N1

#### N1 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 Wales public 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 Wales public authorities.
- Equal opportunities in relation to the functions of any Wales public authority, other than a function that relates to the inclusion of persons in non-executive posts on boards of Wales public 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. 5

“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. 10

#### Section N2

##### N2 Control of weapons 15

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

#### Section N3

##### N3 Ordnance Survey

189 Ordnance Survey. 20

#### Section N4

##### N4 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. 25

#### *Exception*

The computation of periods of time.

#### Section N5

##### N5 Outer space

191 Activities connected with outer space. 30

#### Section N6

##### N6 Antarctica

192 Activities connected with Antarctica.

#### *Interpretation*

“Antarctica” has the meaning given in section 1 of the Antarctic Act 1994. 35

## Section N7

## N7 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. 5

## Section N8

## N8 The Children’s Commissioner

194 The Children’s Commissioner (established under the Children Act 2004). 10

## Section N9

## N9 School teachers’ pay and conditions

195 Remuneration and conditions of employment of school teachers.

*Interpretation*

“Conditions of employment” means the conditions of employment referred to in section 122(1)(b) of the Education Act 2002. 15

“School teachers” has the same meaning as in section 122 of that Act.

## PART 3

## GENERAL PROVISIONS

*Wales public authorities etc* 20

196 (1) This Schedule does not reserve—

- (a) the constitution of a public 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, 25
- (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, 30

if the authority is a Wales public authority.

(2) For the purposes of this paragraph—

- (a) a “public authority” is a body, office or holder of an office that has functions of a public nature (but does not include a court); 35

- (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; 5
  - (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 a public authority is a Wales public 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. 10
- 197 (1) Paragraph 1 of this Schedule does not reserve a public authority if – 15
  - (a) its functions are exercisable only in relation to Wales, or
  - (b) it is a Wales public authority (whether or not its functions are exercisable only in relation to Wales),and it has no reserved functions. 20
- (2) In this paragraph “public authority” and “reserved functions” have the same meaning as in paragraph 196.
- (3) In determining for the purposes of this paragraph whether functions of a public authority are exercisable only in relation to Wales, no account is taken of any function that – 25
  - (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)). 30
- (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. 35
- 198 Paragraph 196 applies in relation to a devolved tribunal (within the meaning of paragraph 7(2)) as it applies in relation to a Wales public authority.

*Particular authorities*

- 199 (1) The reservation of an authority to which this paragraph applies has effect to reserve – 40
  - (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; 45

- (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. 5
- (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; 10
  - (e) the Commission for Equality and Human Rights.
- (3) This paragraph is subject to paragraph 200.

*Welsh language functions*

- 200 (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; 15
  - (b) modifying or removing (or giving power to modify or remove) any Welsh language function of a person other than a court. 20
- (2) “Welsh language function” means a function in relation to the Welsh language.

*Interpretation of Schedule*

- 201 (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 2016, as it had effect immediately before that time. 25
- (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. 30
- (3) In this Schedule “the principal appointed day” has the same meaning as in section 53 of the Wales Act 2016.”

## SCHEDULE 2

Section 3 35

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

- 1 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

5

*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.
- (See also paragraph 6 of Schedule 7A (single legal jurisdiction of England and Wales).)
- (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.
- (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; 5
  - (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; 10
  - (c) sexual offences (including offences relating to indecent or pornographic images); 15
  - (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, 20
  - (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. 25
- (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. 30  
(See also paragraph 6 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 – 35

<i>Enactment</i>	<i>Provisions protected from modification</i>	
European Communities Act 1972	The whole Act.	
Government of Wales Act 1998	Sections 144(7), 145, 145A and 146A(1).	40
Human Rights Act 1998	The whole Act.	

