



# Legislative and Regulatory Reform Act 2006

## 2006 CHAPTER 51

### PART 2

#### REGULATORS

##### *Exercise of regulatory functions*

#### **21 Principles**

- (1) Any person exercising a regulatory function to which this section applies must have regard to the principles in subsection (2) in the exercise of the function.
- (2) Those principles are that—
  - (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
  - (b) regulatory activities should be targeted only at cases in which action is needed.
- (3) The duty in subsection (1) is subject to any other requirement affecting the exercise of the regulatory function.

#### **22 Code of practice**

- (1) A Minister of the Crown may issue and from time to time revise a code of practice in relation to the exercise of regulatory functions.
- (2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.
- (3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

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- (4) The duties in subsections (2) and (3) are subject to any other requirement affecting the exercise of the regulatory function.

**23 Code of practice: procedure**

- (1) Where a Minister of the Crown proposes to issue or revise a code of practice under section 22, he shall prepare a draft of the code (or revised code).
- (2) The Minister shall, in preparing the draft, seek to secure that it is consistent with the principles specified in section 21(2).
- (3) The Minister shall consult the following about the draft—
  - (a) persons appearing to him to be representative of persons exercising regulatory functions;
  - (b) such other persons as he considers appropriate.
- (4) If the Minister determines to proceed with the draft (either in its original form or with modifications) he shall lay the draft before Parliament.
- (5) Where the draft laid before Parliament under subsection (4) is approved by resolution of each House of Parliament, the Minister may issue the code (or revised code).
- (6) A code (or revised code) issued under subsection (5) shall come into force on such date as the Minister may by order made by statutory instrument appoint.

**Subordinate Legislation Made**

P1 S. 23(6) power fully exercised: 6.4.2008 appointed by {S.I. 2007/3548}, art. 2

**24 Functions to which sections 21 and 22 apply**

- (1) Sections 21 and 22 apply to regulatory functions specified under this section.
- (2) A Minister of the Crown may by order in accordance with this section specify regulatory functions as functions to which sections 21 and 22 apply.
- (3) A Minister may not under subsection (2) specify—
  - (a) a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters;
  - (b) a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters; or
  - [<sup>F1</sup>(c) a Welsh regulatory function.]
- (4) [<sup>F2</sup>The Welsh Ministers] may by order in accordance with this section specify [<sup>F3</sup>Welsh regulatory functions] as functions to which sections 21 and 22 apply.
- <sup>F4</sup>(5) .....
- (6) Before making an order under this section, the authority making the order must consult the following—
  - (a) any person (other than the authority) whose functions are to be specified in the order;
  - (b) such other persons as the authority considers appropriate.

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- (7) An order under this section may make such consequential, supplementary, incidental, or transitional provision (including provision amending any enactment) as the authority making it considers appropriate; and may make different provision for different purposes.
- (8) An order under this section must be made by statutory instrument.
- (9) A Minister of the Crown may not make a statutory instrument containing an order under this section unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- [<sup>F5</sup>(9A) The Welsh Ministers may not make a statutory instrument containing an order under this section unless a draft has been laid before, and approved by resolution of, the Assembly.]
- (10) In this section—
- “reserved matter” and “Scotland” have the same meanings as in the Scotland Act 1998 (c. 46);
- “transferred matter” and “Northern Ireland” have the same meanings as in the Northern Ireland Act 1998 (c. 47);
- “Wales” has the same meaning as in the [<sup>F6</sup>Government of Wales Act 2006].
- <sup>F7</sup> ...
- [<sup>F8</sup>(11) For the purposes of this section a regulatory function is a “Welsh regulatory function” if or to the extent that it is exercisable in relation to Wales and is a function which—
- (a) could be conferred by provision falling within the legislative competence of the National Assembly for Wales (see section 108A of the Government of Wales Act 2006), or
- (b) relates to matters in respect of which functions are exercisable by the Welsh Ministers.]

### Textual Amendments

- F1** S. 24(3)(c) substituted (1.10.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 17(a)**, 44(5); S.I. 2016/695, art. 3(a)
- F2** Words in s. 24(4) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2), 3, **Sch. 1 para. 148(a)**(the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\)](#) of [Government of Wales Act 2006 \(c. 32\)](#))
- F3** Words in s. 24(4) substituted (1.10.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 17(b)**, 44(5); S.I. 2016/695, art. 3(a)
- F4** S. 24(5) omitted (4.7.2016) by virtue of [Enterprise Act 2016 \(c. 12\)](#), **ss. 18**, 44(2)(b)
- F5** S. 24(9A) inserted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2), 3, **Sch. 1 para. 148(b)**(the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\)](#) of [Government of Wales Act 2006 \(c. 32\)](#))
- F6** Words in s. 24(10) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2), 3, **Sch. 1 para. 148(c)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the

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**F7** Words in s. 24(10) omitted (1.4.2018) by virtue of Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 66(2)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

**F8** S. 24(11) inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 66(3)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

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**Modifications etc. (not altering text)**

**C1** S. 24(6) excluded (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 3(2)**, 324; S.I. 2009/3345, **art. 2**, Sch. para. 1

**C2** S. 24(6) excluded (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 3(2)**, 324(3); S.I. 2009/3345, **art. 2**, Sch. para. 1

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23A inserted by [2016 c. 12 s. 15](#)