



# Government of Wales Act 1998

## 1998 CHAPTER 38

### PART I

#### THE NATIONAL ASSEMBLY FOR WALES

##### *The Assembly*

#### **1 The Assembly**

- (1) There shall be an Assembly for Wales to be known as the National Assembly for Wales or Cynulliad Cenedlaethol Cymru (but referred to in this Act as the Assembly).
- (2) The Assembly shall be a body corporate.
- (3) The exercise by the Assembly of its functions is to be regarded as done on behalf of the Crown.

#### **2 Membership**

- (1) The Assembly shall consist of—
  - (a) one member for each Assembly constituency, and
  - (b) members for each Assembly electoral region.
- (2) The Assembly constituencies and Assembly electoral regions, and the number of Assembly seats for each Assembly electoral region, shall be as provided for by or in accordance with Schedule 1.
- (3) Members of the Assembly (referred to in this Act as Assembly members) shall be returned in accordance with the provision made by and under this Act for—
  - (a) the holding of ordinary elections of Assembly members, and
  - (b) the filling of vacancies in Assembly seats.
- (4) An ordinary election involves the holding of elections for the return of the entire Assembly.

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- (5) The term of office of an Assembly member—
  - (a) begins when he is declared to be returned as an Assembly member, and
  - (b) continues until the end of the day before the day of the poll at the next ordinary election.
- (6) But an Assembly member may at any time resign his seat by giving notice to—
  - (a) the presiding officer, or
  - (b) any person authorised by the standing orders of the Assembly to receive the notice.
- (7) The validity of anything done by the Assembly is not affected by any vacancy in its membership.

### *Ordinary elections*

## **3 Time of ordinary elections**

- (1) The poll at the first ordinary election shall be held on a day appointed by order made by the Secretary of State.
- (2) The poll at each subsequent ordinary election shall be held on the first Thursday in May in the fourth calendar year following that in which the previous ordinary election was held.
- (3) But the Secretary of State may by order require the poll at such an ordinary election to be held on a day which is neither—
  - (a) more than one month earlier, nor
  - (b) more than one month later,than the first Thursday in May.
- (4) Where the poll at an ordinary election would be held on the same day as polls at ordinary elections of community councillors, the Secretary of State may by order provide for the polls at ordinary elections of community councillors to be postponed, for not more than three months, to a day specified in the order.
- (5) An order under subsection (4) may make provision for—
  - (a) any provision of, or made under, the Representation of the People Acts, or
  - (b) any other enactment relating to elections of community councillors,to have effect with such modifications or exceptions as the Secretary of State considers appropriate in connection with the postponement of polls for which it provides.
- (6) No order shall be made under subsection (3), and no order in connection with an ordinary election subsequent to the first shall be made under subsection (4), unless the Secretary of State has consulted the Assembly.

## **4 Voting at ordinary elections**

- (1) Each person entitled to vote at an ordinary election in an Assembly constituency shall have two votes.
- (2) One (referred to in this Act as a constituency vote) is to be given for a candidate to be the Assembly member for the Assembly constituency.

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- (3) The other (referred to in this Act as an electoral region vote) is to be given for—
  - (a) a registered political party which has submitted a list of candidates to be Assembly members for the Assembly electoral region in which the Assembly constituency is included, or
  - (b) an individual who is a candidate to be an Assembly member for that Assembly electoral region.
- (4) The Assembly member for the Assembly constituency shall be returned under the simple majority system.
- (5) The Assembly members for the Assembly electoral region shall be returned under the additional member system of proportional representation in accordance with sections 5 to 7.
- (6) The person who is to be returned as the Assembly member for each Assembly constituency in the Assembly electoral region must be determined before it is determined who are to be returned as the Assembly members for that Assembly electoral region.
- (7) At an ordinary election a person may not be a candidate to be the Assembly member for more than one Assembly constituency.
- (8) In this Act “registered political party” means a party registered under any enactment providing for the registration of political parties.

## **5 Party lists and individual candidates**

- (1) Any registered political party may submit a list of candidates to be Assembly members for the Assembly electoral region.
- (2) The list is to be submitted to the regional returning officer.
- (3) The list has effect in relation to—
  - (a) the ordinary election, and
  - (b) any vacancies in seats of Assembly members returned for Assembly electoral regions which occur after that election and before the next ordinary election.
- (4) The list must not include more than twelve persons (but may include only one).
- (5) The list must not include a person—
  - (a) who is included on any other list submitted for the Assembly electoral region or any list submitted for another Assembly electoral region,
  - (b) who is an individual candidate to be an Assembly member for the Assembly electoral region or another Assembly electoral region,
  - (c) who is a candidate to be the Assembly member for an Assembly constituency which is not included in the Assembly electoral region, or
  - (d) who is a candidate to be the Assembly member for an Assembly constituency included in the Assembly electoral region but is not a candidate of the party.
- (6) A person may not be an individual candidate to be an Assembly member for the Assembly electoral region if he is—
  - (a) included on a list submitted by a registered political party for the Assembly electoral region or another Assembly electoral region,

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- (b) an individual candidate to be an Assembly member for another Assembly electoral region,
- (c) a candidate to be the Assembly member for an Assembly constituency which is not included in the Assembly electoral region, or
- (d) a candidate of any registered political party to be the Assembly member for an Assembly constituency included in the Assembly electoral region.

## **6 Calculation of electoral region figures**

- (1) For each registered political party by which a list of candidates has been submitted for the Assembly electoral region—
  - (a) there shall be added together the number of electoral region votes given for the party in the Assembly constituencies included in the Assembly electoral region, and
  - (b) the number arrived at under paragraph (a) shall then be divided by the aggregate of one and the number of candidates of the party returned as Assembly members for any of those Assembly constituencies.
- (2) For each individual candidate to be an Assembly member for the Assembly electoral region there shall be added together the number of electoral region votes given for him in the Assembly constituencies included in the Assembly electoral region.
- (3) The number arrived at—
  - (a) in the case of a registered political party, under subsection (1)(b), or
  - (b) in the case of an individual candidate, under subsection (2),is referred to in this Act as the electoral region figure for that party or individual candidate.

## **7 Return of electoral region members**

- (1) The first seat for the Assembly electoral region shall be allocated to the party or individual candidate with the highest electoral region figure.
- (2) The second and subsequent seats for the Assembly electoral region shall be allocated to the party or individual candidate with the highest electoral region figure after any recalculation required by subsection (3) has been carried out.
- (3) This subsection requires a recalculation under section 6(1)(b) in relation to a party—
  - (a) for the first application of subsection (2), if the application of subsection (1) resulted in the allocation of a seat to the party, or
  - (b) for any subsequent application of subsection (2), if the previous application of that subsection did so;and a recalculation shall be carried out after adding one to the aggregate mentioned in section 6(1)(b).
- (4) An individual candidate already returned as an Assembly member shall be disregarded.
- (5) Seats for the Assembly electoral region which are allocated to a party shall be filled by the persons on the party's list in the order in which they appear on the list.

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- (6) Once a party's list has been exhausted (by the return of persons included on it as Assembly members for Assembly constituencies or by the previous application of subsection (1) or (2)) the party shall be disregarded.
- (7) If (on the application of subsection (1) or any application of subsection (2)) the highest electoral region figure is the electoral region figure of two or more parties or individual candidates, the subsection shall apply to each of them.
- (8) However, where subsection (7) would mean that more than the full number of seats for the Assembly electoral region were allocated, subsection (1) or (2) shall not apply until—
  - (a) a recalculation has been carried out under section 6(1)(b) after adding one to the number of votes given for each party with that electoral region figure, and
  - (b) one has been added to the number of votes given for each individual candidate with that electoral region figure.
- (9) If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the regional returning officer shall decide between them by lots.
- (10) For the purposes of subsection (5) and section 9 a person included on a list submitted by a registered political party who is returned as an Assembly member shall be treated as ceasing to be on the list (even if his return is void).

### *Vacancies*

## **8 Constituency seats**

- (1) This section applies where the seat of an Assembly member returned for an Assembly constituency is vacant.
- (2) Subject to subsection (6), an election shall be held in the Assembly constituency to fill the vacancy.
- (3) At the election to fill the vacancy, each person entitled to vote at the election shall have only a constituency vote; and the Assembly member for the Assembly constituency shall be returned under the simple majority system.
- (4) The date of the poll at the election shall be fixed by the presiding officer in accordance with subsection (5).
- (5) The date fixed shall be not later than three months after the occurrence of the vacancy, except that if the vacancy does not come to the presiding officer's notice within one month of its occurrence the date fixed shall be not later than three months after the vacancy comes to his notice.
- (6) An election shall not be held if it appears to the presiding officer that the latest date which may be fixed for the poll would fall within the period of three months preceding an ordinary election.
- (7) A person may not be a candidate in an election to fill a vacancy if he is an Assembly member or a candidate in another such election.
- (8) For the purposes of this section a vacancy shall be taken to have occurred on such date as may be determined under the standing orders of the Assembly.

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- (9) References in this section and section 9 to the presiding officer include references to any person for the time being performing the functions of presiding officer.