<i>Enactment</i>	<i>Provisions protected from modification</i>	
Civil Contingencies Act 2004	The whole Act.	
Public Audit (Wales) Act 2013 (anaw 3)	Sections 2(1) to (3), 3(2) to (4), 6(2) and (3) and section 8(1) in 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.	5
	(2) Sub-paragraph (1), so far as it applies in relation to –	
	(a) sections 145, 145A and 146A(1) of the Government of Wales Act 1998, and	10
	(b) sections 2(1) to (3), 3(2) to (4) and 6(2) and (3) of the Public Audit (Wales) Act 2013,	
	does not apply to a provision to which sub-paragraph (3) applies.	
	(3) This sub-paragraph applies to a provision of an Act of the Assembly that –	15
	(a) is a provision relating 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).	20
	(4) Sub-paragraph (1), so far as it applies in relation to section 8(1) of the Public Audit (Wales) Act 2013, does not apply in relation to any provision to which sub-paragraph (3) applies.	
	(5) But, subject to sub-paragraph (6), a provision to which sub-paragraph (3) applies cannot modify, or confer power by subordinate legislation to modify, section 8(1) of the Public Audit (Wales) Act 2013.	25
	(6) Sub-paragraph (5) does not prevent the conferral of functions on a committee of the Assembly that –	
	(a) does not consist of or include any of the following persons –	30
	(i) the First Minister or any person designated to exercise the functions of the First Minister,	
	(ii) a Welsh Minister appointed under section 48,	
	(iii) the Counsel General or any person designated to exercise the functions of the Counsel General, or	35
	(iv) a Deputy Welsh Minister, and	
	(b) is not chaired by an Assembly member who is a member of a political group with an executive role.	
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.	40 45

*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 – 5
- (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; 10
  - (iv) section 3(1) and (2) to (4);
  - (v) sections 4 to 13;
  - (vi) sections 16 to 20;
  - (vii) section 22;
  - (viii) section 23(2), (6) and (7); 15
  - (ix) section 24;
  - (x) section 25(1)(b) and (2) to (15);
  - (xi) section 26(2) to (4);
  - (xii) in section 27(1), the words from “the National Assembly for Wales Commission” to the end; 20
  - (xiii) section 27(2) to (4), (6) and (7);
  - (xiv) section 28;
  - (xv) section 30;
  - (xvi) section 34(1) and (2);
  - (xvii) sections 35 and 36; 25
  - (xviii) sections 38 to 43;
  - (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) – 30
- (i) sections 53 and 54;
  - (ii) sections 60 and 61;
  - (iii) sections 72 to 75;
  - (iv) sections 77 to 79;
  - (v) section 91; 35
- (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); 40
- (d) the following provisions in Part 5 (finance) –
- (i) section 120(2);
  - (ii) sections 125 to 130;
  - (iii) sections 131 to 143;
  - (iv) any provision of Schedule 8; 45
- (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 5
  - (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— 10
  - (a) sub-paragraph (2)(a)(i) (change of name of the Assembly),
  - (b) sub-paragraph (2)(a)(xii) (change of name of the Assembly Commission), or
  - (c) sub-paragraph (2)(c)(i) (change of name of Acts of the Assembly). 15
- (5) Sub-paragraph (1), so far as it applies in relation to a provision of Part 5 or section 159, does not apply to a provision of an Act of the Assembly if—
  - (a) the provision is incidental to, or consequential on, a provision of an Act of the Assembly relating to budgetary procedures or devolved taxes, and 20
  - (b) the Secretary of State consents to the provision.
- (6) In sub-paragraph (5) “budgetary procedures” are procedures for a financial year relating to— 25
  - (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 30
  - (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)— 35
  - (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, 40
    - (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. 45
- (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, 5
  - (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, 10
- unless the appropriate Minister consents to the provision.
- (2) Sub-paragraph (1) is subject to the exceptions in paragraph 9. 15
- (3) In this paragraph “reserved authority” means –
- (a) a Minister of the Crown or government department;
  - (b) any other public authority apart from a Wales public authority.
- (4) In this paragraph “public authority” means a body, office or holder of an office that has functions of a public nature. 20
- (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. 25
- 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. 30
- (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. 35
- (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. 40
- (5) Paragraph 8(1)(b) and (c) does not apply in relation to a devolved tribunal within the meaning of paragraph 7(2) of Schedule 7A.
- (6) Paragraph 8(1) does not apply in relation to – 45

- (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). 5
- 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 Wales public authority, unless the appropriate Minister consents to the provision. 10
- (2) This paragraph does not apply in relation to—
  - (a) a Minister of the Crown (as to which, see paragraph 11);
  - (b) the Electoral Commission;
  - (c) the Food Standards Agency; 15
  - (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). 20
- (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 25
  - (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; 30
  - (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) In this paragraph “public authority” and “appropriate Minister” have the same meaning as in paragraph 8. 35
- 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, 40
  - (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, 45
  - (d) any function of a Minister of the Crown under the Marine and Coastal Access Act 2009 or the Marine Works

- (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518), or
- (e) any power of the Secretary of State under section 6 of the Railways Act 2005 (financial assistance relating to railway services etc), 5  
unless the appropriate Minister consents to the provision.
- (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. 10
- (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 15
- (b) is to any extent exercisable –
- (i) concurrently or jointly with a Minister of the Crown, or 20
- (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; 25
- (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. 30
- (5) In this paragraph “appropriate Minister” has the same meaning as in paragraph 8.

## PART 2 35

## GENERAL EXCEPTIONS FROM PART 1

*Restatement*

- 12 (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 40
- (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 45

or Measure, of the law on reserved matters if the subject-matter of the restatement is a reserved matter.

*Subordinate legislation*

- 13 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 – 5
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised; 10
  - (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.” 15

SCHEDULE 3

Section 19

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 – 20

“SCHEDULE 3A

Section 59A

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

*Functions exercisable concurrently with Welsh Ministers* 25

- 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 section 5 of the Sea Fisheries Act 1968, the Welsh zone), are exercisable concurrently with the Welsh Ministers. 30
- (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>	35
Ministry of Transport Act 1919	Functions of a Minister of the Crown under section 17 (power to make advances).	

<i>Act</i>	<i>Functions</i>	
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.	5
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.	10
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.	15
	<i>Note:</i> the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.	20
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).	25
Sea Fish (Conservation) Act 1967	Functions of a Minister of the Crown under – (a) section 4 (licensing of fishing boats), (b) section 4A (restrictions on time spent at sea – appeals), and (c) section 15(3) (conferral of enforcement powers on British sea-fishery officers).	30
	<i>Note:</i> the functions under sections 4 and 4A are exercisable by the Welsh Ministers free from any requirement for Treasury consent.	35
Sea Fisheries Act 1968	Functions of a Minister of the Crown under section 5 (regulation and conduct of fishing operations), so far as they relate to the identification and marking of fishing boats.	
	Functions of a Minister of the Crown under section 7 (sea fishery officers).	40

<i>Act</i>	<i>Functions</i>	
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>	5
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>	10
Employment and Training Act 1973	<p>Functions of the Secretary of State under section 2, except for –</p> <p style="padding-left: 2em;">(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</p> <p style="padding-left: 2em;">(b) any function ancillary to that function.</p> <p>Functions of a Minister of the Crown under –</p> <p style="padding-left: 2em;">(a) section 4 (disclosure of information),</p> <p style="padding-left: 2em;">(b) section 5 (powers to appoint advisers and make payments), and</p> <p style="padding-left: 2em;">(c) section 11(3) (payments in respect of injuries etc).</p> <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>	15 20 25 30 35
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>	40

<i>Act</i>	<i>Functions</i>	
Import of Live Fish (England and Wales) Act 1980	Functions of a Minister of the Crown under— (a) section 1 (power to limit the import etc of fish and fish eggs), and (b) section 3(2) (authorisation of act done for scientific or research purpose).	5
	<i>Note:</i> the functions under section 1 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.	10
Wildlife and Country- side Act 1981	Functions of the Secretary of State under— (a) section 2(6) (power to declare period of special protection for birds), and (b) section 16 (power to grant licences).	
Industrial Develop- ment Act 1982	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.	15
	<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.	20
Inheritance Tax Act 1984	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.	25
Food Act 1984	Functions of a Minister of the Crown under section 69A (information).	
Food and Environ- mental Protection Act 1985	Functions of a Minister of the Crown under— (a) section 1(1) (power to make emergency orders), (b) section 3(1) and (2) (authorisation of investigating officers and enforcement officers), (c) section 13 (powers to test and to charge for testing), (d) section 14(2) and (3) (exclusion of information from register), and (e) section 17 (codes of practice).	30          35    40
Local Government Finance Act 1988	Functions of the Secretary of State under section 88B (special grants) so far as they relate to police and crime commissioners.	

<i>Act</i>	<i>Functions</i>	
	<i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i>	
Road Traffic Act 1988	Functions of the Secretary of State under – (a) section 39(1) (road safety information or advice), and (b) section 40 (payments for road safety measures).	5
	<i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.</i>	10
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.	15
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).	20
	<i>Note: the functions under section 304 are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i>	
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).	25
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).	30
	<i>Note: the functions under section 38(1) are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i>	
Food Safety Act 1990	Functions of the Secretary of State under section 47 of paying remuneration and allowances.	35
		40
		45