## **9 Electoral region seats**

- (1) This section applies where the seat of an Assembly member returned for an Assembly electoral region is vacant.
- (2) If the Assembly member was returned (under section 7 or this section) from the list of a registered political party, the regional returning officer shall notify to the presiding officer the name of the person who is to fill the vacancy.
- (3) A person's name may only be so notified if he—
- (a) is included on that list,
  - (b) is willing to serve as an Assembly member for the Assembly electoral region, and
  - (c) is not a person to whom subsection (4) applies.
- (4) This subsection applies to a person if—
- (a) he is not a member of the party, and
  - (b) the party gives notice to the regional returning officer that his name is not to be notified to the presiding officer as the name of the person who is to fill the vacancy.
- (5) But where there is more than one person who satisfies the conditions in subsection (3), the regional returning officer may only notify the name of whichever of them was the higher, or highest, on that list.
- (6) A person whose name is notified under subsection (2) shall be treated as declared to be returned as an Assembly member for the Assembly electoral region on the day on which notification of his name is received by the presiding officer.
- (7) If—
- (a) the Assembly member whose seat is vacant was returned as an individual candidate, or
  - (b) he was returned from the list of a registered political party but there is no-one who satisfies the conditions in subsection (3),
- the seat shall remain vacant until the next ordinary election.

### *The franchise and conduct of elections*

## **10 Entitlement to vote**

- (1) The persons entitled to vote at an election of Assembly members (or of an Assembly member) in an Assembly constituency are those who on the day of the poll—
- (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the Assembly constituency, and
  - (b) are registered in the register of local government electors at an address within the Assembly constituency.
- (2) But a person is not entitled as an elector—

- (a) to cast more than one constituency vote, or more than one electoral region vote, in the same Assembly constituency at any ordinary election,
- (b) to vote in more than one Assembly constituency at any ordinary election, or
- (c) to cast more than one vote in an election held under section 8.

## **11 Power to make provision about elections etc**

- (1) The Secretary of State may by order make provision as to—
  - (a) the conduct of elections for the return of Assembly members,
  - (b) the questioning of an election for the return of Assembly members and the consequences of irregularities, and
  - (c) the return of an Assembly member otherwise than at an election.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
  - (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 registered political parties (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls at elections for the return of Assembly members and other elections, and
  - (e) for modifying the operation of section 4 in a case where the poll at an election for the return of the Assembly member for an Assembly constituency is abandoned (or notice of it is countermanded).
- (3) An order under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or the European Parliamentary Elections Act 1978 or any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections,
  - (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 for the return of Assembly members, and
  - (c) so far as may be necessary in consequence of any provision made by this Act or an order under this section, amend any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (4) An order under this section may require sums to be paid by the Assembly.
- (5) No return of an Assembly member at an election shall be questioned except by an election petition under the provisions of Part III of the Representation of the People Act 1983 as applied by or incorporated in an order under this section.
- (6) In this Act “regional returning officer”, in relation to any Assembly electoral region, means the person designated as the regional returning officer for the Assembly electoral region in accordance with an order under this section.

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## *Disqualification*

### **12 Disqualification from being Assembly member**

- (1) A person is disqualified from being an Assembly member if—
  - (a) he is disqualified from being a member of the House of Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures),
  - (b) he holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,
  - (c) he holds the office of Auditor General for Wales or the office of Welsh Administration Ombudsman, or
  - (d) he is disqualified from being a member of a local authority under section 17(2) (b) or 18(7) of the Audit Commission Act 1998 (members of local authorities who are responsible for incurring or authorising unlawful expenditure or whose wilful misconduct has caused a loss or deficiency).
- (2) Subject to section 13(1) and (2), a person is also disqualified from being an Assembly member if he is disqualified otherwise than under the House of Commons Disqualification Act 1975 (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it.
- (3) For the purposes of subsection (2) the references to the Republic of Ireland in section 1 of the Representation of the People Act 1981 (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland) shall be treated as references to any member State (other than the United Kingdom).
- (4) A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area.
- (5) An Order in Council under paragraph (b) of subsection (1) may designate particular offices or offices of any description and may designate an office by reference to any characteristic of a person holding it; and in that paragraph and this subsection “office” includes any post or employment.
- (6) No recommendation shall be made to Her Majesty in Council to make an Order in Council under subsection (1)(b) 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.
- (7) But subsection (6) does not apply in the case of an Order in Council varying or revoking a previous Order in Council if the Assembly has resolved that the Secretary of State be requested to recommend the making of the Order in Council.

### **13 Exceptions and relief from disqualification**

- (1) A person is not disqualified from being an Assembly member merely because—
  - (a) he is a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
  - (b) he has been ordained or is a minister of any religious denomination.



- (2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being an Assembly member merely because of section 3 of the Act of Settlement (disqualification of persons born outside the United Kingdom other than Commonwealth citizens and citizens of the Republic of Ireland).
- (3) Where a person was, or is alleged to have been, disqualified from being an Assembly member on a ground within section 12(1)(a), (b) or (c) or (4), the Assembly may resolve that any disqualification incurred by that person on that ground is to be disregarded if it appears to the Assembly—
  - (a) that that ground has been removed, and
  - (b) that it is proper so to resolve.
- (4) A resolution under subsection (3) shall not—
  - (a) affect any proceedings under Part III of the Representation of the People Act 1983 as applied by or incorporated in an order under section 11, or
  - (b) enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 15.

#### **14 Effect of disqualification**

- (1) If a person who is disqualified from being an Assembly member, or from being an Assembly member for a particular Assembly constituency or Assembly electoral region, is returned as an Assembly member or as an Assembly member for that Assembly constituency or Assembly electoral region, his return shall be void and his seat vacant.
- (2) If an Assembly member becomes disqualified from being an Assembly member or from being an Assembly member for the Assembly constituency or Assembly electoral region for which he is sitting, he shall cease to be an Assembly member (so that his seat is vacant).
- (3) Subsections (1) and (2) have effect subject to any resolution of the Assembly under section 13(3).
- (4) Subsection (2) also has effect subject to section 141 of the Mental Health Act 1983 (mental illness) and section 427 of the Insolvency Act 1986 (bankruptcy etc.); and where, in consequence of either of those sections, the seat of a disqualified Assembly member is not vacant he shall not cease to be an Assembly member until his seat becomes vacant but—
  - (a) he shall not participate in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee), and
  - (b) any of his other rights and privileges as an Assembly member may be withdrawn by the Assembly.
- (5) The validity of anything done by the Assembly is not affected by the disqualification of any person from being an Assembly member or from being an Assembly member for the Assembly constituency or Assembly electoral region for which he purports to sit.

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## **15 Judicial proceedings as to disqualification**

- (1) Any person who claims that a person purporting to be an Assembly member is, or at any time since being returned as an Assembly member has been, disqualified from being—
  - (a) an Assembly member, or
  - (b) an Assembly member for the Assembly constituency or Assembly electoral region for which he purports to sit,may apply to the High Court for a declaration to that effect.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when he was returned or to have arisen subsequently.
- (3) No declaration shall be made under this section in respect of any person—
  - (a) on grounds which subsisted when he was returned, if an election petition is pending or has been tried in which his disqualification on those grounds is or was in issue, or
  - (b) on any ground, if a resolution under section 13(3) requires that any disqualification incurred by him on that ground is to be disregarded.
- (4) On an application under this section—
  - (a) the person in respect of whom the application is made shall be the respondent, and
  - (b) the applicant shall give such security for the costs of the proceedings as the court may direct.
- (5) The amount of the security shall not exceed £5,000 or such other sum as the Secretary of State may by order specify.
- (6) The decision of the court on an application under this section shall be final.

*Remuneration, oaths etc.*

## **16 Salaries and allowances**

- (1) The Assembly shall pay to Assembly members salaries at such levels—
  - (a) as the Assembly from time to time determines, or
  - (b) before the first determination, as the Secretary of State directs.
- (2) The Assembly may pay to Assembly members allowances at such levels—
  - (a) as the Assembly may from time to time determine, or
  - (b) before the first determination, as the Secretary of State may direct.
- (3) A determination or direction under this section may provide—
  - (a) for higher levels of salaries to be payable to Assembly members holding any of the offices specified in Part III of this Act or in the standing orders of the Assembly, and
  - (b) for different salaries to be payable to Assembly members holding different such offices.
- (4) A determination or direction under this section may provide for different allowances for different cases.

- (5) A determination under this section may provide for levels of salaries or allowances to change from time to time by reference to a specified formula.
- (6) The Assembly may not delegate the function of making a determination under this section.
- (7) A determination under this section shall not be made unless a motion to approve it is passed by the Assembly on a vote in which at least two-thirds of the Assembly members voting support the motion.
- (8) The standing orders of the Assembly must include provision for the publication of every determination under this section; and the Secretary of State shall publish any direction under this section as soon as is reasonably practicable after it is given.