<i>Act</i>	<i>Functions</i>	
	<i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury approval.</i>	
Social Security Act 1990	Functions of the Secretary of State under section 15 (grants for the improvement of energy efficiency in certain dwellings etc).	5
	<i>Note: the functions are exercisable by the Welsh Ministers free from any requirement for Treasury consent.</i>	10
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).	15
Welsh Language Act 1993	Functions under – (a) section 25 (powers to give Welsh names to statutory bodies etc), and (b) section 26 (powers to prescribe Welsh forms).	20
National Lottery etc. Act 1993	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 – (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 (b) conditions that apply to the whole of the United Kingdom.	25
	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 – (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 (b) conditions that apply to the whole of the United Kingdom.	30
	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 – (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 (b) conditions that apply to the whole of the United Kingdom.	35
	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 – (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 (b) conditions that apply to the whole of the United Kingdom.	40

<i>Act</i>	<i>Functions</i>	
	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).	5
Jobseekers Act 1995	Functions of the Secretary of State under section 30 (grants for resettlement places).	
Housing Act 1996	Functions of the Secretary of State under section 185 (persons from abroad: eligibility for housing assistance).	10
Human Rights Act 1998	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—	15
	(a) subordinate legislation made by the Assembly, or	20
	(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.	
Pollution Prevention and Control Act 1999	Functions under section 2 (regulation of polluting activities) exercisable by the Secretary of State—	25
	(a) in relation to a cross-border body, but	
	(b) not in relation to offshore oil and gas exploration and exploitation,	30
	so far as they are functions which, by their nature, cannot be specifically exercisable in relation to Wales.	
2	(1) The functions conferred or imposed on a Minister of the Crown by or under the fishing boat provisions, so far as exercisable in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone, are exercisable by the Welsh Ministers concurrently with the Minister of the Crown.	35
	(2) The “fishing boat provisions” are—	
	(a) sections 4 and 4A of the Sea Fish (Conservation) Act 1967;	40
	(b) section 15(3) of that Act, so far as relating to those sections.	
	(3) Any provision of section 4 or 4A of that Act 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.	45
	(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.

*Functions exercisable jointly with Welsh Ministers*

- |   |  |   |
|---|--|---|
| 3 | Functions of the Secretary of State under section 6 of the Crime and Disorder Act 1998 in relation to strategies for combatting crime and disorder or re-offending in areas in Wales are exercisable jointly with the Welsh Ministers. | 5 |
|---|--|---|

*Interpretation*

- |   |   |    |
|---|---|----|
| 4 | For the purposes of the entry relating to the Inheritance Tax Act 1984 in the table in paragraph 1 –  | 10 |
|   | (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;            | 15 |
|   | (b) another interest exists where –   |    |
|   | (i) the property in question is located outside Wales, or   | 20 |
|   | (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.” | 25 |

SCHEDULE 4

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

WALES PUBLIC 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 Panel on Substance Misuse or Panel Cyngori ar Gamddefnyddio Sylweddau.

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

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The Agricultural Land Tribunal for Wales or Dribiwnlys Tir Amaethyddol Cymru.	
The All-Wales Medicines Strategy Group or Grŵp Strategaeth Meddyginiaethau Cymru Gyfan.	
The Arts Council for Wales or Cyngor Celfyddydau Cymru.	5
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 Cynghorau Iechyd Cymuned Cymru.	10
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.	15
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.	
An exclusion appeal panel, constituted in accordance with regulations under section 52 of the Education Act 2002, for schools in Wales.	20
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.	25
The First Minister or Prif Weinidog.	
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).	30
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).	
The governing body of an institution in Wales within the higher education sector (within the meaning of section 91(5) of that Act).	35
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.	40

Hybu Cig Cymru or Meat Promotion Wales.	
The Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol.	
A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.	5
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.	10
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.	15
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.	20
A panel established under regulation 21 of the Social Services Complaints Procedure (Wales) Regulations 2005.	
The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.	25
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 the Open University.	
The Residential Property Tribunal Wales or Tribiwnlys Eiddo Preswyl yng Nghymru.	30
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.	35
A Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006.	
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).	5
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.	10
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.	15
The Welsh Optometric Committee or Pwyllgor Optegol Cymru.	
The Welsh Pharmaceutical Committee or Pwyllgor Fferyllol Cymru.”	