## **17 Limit on salaries of members of other public bodies**

- (1) The Secretary of State may by order make provision such as is specified in subsection (3) in relation to any Assembly members to whom relevant remuneration is payable—
  - (a) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House,
  - (b) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (remuneration of United Kingdom MEPs), or
  - (c) in respect of their membership of any other public body (whether elected or appointed) which is specified in the order.
- (2) In this section “relevant remuneration” means—
  - (a) a salary, or
  - (b) any allowance of a description specified by order made by the Secretary of State.
- (3) The provision referred to in subsection (1) is provision that the amount of the salary payable to an Assembly member under section 16—
  - (a) shall be reduced to a specified proportion of what it otherwise would be or to a specified amount, or
  - (b) shall be reduced by the amount of the relevant remuneration payable to him as mentioned in subsection (1), by a specified proportion of that amount or by some other specified amount.
- (4) An order under subsection (1) may make different provision in relation to Assembly members—
  - (a) to whom (apart from the order) different amounts of salary would be payable under section 16, or
  - (b) to whom different amounts of relevant remuneration are payable as mentioned in subsection (1).
- (5) Such an order may include provision that it (or a specified part of it) is not to apply to a specified Assembly member or description of Assembly members—
  - (a) either indefinitely or for a specified period, and
  - (b) either unconditionally or subject to the fulfilment of specified conditions.

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## **18 Pensions etc**

- (1) The Assembly may make such provision for the payment of pensions, allowances and gratuities to or in respect of persons who have ceased to be Assembly members—
  - (a) as the Assembly may from time to time determine, or
  - (b) before the first determination, as the Secretary of State may direct.
- (2) The provision which may be made under this section includes, in particular, provision for—
  - (a) the making of payments towards the provision of superannuation benefits, and
  - (b) establishing and administering one or more schemes for the provision of such benefits.
- (3) Different provision may be made under this section for different cases.
- (4) The Assembly may not delegate the function of making a determination under this section.
- (5) A determination under this section shall not be made unless a motion to approve it is passed by the Assembly on a vote in which at least two-thirds of the Assembly members voting support the motion.
- (6) The standing orders of the Assembly must include provision for the publication of every determination under this section; and the Secretary of State shall publish any direction under this section as soon as is reasonably practicable after it is given.
- (7) A determination or direction under this section shall not affect pensions or allowances in payment before the determination was made or the direction was given.

## **19 Publication of information about remuneration paid**

The standing orders of the Assembly must contain provision for the publication of information relating to sums paid under sections 16 and 18 for each financial year.

## **20 Oath or affirmation of allegiance**

- (1) An Assembly member shall take the oath of allegiance set out in section 2 of the Promissory Oaths Act 1868 (or make the corresponding affirmation) as soon as may be after he is returned as an Assembly member (whether for the first time or subsequently).
- (2) The oath shall be taken (or the affirmation made) before a person appointed by the Assembly (or, until the first appointment is made by the Assembly, before a person appointed by the Secretary of State).
- (3) Until an Assembly member has taken the oath (or made the affirmation) he shall not do anything as an Assembly member (other than take part in proceedings of the Assembly at which Assembly members take the oath or make the affirmation, or any earlier proceedings for the election of the presiding officer or deputy presiding officer).
- (4) If an Assembly member has not taken the oath (or made the affirmation) within—
  - (a) the period of two months beginning with the day on which he was declared to be returned as an Assembly member, or
  - (b) such longer period as the Assembly may have allowed before the end of that period of two months,

he shall at the end of that period of two months or longer period cease to be an Assembly member (so that his seat is vacant).

- (5) No salary, allowance, gratuity or payment towards the provision of superannuation benefits shall be paid under this Act to or in respect of an Assembly member until he has taken the oath (or made the affirmation); but this subsection does not affect any entitlement to payments in respect of the period before he took the oath (or made the affirmation) once he has done so.

## PART II

### ASSEMBLY FUNCTIONS

#### *Introduction*

#### **21** **Introductory**

The Assembly shall have the functions which are—

- (a) transferred to, or made exercisable by, the Assembly by virtue of this Act, or
- (b) conferred or imposed on the Assembly by or under this Act or any other Act.

#### *Transfer of Ministerial functions to Assembly*

#### **22** **Transfer of Ministerial functions**

- (1) Her Majesty may by Order in Council—
- (a) provide for the transfer to the Assembly of any function so far as exercisable by a Minister of the Crown in relation to Wales,
  - (b) direct that any function so far as so exercisable shall be exercisable by the Assembly concurrently with the Minister of the Crown, or
  - (c) direct that any function so far as exercisable by a Minister of the Crown in relation to Wales shall be exercisable by the Minister only with the agreement of, or after consultation with, the Assembly.
- (2) The Secretary of State shall, before the first ordinary election, lay before each House of Parliament the draft of an Order in Council under this section making provision for the transfer of such functions in each of the fields specified in Schedule 2 as the Secretary of State considers appropriate.
- (3) An Order in Council under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (4) No recommendation shall be made to Her Majesty in Council to make an Order in Council under this section—
- (a) 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

- (b) in the case of an Order in Council varying or revoking a previous Order in Council, unless such a draft has also been laid before, and approved by a resolution of, the Assembly.
- (5) Schedule 3 (which makes further provision about the transfer etc. of functions by Order in Council under this section) has effect.

### **23 General transfer of property, rights and liabilities etc**

- (1) There shall be transferred to and vest in the Assembly by virtue of this subsection all property, rights and liabilities to which a Minister of the Crown is entitled or subject, at the coming into force of an Order in Council under section 22, in connection with any function exercisable by the Minister which is transferred by the Order in Council.
- (2) There may be continued by or in relation to the Assembly anything (including legal proceedings) which relates to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 22, or
  - (b) any property, rights or liabilities transferred by subsection (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in the process of being done by or in relation to the Minister immediately before the coming into force of the Order in Council.
- (3) Anything which was done by a Minister of the Crown for the purpose of or in connection with—
- (a) any function exercisable by the Minister which is transferred by an Order in Council under section 22, or
  - (b) any property, rights or liabilities transferred by subsection (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in effect immediately before the coming into force of the Order in Council shall have effect as if done by the Assembly.
- (4) The Assembly shall be substituted for any Minister of the Crown in any instruments, contracts or legal proceedings which relate to—
- (a) any function exercisable by the Minister which is transferred by an Order in Council under section 22, or
  - (b) any property, rights or liabilities transferred by subsection (1) as the result of the transfer of any such function by such an Order in Council,
- and which are made or commenced before the coming into force of the Order in Council.

### **24 General transfer: supplementary**

- (1) An Order in Council under section 22 may provide that all or any of the provisions of section 23—
- (a) shall not apply in relation to the transfer of functions by the Order in Council or to the property, rights and liabilities connected with the functions,
  - (b) shall apply only in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council, or

- (c) shall not apply in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council.
- (2) Section 23 does not apply to rights or liabilities relating to the employment of persons in Crown employment (as defined in section 191(3) of the Employment Rights Act 1996).

## **25 Power to make specific transfers etc**

- (1) The Secretary of State may by order make provision for the transfer to the Assembly of—
  - (a) any specified property, rights or liabilities, or
  - (b) property, rights or liabilities of any specified description, to which a Minister of the Crown is entitled or subject.
- (2) An order under subsection (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under subsection (1) may provide—
  - (a) for the creation in favour of a Minister of the Crown of interests in, or rights over, property transferred to the Assembly,
  - (b) for the creation in favour of the Assembly of interests in, or rights over, property retained by a Minister of the Crown, or
  - (c) for the creation of new rights and liabilities between the Assembly and a Minister of the Crown.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Assembly of—
  - (a) any specified thing, or
  - (b) anything of a specified description, commenced by or in relation to a Minister of the Crown.
- (5) The Secretary of State may by order make provision for—
  - (a) any specified thing, or
  - (b) anything of a specified description, done by a Minister of the Crown to have effect as if done by the Assembly.
- (6) The Secretary of State may by order make provision for the substitution of the Assembly for any Minister of the Crown in—
  - (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this section may be made in consequence of the making of an Order in Council under section 22 or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) An order under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings.

**26 Transfers of property: supplementary**

- (1) A certificate issued by the Secretary of State that any property has been transferred by—
- (a) section 23, or
  - (b) an order under section 25,
- shall be conclusive evidence of the transfer.
- (2) Section 23 and an order under section 25 shall have effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that section or such an order.

*Other functions***27 Reform of Welsh health authorities**

- (1) The Assembly may by order make provision for the transfer to the Assembly of any or all of the functions of a Welsh health authority.
- (2) In this section “Welsh health authority” means—
- (a) a Health Authority for an area in, or consisting of, Wales, or
  - (b) a Special Health Authority performing functions in respect only of Wales.
- (3) An order under subsection (1) relating to a Health Authority may provide for the transfer of any or all of the functions of the authority with respect to the whole, or any part, of the area for which the authority act.
- (4) If such an order provides for the transfer of all of the authority’s functions with respect to a part of that area, it shall also include provision—
- (a) specifying the rest of that area as the new area for which the authority are to act, and
  - (b) specifying as the name by which the authority shall be known (in addition to the title “Health Authority”) such name as appears to the Assembly appropriately to signify the connection of the authority with the new area.
- (5) Where an order under subsection (1) transfers—
- (a) all of the functions of a Health Authority with respect to the whole of the area for which the authority act, or
  - (b) all of the functions of a Special Health Authority,
- the Assembly may by order make provision for the abolition of the authority.
- (6) Subsection (7) applies where—
- (a) a Health Authority which act for an area are abolished by an order under subsection (5), or
  - (b) an order under subsection (1) relating to a Health Authority provides for the transfer of all of the functions of the authority with respect to a part of the area for which the authority act.
- (7) Where this subsection applies—
- (a) the duty imposed by section 8(1) and (5)(a) of the National Health Service Act 1977 (duty to establish Health Authorities covering whole of England and



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

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Wales) no longer requires there to be a Health Authority for the area mentioned in paragraph (a) of subsection (6), or the part mentioned in paragraph (b) of that subsection, but

- (b) the duty imposed by section 20 of that Act (duty to establish community health councils covering the areas of all Health Authorities) includes a duty to establish one or more community health councils covering that area or part (whether or not together with the area, or part of the area, for which any Health Authority act).
- (8) An order under subsection (1) or (5) relating to a Welsh health authority may include provision for the transfer of staff of the authority and of any property, rights and liabilities to which the authority are entitled or subject.
- (9) An order under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (10) Nothing in this section limits any power conferred by the National Health Service Act 1977.

## **28 Reform of other Welsh public bodies**

- (1) The Assembly may by order make, in relation to any one or more of the statutory functions of a body specified in Part I or II of Schedule 4, provision for the transfer of the function or functions—
- (a) to a body specified in Part I or III of that Schedule,
  - (b) to a body specified in Part II or IV of that Schedule if that body consents to the transfer to it of the function or functions,
  - (c) to a county council, county borough council or community council in Wales (or to more than one such council), or
  - (d) to the Assembly.
- (2) Where the Assembly considers that, if a statutory function of a body specified in Part I or II of Schedule 4 were transferred to a body within any of paragraphs (a) to (d) of subsection (1) by an order under that subsection, that body—
- (a) would not be able to exercise the function because the function requires or permits something to be done in relation to that body, or
  - (b) could by exercising another of its functions do what the function would require or permit that body to do,
- the Assembly may by order make provision for the abolition of the function.
- (3) Where each of the statutory functions of a body specified in Part I or II of Schedule 4 is transferred or abolished by an order under subsection (1) or (2), the Assembly may by order make provision—
- (a) for the abolition of the body if it is a body specified in Part I of that Schedule, or
  - (b) for the abolition of the duty to recognise the body if it is a body specified in Part II of that Schedule.
- (4) An order under subsection (1), (2) or (3)(a) making provision in relation to a body specified in Part I of Schedule 4 may include provision for the transfer of staff of the body and of any property, rights and liabilities to which the body is entitled or subject and may in particular—

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- (a) provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order,
  - (b) provide for the creation of interests in, or rights over, property transferred or retained or for the creation of new rights and liabilities between the body and the transferee,
  - (c) provide for the order to have effect in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order, or
  - (d) make provision about property situated outside the United Kingdom or rights and liabilities arising otherwise than under the law of England and Wales.
- (5) Where by an order under subsection (1) or (2)—
- (a) any function of a body specified in Part I of Schedule 4 is transferred or abolished, or
  - (b) any function is transferred to a body specified in Part I or III of that Schedule, the Assembly may by order make provision altering the membership of the body.
- (6) An order under subsection (3)(a) making provision for the abolition of a body may include provision for the abolition of any duty in compliance with which it was established or constituted.
- (7) An order under this section may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (8) In this section “statutory functions” means functions conferred or imposed by an enactment (including an enactment which is contained in an Act passed after this Act or is made after the passing of this Act).

## **29 Implementation of Community law**

- (1) The power to designate a Minister of the Crown or government department under section 2(2) of the European Communities Act 1972 may be exercised to designate the Assembly.
- (2) Accordingly, the Assembly may exercise the power to make regulations conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if the Assembly has been designated in relation to that matter or for that purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council designating the Assembly.
- (3) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 (Parliamentary procedure) shall not apply to a statutory instrument containing regulations made by the Assembly unless the statutory instrument contains regulations—
- (a) made by a Minister of the Crown or government department (whether or not jointly with the Assembly),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).

- (4) The power conferred by section 56 of the Finance Act 1973 (services provided in pursuance of a Community obligation etc.) on the Minister in charge of a government department to make (with the consent of the Treasury) regulations prescribing, or providing for the determination of, fees and charges in respect of things done by the department may be exercised by the Assembly (with the consent of the Treasury) for prescribing, or providing for the determination of, fees and charges in respect of corresponding things done by the Assembly.
- (5) Section 56(4) of the Finance Act 1973 shall not cause a statutory instrument containing regulations made by the Assembly to be subject to annulment in pursuance of a resolution of either House of Parliament unless the statutory instrument contains regulations—
- (a) made by a Minister of the Crown (whether or not jointly with the Assembly),
  - (b) relating to an English border area, or
  - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).

### **30 Consultation about public appointments**

- (1) Her Majesty may by Order in Council make provision requiring any Minister of the Crown or other person to consult the Assembly before—
- (a) appointing a person to a specified public post,
  - (b) recommending, consenting to or approving the appointment of a person to a specified public post,
  - (c) nominating a person for appointment to a specified public post, or
  - (d) selecting persons with a view to the appointment of one or more of them to a specified public post (whether or not by the person subject to the requirement).
- (2) In subsection (1) “a specified public post” means—
- (a) a public office specified, or of a description specified, in the Order in Council, or
  - (b) membership, or membership of a description so specified, of a public body so specified or of a description so specified.
- (3) An Order in Council under this section may not specify any public office or body, or public offices or bodies of any description, unless the office or body exercises, or all offices or bodies of the description exercise, functions in or in relation to Wales or a part of Wales (whether or not they also exercise functions in or in relation to any other area).
- (4) An Order in Council under this section may impose a requirement on a person even where—
- (a) he is required to consult, or obtain the consent or approval of, another person before acting, or
  - (b) he is required to act at the request of another person or after a recommendation, nomination or selection has been made by another person.
- (5) A requirement imposed by an Order in Council under this section need not be complied with in relation to an appointment if—
- (a) it is not reasonably practicable to comply with it because of the urgency of making the appointment, or

- (b) the appointment is a temporary one.
- (6) Where a person is appointed to an office or membership of a body, any failure to comply with a requirement imposed by an Order in Council under this section in relation to the appointment does not affect the validity of anything done by or in relation to him as the holder of the office, or by or in relation to the body while he is a member of it.
- (7) An Order in Council under this section may contain any appropriate consequential, incidental, transitional or supplementary provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (8) No recommendation shall be made to Her Majesty in Council to make an Order in Council under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act 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.
- (9) A statutory instrument containing an Order in Council under this section shall (unless a draft of it has been approved by a resolution of each House of Parliament) be subject to annulment in pursuance of a resolution of either House of Parliament.

### **31 Consultation about government’s legislative programme**

- (1) As soon as is reasonably practicable after the beginning of each session of Parliament, the Secretary of State for Wales shall undertake with the Assembly such consultation about the government’s legislative programme for the session as appears to him to be appropriate but including attending and participating in proceedings of the Assembly relating to the programme on at least one occasion.
- (2) For this purpose the government’s legislative programme for a session of Parliament consists of the bills which (at the beginning of the session) are intended to be introduced into either House of Parliament during the session by a Minister of the Crown.
- (3) If at any time after the beginning of a session of Parliament—
  - (a) it is decided that a bill should be introduced into either House of Parliament during the session by a Minister of the Crown, and
  - (b) no consultation about the bill has been undertaken under subsection (1),the Secretary of State for Wales shall undertake with the Assembly such consultation about the bill as appears to him to be appropriate.
- (4) This section does not require the Secretary of State for Wales to undertake consultation with the Assembly about a bill if he considers that there are considerations relating to the bill which make it inappropriate for him to do so.

### **32 Support of culture etc**

The Assembly may do anything it considers appropriate to support—

- (a) museums, art galleries or libraries in Wales,
- (b) buildings of historical or architectural interest, or other places of historical interest, in Wales,
- (c) the Welsh language, or

(d) the arts, crafts, sport or other cultural or recreational activities in Wales.

### **33 Consideration of matters affecting Wales**

The Assembly may consider, and make appropriate representations about, any matter affecting Wales.

*Ancillary powers etc.*

### **34 Staff**

- (1) The Assembly may appoint such staff as it considers appropriate.
- (2) Service as a member of the Assembly's staff shall be service in Her Majesty's Home Civil Service.
- (3) Subsection (1) is subject to any provision made in relation to Her Majesty's Home Civil Service by or under any Order in Council.
- (4) Section 1(2) of the Civil Service (Management Functions) Act 1992 (delegation of civil service management functions vested in a Minister of the Crown to any other servant of the Crown) shall have effect as if the reference to any other servant of the Crown included the Assembly.
- (5) Section 1(2) and (3) of the Superannuation Act 1972 (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another Minister etc. and consultation by that Minister or another Minister) shall have effect as if the references to a Minister of the Crown other than the Minister for the Civil Service included the Assembly.
- (6) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of—
  - (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the Assembly's staff, and
  - (b) the expenses incurred in administering those pensions, allowances or gratuities.
- (7) The Assembly may make any such payments towards the provision of superannuation benefits for or in respect of any member of the Assembly's staff as it considers appropriate.