## SCHEDULE 5

Section 51

### MINOR AND CONSEQUENTIAL AMENDMENTS 20

#### 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. 25
- 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.” 30
  - (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 – 35
      - (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 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 “is not to be regarded as falling outside the Assembly’s legislative competence by virtue of section 108A(2)(b) or (c)”.
- 6 (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”.
- 7 (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)”
- “reserved matters      Schedule 7A”
- “Wales public authority      section 157A”.
- 8 In section 161 (commencement) omit subsection (7).
- 9 Omit Schedule 6 (referendums on commencement of Assembly Act provisions).
- 10 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)*

- 11 (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 – 5
- “(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.” 10
- 12 (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”. 15
- (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 20
  - (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”).” 25
- (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 – 30
- (a) they are satisfied that –
    - (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.” 35
- (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”. 40
- 13 (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. 5
- (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. 10
- (7C) Before making regulations under subsection (7A)(a), the Welsh Ministers must consult the Natural Resources Body for Wales.” 15
- (5) In subsection (8) –
- (a) in paragraph (a) of the definition of “relevant environmental regulator”, for “England” substitute “the English onshore area”; 20
  - (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) – 25
- (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.” 30
- (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”. 35
- (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 40
  - (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). 45

- (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.”
- 14 In section 7(2)(d) of that Act (ancillary rights) – 5
- (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”.
- 10
- Oil Taxation Act 1975 (c. 22)*
- 15 (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,”.
- 15
- (3) In subsection (1A)(a)(ii) (authorities that can revoke licences), after “Scottish Ministers” insert “, the Welsh Ministers”.
- 20
- 16 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;
- 25
- (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)* 30
- 17 (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). 35
- (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);
- 40
- (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)*

- 18 (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. 5
- (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 – 10
- “(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.” 15

*Capital Allowances Act 2001 (c. 2)*

- 19 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); 20
- (ii) otherwise the Oil and Gas Authority, and”.

*Energy Act 2004 (c. 20)*

- 20 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 – 25
- (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. 30
- (7) Section 192(4) applies in relation to the power of the Welsh Ministers to make regulations under subsection (6) as it applies in relation to an order or regulations made by the Secretary of State or the Treasury. 35
- (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.”, 40
- 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)*

- 21 (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 – 5
- “(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; 10
- (b) otherwise, the OGA.”
- 22 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 – 15
- “(aa) the Welsh Ministers, or”.
- 23 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 – 20
- “(aa) the Welsh Ministers, or”.

*Infrastructure Act 2015 (c. 7)*

- 24 (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) – 25
- (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 – 30
- (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;
- (b) the making of payments in accordance with regulations under subsection (1A).” 35
- (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.” 40

- 
- 25 (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”. 5
- (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 – 10
- “(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; 15
  - (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.” 20
- 26 (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 – 25
- “(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).” 30
- (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)”. 35
- (6) In subsection (7) –
- (a) for “45” substitute “45(1)”;
  - (b) for “46” substitute “46(1)”.
- 27 (1) Section 48 of that Act (interpretation) is amended as follows.
- (2) After subsection (1) insert – 40
- “(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. 5
    - (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.” 10
  - (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;”;15
    - (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;”;20
    - (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.”30
  - (4) Omit subsection (3). 35
- 28 (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”.40
  - (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.”45
  - (4) In subsection (6)(b), after “(4)” insert “or (5A)”.

PART 3

OTHER AMENDMENTS

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

- |    |  |                |
|----|--|----------------|
| 29 | <p>(1) Section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) is amended as follows.</p> <p>(2) After subsection (3ZC) insert –</p> <p>“(3ZCA) In relation to special roads in Wales, that power of the Secretary of State is exercisable only after consultation with the Welsh Ministers.”</p> <p>(3) After subsection (3A) insert –</p> <p>“(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.”</p>   | 5              |
| 30 | <p>(1) Section 65 of that Act (powers of traffic authorities as to placing of traffic signs) is amended as follows.</p> <p>(2) For “national authority”, in each place, substitute “relevant authority”.</p> <p>(3) In subsection (3), after “Secretary of State” insert “or the Welsh Ministers”.</p> <p>(4) In subsection (3ZB), after “with” insert “the Welsh Ministers and”.</p> <p>(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”.</p> <p>(6) After subsection (4) insert –</p> <p>“(5) In this section “relevant authority” means –</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(c) otherwise, means the Secretary of State.”</p> | 10<br>15<br>20 |
| 31 | <p>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”.</p>   |                |
| 32 | <p>(1) Section 81 of that Act (general speed limit for restricted roads) is amended as follows.</p> <p>(2) In subsection (3), after paragraph (a) insert –</p> <p>“(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;”.</p> <p>(3) In subsection (4), after “with” insert “the Welsh Ministers and”.</p>  | 35<br>40       |