### **35 Inquiries**

- (1) The Assembly may cause an inquiry to be held into any matter relevant to the exercise of any of its functions.
- (2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (witnesses and costs at local inquiries) shall apply in relation to an inquiry held under subsection (1) as if it were a local inquiry held under that section and the Assembly were the Minister causing it to be held.

### **36 Polls for ascertaining views of the public**

- (1) The Assembly may hold a poll in an area consisting of Wales or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the Assembly's functions (other than those under section 33) should be exercised.
- (2) The persons entitled to vote in a poll under this section are those who—
  - (a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the area in which the poll is held, and
  - (b) are registered in the register of local government electors at an address within the area in which the poll is held.
- (3) The Assembly may not delegate the function of deciding—
  - (a) whether to hold a poll under this section,
  - (b) when, and in which area, a poll is to be held, and
  - (c) the wording of any questions or propositions to be put to those polled.
- (4) The Assembly may by order make provision as to the conduct of polls (or any poll) under this section.
- (5) The Secretary of State may by order make provision for the combination of polls (or any poll) under this section with polls at any elections.
- (6) An order under subsection (4) or (5) may apply or incorporate, with or without modifications or exceptions, any provision of or made under any enactment relating to any elections; and the provision which may be made under subsection (4) includes, in particular, provision for disregarding alterations in a register of electors.
- (7) The costs of polls under this section shall be met by the Assembly.

### **37 Private bills**

- (1) The Assembly may promote private bills in Parliament and may oppose any private bill in Parliament.
- (2) But the Assembly shall not promote or oppose any private bill in Parliament unless a motion to authorise the Assembly to promote or oppose the bill is passed by the Assembly on a vote in which at least two-thirds of the Assembly members voting support the motion.
- (3) Subsection (1) shall not cause the Assembly to have power to apply for orders under section 1 or 3 of the Transport and Works Act 1992 by virtue of section 20 of that Act (which gives a body with power to promote and oppose private bills power to apply for and object to such orders).

### **38 Legal proceedings**

Where the Assembly considers it appropriate for the promotion or protection of the public interest it may institute in its own name, defend or appear in any legal proceedings relating to matters with respect to which any functions of the Assembly are exercisable.

### **39 Contracts**

The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 shall apply in relation to contracts entered into by the Assembly but subject to any appropriate modifications.

### **40 Supplementary powers**

The Assembly may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any of its functions.

### **41 Agency arrangements and provision of services**

- (1) Arrangements may be made between the Assembly and any relevant authority for—
  - (a) any functions of one of them to be exercised by, or by members of staff of, the other, or
  - (b) the provision of administrative, professional or technical services by one of them for the other.
- (2) Any arrangements under subsection (1)(a) for the exercise of any functions of the Assembly shall not affect the responsibility of the Assembly; and such arrangements for the exercise of any functions of a relevant authority shall not affect the responsibility of the relevant authority.
- (3) The references in subsections (1)(a) and (2) to functions do not include functions of making, confirming or approving subordinate legislation.
- (4) In this section “relevant authority” means any government department, any local or other public authority or the holder of any public office.

### *Supplementary*

### **42 Different exercise of functions by Assembly**

- (1) This section applies where—
  - (a) an enactment confers or imposes a function exercisable in relation to England and Wales, and
  - (b) the function is to any extent conferred or imposed on the Assembly by the enactment or transferred to, or made exercisable by, the Assembly by an Order in Council under section 22.
- (2) Subject to subsection (4), the enactment shall be taken to permit—
  - (a) the exercise of the function by the Assembly whether or not it is exercised otherwise than by the Assembly, and
  - (b) the exercise of the function differently by the Assembly (on the one hand) and otherwise than by the Assembly (on the other).
- (3) The reference in subsection (1)(a) to a function exercisable in relation to England and Wales includes a function exercisable in relation both to England and Wales and to another country or territory or other countries or territories.
- (4) Subsection (2) is subject to any provision made by—

- (a) the enactment by which the function is conferred or imposed on the Assembly, or
  - (b) the Order in Council by which the function is transferred to, or made exercisable by, the Assembly.
- (5) Subsection (2) does not limit any power to exercise a function in relation to Wales whether or not it is exercised in relation to England, or to exercise a function differently in relation to Wales and England, where the function is not (to any extent)—
- (a) conferred or imposed on the Assembly by any enactment, or
  - (b) transferred to, or made exercisable by, the Assembly by an Order in Council under section 22.
- (6) In this section “enactment” includes an enactment—
- (a) contained in an Act passed after this Act, or
  - (b) made after the passing of this Act.

#### **43 Construction of references to Ministers and departments**

- (1) So far as may be necessary for the purpose or in consequence of the exercise by the Assembly of any of its functions, any reference in any enactment or other document to—
- (a) a Minister of the Crown, or
  - (b) a government department,
- (whether by name or in general terms) shall be construed as being or including a reference to the Assembly.
- (2) References in any enactment to property vested in or held for the purposes of a government department shall be construed as including references to property vested in or held for the purposes of the Assembly (and in relation to property so vested or held the Assembly shall be deemed to be a government department for the purposes of any enactment).
- (3) In this section “enactment” includes an enactment—
- (a) contained in an Act passed after this Act, or
  - (b) made after the passing of this Act.

#### **44 Parliamentary procedures for subordinate legislation**

- (1) This section applies where a function to make subordinate legislation (including a function conferred or imposed by, or after the passing of, this Act) has been transferred to, or made exercisable by, the Assembly by an Order in Council under section 22.
- (2) Subject to subsections (4) and (5), any relevant Parliamentary procedural provision relating to the function shall not have effect in relation to the exercise of the function by the Assembly.
- (3) For the purposes of this Act “relevant Parliamentary procedural provision” means provision—
- (a) requiring any instrument made in the exercise of the function, or a draft of any such instrument, to be laid before Parliament or either House of Parliament,
  - (b) for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either House of Parliament or of both Houses,



- (c) prohibiting the making of any such instrument without that approval,
  - (d) for any such instrument to be a provisional order (that is, an order which requires to be confirmed by Act of Parliament), or
  - (e) requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945) to be subject to special parliamentary procedure.
- (4) Subsection (2) does not apply in the case of any instrument made in the exercise of the function, or a draft of any such instrument, if it—
- (a) contains subordinate legislation made or to be made by a Minister of the Crown or government department (whether or not jointly with the Assembly),
  - (b) contains (or confirms or approves) subordinate legislation relating to an English border area, or
  - (c) contains (or confirms or approves) subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales).
- (5) Where a function transferred to, or made exercisable by, the Assembly by an Order in Council under section 22 is subject to a provision of the description specified in subsection (3)(e), the Order in Council may provide that—
- (a) any order made by the Assembly in the exercise of the function, or
  - (b) any order so made in circumstances specified in the Order in Council,
- is to be subject to special parliamentary procedure.
- (6) In this section “make” includes confirm or approve and related expressions (except “made exercisable”) shall be construed accordingly; but an instrument (or draft) does not fall within subsection (4)(a) just because it contains subordinate legislation made (or to be made) by the Assembly with the agreement of a Minister of the Crown or government department.

## **45 Laying of reports and statements**

- (1) This section applies where—
- (a) any enactment makes provision (“provision for Parliamentary laying”) for any report or statement to be laid before Parliament or either House of Parliament, and
  - (b) the report or statement relates exclusively to matters with respect to which functions are exercised by the Assembly and no functions are exercised by a Minister of the Crown.
- (2) The provision for Parliamentary laying shall be construed as provision for the report or statement to be laid before, and published by, the Assembly (instead of being laid before Parliament or either House of Parliament).
- (3) But if the report or statement is one which—
- (a) would (apart from provision made by or by virtue of this Act) be required to be made by or given to a Minister of the Crown or other person before being laid by him, but
  - (b) by or by virtue of this Act, is instead to be made by or given to the Assembly,
- the provision for Parliamentary laying shall not have effect but the Assembly shall publish the matter which is contained in the report or statement.
- (4) In this section—

- (a) references to a report or statement include any other document (except one containing subordinate legislation) in the case of which any enactment makes provision for laying before Parliament or either House of Parliament, and
- (b) “enactment” includes an enactment contained in an Act passed after this Act or made after the passing of this Act.

### **PART III**

#### ASSEMBLY PROCEDURE

##### *Introductory*

#### **46 Regulation of procedure**

- (1) The procedure of the Assembly (including that of committees of the Assembly and sub-committees of such committees) shall be regulated by the standing orders of the Assembly.
- (2) But subsection (1) is subject to any other provision of this Act or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly (or of committees of the Assembly or sub-committees of such committees).
- (3) The standing orders may make different provision for different circumstances.
- (4) Section 50 makes provision for the making of standing orders to have effect when the Assembly first meets; but the Assembly may remake or revise the standing orders at any time.
- (5) The Assembly may not delegate the function of remaking or revising the standing orders.
- (6) The standing orders shall not be remade or revised unless a motion to approve the standing orders or revisions is passed by the Assembly on a vote in which at least two-thirds of the Assembly members voting support the motion.

#### **47 Equal treatment of English and Welsh languages**

- (1) The Assembly shall in the conduct of its business give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.
- (2) In determining how to comply with subsection (1), the Assembly shall have regard to the spirit of any guidelines under section 9 of the Welsh Language Act 1993.
- (3) The standing orders shall be made in both English and Welsh.

#### **48 Equal opportunities in conduct of business**

The Assembly shall make appropriate arrangements with a view to securing that its business is conducted with due regard to the principle that there should be equality of opportunity for all people.

### *Initial provisions*

#### **49 First meeting**

- (1) The first meeting of the Assembly shall be held on the day, and at the time and place, appointed by order made by the Secretary of State.
- (2) The Secretary of State for Wales, or a person nominated by him, shall take the chair at the first meeting of the Assembly until the election of an Assembly member to be the presiding officer in accordance with the standing orders.

#### **50 First standing orders**

- (1) The Secretary of State shall appoint Commissioners to prepare a draft of standing orders to have effect when the Assembly first meets.
- (2) When the Commissioners have prepared draft standing orders, they shall submit them to the Secretary of State.
- (3) The Secretary of State shall consider the draft standing orders submitted to him and make standing orders either in the form of the draft or in that form but with such modifications as he considers appropriate.
- (4) The Secretary of State shall publish the standing orders as soon as is reasonably practicable after he has made them.
- (5) The standing orders made by the Secretary of State shall have effect (subject to any revisions made by the Assembly) unless and until they are remade by the Assembly.

#### **51 The Commissioners**

- (1) There shall be not fewer than five, and not more than nine, Commissioners.
- (2) The Commissioners shall hold office on such terms (including terms as to the payment of allowances and expenses) as the Secretary of State considers appropriate.
- (3) A Commissioner may resign, and the Secretary of State may remove a Commissioner from office, at any time.
- (4) The Secretary of State may issue to the Commissioners guidance as to—
  - (a) the content and form of the draft standing orders which they are to prepare, and
  - (b) the date by which draft standing orders prepared by them are to be submitted to him.
- (5) But no guidance may be issued as to the content of the draft standing orders if standing orders prepared in accordance with it would not comply with any requirement contained in this Part.
- (6) Any guidance issued by the Secretary of State under subsection (4) shall be published by him.

### *Offices and committees*

#### **52 Presiding officer and deputy**

- (1) The Assembly shall elect from among the Assembly members—
  - (a) the presiding officer, and
  - (b) the deputy presiding officer.
- (2) The offices specified in subsection (1) shall be known by such titles as the standing orders may provide (but are referred to in this Act as the presiding officer and the deputy presiding officer).
- (3) The presiding officer and the deputy presiding officer may not be Assembly members who represent the same party.

#### **53 Assembly First Secretary and Assembly Secretaries**

- (1) The Assembly shall elect one of the Assembly members to be Assembly First Secretary or Prif Ysgrifennydd y Cynulliad.
- (2) The Assembly First Secretary shall appoint Assembly Secretaries, or Ysgrifenyddion y Cynulliad, from among the Assembly members (and may at any time remove a person from office as an Assembly Secretary).
- (3) The standing orders must specify the maximum number of Assembly Secretaries that may be appointed.
- (4) The Assembly First Secretary, and each of the Assembly Secretaries, is a Crown servant for the purposes of the Official Secrets Act 1989.

#### **54 Committees**

- (1) The Assembly—
  - (a) shall establish the committees which it is required to establish by the following provisions of this Part, and
  - (b) may establish any other committees which it considers appropriate.
- (2) The members of any committee established by the Assembly under subsection (1)(b)
  - (a) shall be elected by the Assembly from among the Assembly members, and
  - (b) shall, unless the committee exists solely to provide advice, be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.

#### **55 Sub-committees**

- (1) Any committee of the Assembly may establish one or more sub-committees.
- (2) The members of any sub-committee established by a committee of the Assembly shall be elected by the committee from among Assembly members who are members of the committee.
- (3) A committee of the Assembly, other than the executive committee, shall not elect as members of a sub-committee Assembly members who all represent the same party.

### *The statutory committees*

#### **56 Executive committee**

- (1) There shall be a committee of the Assembly whose members shall be—
  - (a) the Assembly First Secretary, who shall chair it, and
  - (b) the Assembly Secretaries.
- (2) The committee shall be known by such title as the standing orders may provide (but is referred to in this Act as the executive committee).
- (3) The Assembly First Secretary shall allocate accountability in the fields in which the Assembly has functions to members of the executive committee so that, in the case of each of those fields, accountability in the field is allocated either to one of the Assembly Secretaries or to him.
- (4) The Assembly First Secretary need not make an allocation under subsection (3) to every member of the executive committee; but the number of Assembly Secretaries to whom no such allocation is made shall not exceed such number as may be specified in, or determined in accordance with, the standing orders.
- (5) For the purposes of this section and section 57 “accountability”, in relation to a member of the executive committee and a field, means that he is the member of the executive committee accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of the Assembly’s functions in that field, except the exercise of functions by the executive committee (or by the Assembly itself).
- (6) The Assembly First Secretary is accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of functions by the executive committee.
- (7) The standing orders must include provision for allowing Assembly members to question (orally or in writing, as Assembly members prefer)—
  - (a) each member of the executive committee about the exercise of the Assembly’s functions in the field or fields in which he is accountable, except the exercise of functions by the executive committee (or by the Assembly itself), and
  - (b) the Assembly First Secretary about the exercise of functions by the executive committee.
- (8) In this section—
  - (a) references to the exercise of functions by the executive committee include the exercise of functions by a sub-committee of that committee or by members of the Assembly’s staff in pursuance of a delegation to the Assembly’s staff by either that committee or such a sub-committee, and
  - (b) references to the exercise of functions by the Assembly itself include the exercise of functions by members of the Assembly’s staff in pursuance of a delegation to the Assembly’s staff by the Assembly itself.

#### **57 Subject committees**

- (1) The Assembly shall establish committees with responsibilities in the fields in which the Assembly has functions.

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- (2) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act as subject committees).
- (3) There shall be the same number of—
  - (a) subject committees, and
  - (b) members of the executive committee to whom the Assembly First Secretary allocates accountability in any of the fields in which the Assembly has functions.
- (4) The division between the subject committees of the fields in which those committees have responsibilities and the division between members of the executive committee of the fields in which accountability is allocated to members of that committee shall be the same; and the member of the executive committee who has accountability in the field or fields in which a subject committee has responsibilities shall be a member of that subject committee.
- (5) The Assembly shall elect a number of Assembly members to be a panel from which the members who are to chair the subject committees are to be selected; and the members of the panel shall be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the panel.
- (6) The number of members of the panel at any time shall be equal to the number of subject committees at that time; and each member of the panel shall be selected to chair one (but not more than one) subject committee.
- (7) A subject committee shall have such number of members (in addition to the person who is a member of the committee by virtue of subsection (4) and the member who chairs it) as the standing orders may provide.
- (8) Those other members shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee (including the person who is a member by virtue of subsection (4) and the member who chairs it).

## **58 Subordinate legislation scrutiny committee**

- (1) The Assembly shall establish a committee with responsibilities relating to the scrutiny of relevant Welsh subordinate legislation.
- (2) For the purposes of this section “relevant Welsh subordinate legislation” is any subordinate legislation—
  - (a) which is made or proposed to be made, or
  - (b) which, or a draft of which, is (or but for paragraph 2(4) of Schedule 7 would be) required to be confirmed or approved,
 by the Assembly (whether or not jointly with a Minister of the Crown or government department).
- (3) The committee established under this section shall be known by such title as the standing orders may provide (but is referred to in this Act as the subordinate legislation scrutiny committee).
- (4) The subordinate legislation scrutiny committee shall—
  - (a) consider any proposed Assembly general subordinate legislation when the draft statutory instrument containing it has been laid before the Assembly, and

- (b) report to the Assembly whether or not the special attention of the Assembly should be drawn to it on any of the grounds specified in the standing orders for the purposes of this subsection.
- (5) The Assembly may give to the subordinate legislation scrutiny committee—
  - (a) other responsibilities relating to the scrutiny of Assembly general subordinate legislation, or
  - (b) responsibilities relating to the scrutiny of any other description of relevant Welsh subordinate legislation.
- (6) For the purposes of this Act “Assembly general subordinate legislation” is any relevant Welsh subordinate legislation within subsection (2)(a) which is—
  - (a) required to be made by statutory instrument,
  - (b) not made or proposed to be made by an instrument in the case of which, or of a draft of which, any relevant Parliamentary procedural provision has effect, and
  - (c) not local in nature.
- (7) The Assembly may not give to the subordinate legislation scrutiny committee responsibilities not relating to the scrutiny of relevant Welsh subordinate legislation.