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- (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”.
- 33 In section 83 of that Act (provisions as to directions under section 82(2)), after subsection (3) insert – 5
- “(4) The power of the Welsh Ministers to make an order under subsection (1) is exercisable by statutory instrument.”
- 34 (1) Section 85 of that Act (traffic signs for indicating speed restrictions) is amended as follows.
- (2) After subsection (7) insert – 10
- “(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”. 15
- 35 (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.” 20
- (3) After subsection (11) insert –
- “(11A) The power of the Welsh Ministers to make an order under subsection (4) is exercisable by statutory instrument. 25
- (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.”
- 36 (1) Section 134 of that Act (regulations) is amended as follows.
- (2) After subsection (3A) insert – 30
- “(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. 35
- (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. 40

- (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.” 5

*Transport Act 1985 (c. 67)*

- 37 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 – 10
- (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. 15
- (7) The “specified provisions” are –
- (a) section 6(9)(g), (i) and (j);
- (b) section 7(6)(d), (9) and (11);
- (c) section 10(5)(c) and (8).
- (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.” 20
- 38 In section 135 of that Act (procedure for making regulations, rules and orders), after subsection (4) insert – 25
- “(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. 30
- (7) The Welsh Ministers must consult such representative organisations as they think fit before making regulations under any of the specified provisions. 35
- (8) The “specified provisions” are –
- (a) section 6(9)(g), (i) and (j);
- (b) section 7(6)(d), (9) and (11);
- (c) section 10(5)(c) and (8);
- (d) section 13(1).” 40

*Road Traffic Act 1988 (c. 52)*

- 39 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)* 10
- 40 In section 106 of the Electricity Act 1989 (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.” 15
- (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.” 20
- 41 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”. 30
- Marine and Coastal Access Act 2009 (c. 23)*
- 42 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.”

## SCHEDULE 6

Section 52

## 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  | 5  |
|   | (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. | 10 |
|   | (2) A Bill for an Act of the National Assembly for Wales introduced before the principal appointed day falls if the Assembly does not vote before that day agreeing to the general principles of the Bill.  |    |
|   | (3) In this paragraph “the principal appointed day” has the same meaning as in section 53.  | 15 |

*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— | 20 |
|   | (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;   | 25 |
|   | (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;   | 30 |
|   | (f) sections 131 to 143.  |    |
|   | (2) In this paragraph “the principal appointed day” has the same meaning as in section 53.  |    |

*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. | 35 |
|   | (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.  | 40 |

- (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). 5

*Transfer of ministerial 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 before the provision comes into force. 10
- (2) Anything (including legal proceedings) that is in the process of being done by or in relation to a Minister of the Crown 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. 15
- (3) Anything done (or having effect as if done) by or in relation to a Minister of the Crown—
- (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, 20
- 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 28 and 29 or section 45(1); 25
  - (b) applies subject to any provision made by regulations under section 52(2).
- (5) In this paragraph “Minister of the Crown” includes the Treasury.

*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. 30

*Marine licensing in the Welsh zone* 35

- 8 (1) Section 65 (requirement for licence) of the Marine and Coastal Access Act 2009 (“the 2009 Act”) has effect in relation to a devolved offshore activity as if the reference to the appropriate licensing authority included a reference to the Secretary of State and the Marine Management Organisation.
- (2) The amendments made by section 42 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). 40
- (3) For the purposes of sub-paragraph (2), 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.
- (4) The amendments made by section 42 do not apply in relation to the determination of an appeal against –
- (a) a decision under section 71 of the 2009 Act, 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). 5
- (5) Section 72 of the 2009 Act (variation, suspension, revocation and transfer) has effect in relation to a marine licence granted in respect of a devolved offshore activity as if any reference to a licence granted by a licensing authority included a reference to a licence granted by the Secretary of State or the Marine Management Organisation. 10
- (6) In this paragraph –
- “commencement date” means the date on which section 42 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.
- 15
- (7) 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. 20

# Wales Bill

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A

# B I L L

To amend the Government of Wales Act 2006 and make provision about the functions of the Welsh Ministers; and for connected purposes.

*Presented by Secretary Alun Cairns  
supported by Secretary Stephen Crabb,  
Secretary David Mundell,  
Mr Oliver Letwin and Greg Hands.*

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*Ordered, by The House of Commons,  
to be Printed, 7 June 2016.*

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