## **59 Members of scrutiny committee etc**

- (1) The subordinate legislation scrutiny committee shall have such number of members as the standing orders may provide.
- (2) The members of the subordinate legislation scrutiny committee shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.
- (3) Neither the Assembly First Secretary nor an Assembly Secretary may be a member of the subordinate legislation scrutiny committee.
- (4) The Assembly shall elect one of the members of the subordinate legislation scrutiny committee to chair the committee but it may not be chaired by a member who represents the largest party with an executive role.
- (5) The subordinate legislation scrutiny committee may not delegate the function of making reports under section 58(4).
- (6) But the standing orders may include provision for securing that, in circumstances specified in the standing orders, any function of the subordinate legislation scrutiny committee which is so specified may be exercised—
  - (a) by the member who chairs the committee, or
  - (b) in the absence of that member, by any other member of the committee authorised by that member.
- (7) For the purposes of this Act a party is the largest party with an executive role if—
  - (a) an Assembly member representing the party is a member of the executive committee, and
  - (b) it is represented by more Assembly members than any other party represented by an Assembly member who is a member of that committee.

**60 Audit Committee**

- (1) The Assembly shall establish a committee to be known as the Audit Committee or Pwyllgor Archwilio.
- (2) The Audit Committee shall have such number of members as the standing orders may provide.
- (3) The members of the Audit Committee shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the Committee.
- (4) Neither the Assembly First Secretary nor an Assembly Secretary may be a member of the Audit Committee.
- (5) The Assembly shall elect one of the members of the Audit Committee to chair the Committee but it may not be chaired by a member who represents the largest party with an executive role.
- (6) The Assembly may not delegate any function to the Audit Committee except as provided by section 94(4).

**61 Regional committees**

- (1) The Assembly shall establish a committee for North Wales to provide advice to the Assembly about matters affecting North Wales.
- (2) The Assembly shall also establish a committee for each of the other regions of Wales to provide advice to the Assembly about matters affecting the region.
- (3) The standing orders must specify the areas which are to constitute—
  - (a) North Wales, and
  - (b) the other regions of Wales,for the purposes of this section.
- (4) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act as regional committees).
- (5) The members of a regional committee shall be—
  - (a) the Assembly members returned for an Assembly constituency which is wholly or partly included in the region about which the committee is to provide advice, and
  - (b) such of the Assembly members returned for an Assembly electoral region which is wholly or partly included in that region as may be elected as members of the committee by the Assembly.
- (6) Each regional committee shall elect one of the members of the committee to chair it.

*Delegation***62 Delegation of functions**

- (1) The Assembly may delegate functions of the Assembly (to such extent as the Assembly may determine) to—
  - (a) any committee of the Assembly, or



- (b) the Assembly First Secretary.
- (2) Any committee of the Assembly, apart from the Audit Committee, may delegate functions of the committee (to such extent as the committee may determine) to a sub-committee of the committee.
- (3) In addition—
  - (a) the executive committee may delegate functions of the executive committee (to such extent as the executive committee may determine) to the Assembly First Secretary or an Assembly Secretary, and
  - (b) a subject committee may delegate functions of the subject committee (to such extent as the subject committee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section 57(4).
- (4) A sub-committee of the executive committee may delegate functions of the sub-committee (to such extent as the sub-committee may determine) to the Assembly First Secretary or an Assembly Secretary; and a sub-committee of a subject committee may delegate functions of the sub-committee (to such extent as the sub-committee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section 57(4).
- (5) The Assembly First Secretary may delegate functions of his (to such extent as he may determine) to an Assembly Secretary.
- (6) In delegating a function under any provision of this section the Assembly, a committee of the Assembly or a sub-committee of such a committee may limit or prohibit its further delegation under this section or section 63 (or both); and in delegating a function under subsection (5) the Assembly First Secretary may limit or prohibit its further delegation under section 63.
- (7) Where a function has been delegated to the Assembly, this section applies to the function subject to the terms of the delegation to the Assembly.
- (8) The delegation of a function under this section shall not prevent the exercise of the function by the body or person by whom the delegation is made.

### **63 Exercise of functions by Assembly staff**

- (1) Each of the following—
  - (a) the Assembly,
  - (b) any committee of the Assembly, apart from the Audit Committee,
  - (c) any sub-committee of a committee of the Assembly,
  - (d) the Assembly First Secretary, and
  - (e) any Assembly Secretary,may delegate functions of its or his (to such extent as it or he may determine) to the Assembly's staff.
- (2) Where a function is delegated to the Assembly's staff it is for the Permanent Secretary to the Assembly to make arrangements as to which member or members of the Assembly's staff is or are to exercise the function; and in this subsection "the Permanent Secretary to the Assembly" means the person appointed in accordance with section 34(1) and (3) to be the head of the Assembly's staff (whether or not that person is known by the title of Permanent Secretary to the Assembly).

- (3) Where a function has been delegated to the Assembly, this section applies to the function subject to the terms of the delegation to the Assembly.
- (4) The delegation of a function under this section shall not prevent the exercise of the function by the body or person by whom the delegation is made.

*Procedures relating to subordinate legislation*

**64 Standing orders to provide procedures**

The standing orders must provide procedures (referred to in this Act as the subordinate legislation procedures) for—

- (a) the preparation, and
  - (b) the making, confirmation and approval,
- of orders, regulations, rules and other subordinate legislation.

**65 Regulatory appraisals**

- (1) The subordinate legislation procedures must include provision for securing that an appraisal (referred to in this Act as a regulatory appraisal) as to the likely costs and benefits of complying with any proposed Assembly general subordinate legislation is carried out before a draft of the statutory instrument containing the subordinate legislation is laid before the Assembly.
- (2) But the subordinate legislation procedures may provide that a regulatory appraisal need not be carried out in relation to any proposed Assembly general subordinate legislation if in the particular circumstances it is inappropriate or not reasonably practicable for one to be carried out.
- (3) The subordinate legislation procedures must also include provision for securing that, if a regulatory appraisal indicates that the costs of complying with any proposed Assembly general subordinate legislation are likely to be significant—
  - (a) appropriate consultation (including consultation with representatives of business) is carried out, and
  - (b) the regulatory appraisal is published,before a draft of the statutory instrument containing the subordinate legislation is laid before the Assembly.

**66 Making of Assembly general subordinate legislation**

- (1) Assembly general subordinate legislation shall be made by being signed by the presiding officer, the deputy presiding officer, the Assembly First Secretary or such other person as may be authorised by the subordinate legislation procedures.
- (2) Assembly general subordinate legislation may not be made until a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.
- (3) The subordinate legislation procedures must include provision for securing that Assembly general subordinate legislation may be made by being signed otherwise than by the presiding officer only in the absence of the presiding officer.

- (4) The subordinate legislation procedures must include provision for securing that a draft of the statutory instrument containing any Assembly general subordinate legislation may be approved by the Assembly only if the draft is in both English and Welsh unless in the particular circumstances it is inappropriate or not reasonably practicable for the draft to be in both languages.
- (5) The subordinate legislation procedures must include provision for securing that a draft of the statutory instrument containing any Assembly general subordinate legislation is not approved by the Assembly until the Assembly has considered—
  - (a) the report of the subordinate legislation scrutiny committee relating to the subordinate legislation, and
  - (b) the regulatory appraisal (if any) published in relation to it.
- (6) The Assembly First Secretary may not delegate his function of signing Assembly general subordinate legislation.
- (7) The Assembly may not delegate the function of approving the draft of the statutory instrument containing any Assembly general subordinate legislation or the function of considering—
  - (a) the report of the subordinate legislation scrutiny committee relating to it, or
  - (b) the regulatory appraisal (if any) published in relation to it.

## **67 Disapplication of procedural requirements**

- (1) The subordinate legislation procedures may include provision permitting Assembly general subordinate legislation to be made without compliance with any of the relevant procedural requirements if the executive committee determines that, in the particular circumstances, it is not reasonably practicable to comply with the requirement in relation to the subordinate legislation.
- (2) For the purposes of this section the relevant procedural requirements are—
  - (a) the requirement in section 66(2), and
  - (b) each of the requirements included in the subordinate legislation procedures in pursuance of sections 65(3) and 66(5).
- (3) If the subordinate legislation procedures include provision permitting Assembly general subordinate legislation to be made without compliance with the requirement in section 66(2), they must also provide that any Assembly member is entitled to move, within the period of forty working days beginning with the day on which any Assembly general subordinate legislation is made without that requirement having been complied with, that it be revoked.
- (4) If, pursuant to a motion made within that period, the Assembly resolves that the subordinate legislation be revoked, the resolution revokes it.
- (5) The Assembly may by order make any provision which appears appropriate in consequence of the revocation of the subordinate legislation by the resolution.
- (6) Neither the passing of a resolution revoking any subordinate legislation nor the making of an order making provision consequential on the revocation—
  - (a) affects the validity of anything done under the subordinate legislation before its revocation, or
  - (b) prevents the making of new subordinate legislation.

- (7) For the purposes of subsections (3) and (4) a day is a working day unless it is—
- (a) a Saturday or a Sunday,
  - (b) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday,
  - (c) a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971, or
  - (d) a day appointed for public thanksgiving or mourning.

## **68 Financial initiative**

- (1) The subordinate legislation procedures must include provision requiring the recommendation of the executive committee for the making by the Assembly of any Assembly general subordinate legislation which may give rise to the payment of any sums by the Assembly.
- (2) The provision included in the subordinate legislation procedures in pursuance of subsection (1) may contain an exception from the requirement of a recommendation in circumstances in which the sums are unlikely to be significant.

### *Other provisions about standing orders*

## **69 Preservation of order**

- (1) The standing orders must include provision for preserving order in proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee).
- (2) In particular, standing orders made for preserving order in such proceedings must include provision for—
  - (a) preventing conduct which would constitute a criminal offence, and
  - (b) a sub judice rule,
 and may include provision for excluding Assembly members from the proceedings and for withdrawing their rights and privileges as Assembly members for the period of their exclusion.

## **70 Openness**

- (1) The standing orders must include provision—
  - (a) for all proceedings of the Assembly itself to be held in public, and
  - (b) for all proceedings of a committee of the Assembly, or a sub-committee of such a committee, to be held in public except where the standing orders otherwise provide.
- (2) But the standing orders may include provision as to conditions to be complied with by any member of the public attending proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) and, in particular, provision for excluding from the proceedings any member of the public who does not comply with the conditions.
- (3) The standing orders must include provision for—
  - (a) the publication of a report of the proceedings of the Assembly itself, and

- (b) the publication of a report of the proceedings of a committee of the Assembly, or a sub-committee of such a committee, unless the proceedings were not held in public,  
as soon as reasonably practicable after the day on which the proceedings take place.
- (4) The standing orders must include provision for any documents in the possession or under the control of the Assembly which contain material relating to any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which have taken place, or are to take place, to be open to inspection by members of the public except where the standing orders otherwise provide.
- (5) The standing orders must include provision—
  - (a) establishing procedures for the investigation of complaints about actions or failures on the part of the Assembly and for dealing with reports by the Welsh Administration Ombudsman and the Health Service Commissioner for Wales of investigations pursuant to complaints relating to the Assembly, and
  - (b) for publicising details of those procedures.

## **71 Participation of Assembly members**

- (1) The standing orders must include provision specifying the circumstances in which Assembly members who are not members of a subject committee, or of a sub-committee of such a committee, may attend and make representations at proceedings of the committee or sub-committee.
- (2) The standing orders must include provision for any documents in the possession or under the control of the Assembly which contain material relating to any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which have taken place, or are to take place, to be open to inspection by any Assembly member except where the standing orders otherwise provide.

## **72 Integrity**

- (1) The standing orders must include provision for a register of interests of Assembly members and for—
  - (a) registrable interests (as defined in the standing orders) to be registered in it, and
  - (b) the publication of the register.
- (2) The standing orders must include provision for requiring any Assembly member who has—
  - (a) a financial interest (as defined in the standing orders) in any matter, or
  - (b) any other interest, or an interest of any other kind, specified in the standing orders in any matter,to declare that interest before taking part in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) relating to that matter.
- (3) The standing orders may include provision—

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- (a) for preventing or restricting the participation in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) of an Assembly member if he has a registrable interest, or an interest mentioned in subsection (2), in any matter to which the proceedings relate, and
  - (b) for preventing or restricting the exercise of a function by a member of the executive committee, or the exercise of a function by an Assembly member by virtue of section 59(6), if he has a registrable interest, or an interest mentioned in subsection (2), in any matter to which the function relates.
- (4) The standing orders must include provision prohibiting an Assembly member—
- (a) from advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified, or
  - (b) from urging, in consideration of any such payment or benefit in kind, another Assembly member to advocate or initiate any cause or matter on behalf of any person by any such means.
- (5) The standing orders may include provision—
- (a) for excluding from proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) an Assembly member who fails to comply with or contravenes any provision included in the standing orders in pursuance of subsections (1) to (4), and
  - (b) for withdrawing his rights and privileges as an Assembly member for the period of his exclusion.
- (6) An Assembly member who—
- (a) takes part in any proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) without having complied with, or in contravention of, any provision included in the standing orders in pursuance of subsection (1), (2) or (3)(a),
  - (b) exercises any function in contravention of any provision included in the standing orders in pursuance of subsection (3)(b), or
  - (c) contravenes any provision included in the standing orders in pursuance of subsection (4),
- is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) A prosecution for an offence under subsection (6) shall not be instituted except by or with the consent of the Director of Public Prosecutions.

## 73 Publication

- (1) Where the Assembly remakes the standing orders, it shall publish them.
- (2) Where the Assembly revises standing orders (without remaking them as a whole), it shall publish either the revisions or the standing orders as revised (as it considers appropriate).

*Evidence and documents relating to public bodies*

**74 Power to require attendance and production of documents**

- (1) The Assembly may require any person to whom subsection (2) applies—
  - (a) to attend proceedings of the Assembly for the purpose of giving evidence, or
  - (b) to produce to the Assembly documents in his possession or under his control.
- (2) This subsection applies to—
  - (a) any person who is a member, or a member of the staff, of a body specified in Schedule 5, and
  - (b) any person who holds, or is a member of the staff of a person who holds, an office so specified.
- (3) A requirement imposed on a person under subsection (1)—
  - (a) if imposed under paragraph (a) of that subsection, is to attend to give evidence in connection with the affairs of the body or office in question so far as relating to Wales, and
  - (b) if imposed under paragraph (b) of that subsection, is to produce documents which relate to those affairs.
- (4) The powers conferred by subsection (1) may be exercised by and for the purposes of the Audit Committee.
- (5) Those powers may be exercised by and for the purposes of—
  - (a) any other committee of the Assembly, apart from the executive committee, or
  - (b) any sub-committee of any such committee, apart from a sub-committee of the executive committee,if the committee or sub-committee is expressly authorised to exercise those powers by the standing orders (but may not be exercised by any individual Assembly member or by any member of the Assembly’s staff).
- (6) In order to impose a requirement on a person under subsection (1) the presiding officer or deputy presiding officer must give him notice in writing specifying the body or office in question and—
  - (a) the time and place at which he is to attend, or
  - (b) the documents, or types of documents, which he is to produce and the date by which he is to produce them.
- (7) A notice required by subsection (6) to be given to a person must be given at least two weeks before the day on which the proceedings are to take place, or by which the documents are to be produced, unless he waives that requirement.
- (8) If a notice required by subsection (6) to be given to a person is sent to him, by registered post or the recorded delivery service, addressed to his usual or last known address or, where he has given an address for service of the notice, to that address, it shall be taken to be given to him.

**75 Witnesses and documents: supplementary**

- (1) Where a requirement has been imposed on a person under section 74(1) to attend proceedings—

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- (a) the presiding officer or deputy presiding officer, or the Assembly member who chairs the committee or sub-committee concerned, or
  - (b) such other person as may be authorised by the standing orders,
- may require him to take an oath (or make an affirmation) before he gives evidence at the proceedings and may administer the oath (or affirmation) to him.
- (2) A person to whom a notice under section 74(6) has been given is guilty of an offence if he—
- (a) refuses or fails, without reasonable excuse, to attend proceedings as required by the notice,
  - (b) refuses to take an oath (or make an affirmation) when required to do so in accordance with subsection (1),
  - (c) refuses to answer any question which is properly put to him when attending any proceedings as required by the notice,
  - (d) refuses or fails, without reasonable excuse, to produce any document required by the notice to be produced by him, or
  - (e) intentionally alters, suppresses, conceals or destroys any document required by the notice to be produced by him.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale, or
  - (b) imprisonment for a term not exceeding three months.
- (4) A person is not obliged by section 74 to answer any question or produce any document which he would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales; and subsection (2) has effect accordingly.
- (5) The Secretary of State may by order amend Schedule 5 by—
- (a) adding or omitting any body or office, or
  - (b) altering the description of any body or office.
- (6) For the purposes of section 74 and this section—
- (a) a person shall be taken to comply with a requirement to produce a document if he produces a copy of, or an extract of the relevant part of, the document, and
  - (b) “document” means anything in which information is recorded in any form (and references to producing a document are to the production of the information recorded in it in a visible and legible form).

### *Miscellaneous*

## **76 Attendance of Secretary of State for Wales**

- (1) The Secretary of State for Wales shall be entitled to attend and participate in any proceedings of the Assembly.
- (2) Subsection (1) does not confer on the Secretary of State for Wales—
- (a) any right to vote, or
  - (b) a right to attend or participate in the proceedings of a committee of the Assembly or any sub-committee of such a committee.
- (3) The standing orders must include provision for any documents which—



- (a) contain material relating to any proceedings of the Assembly itself which have taken place or are to take place, and
  - (b) are made available to all Assembly members,
- to be made available to the Secretary of State for Wales no later than the time when they are made available to Assembly members who are not members of the executive committee.

## 77 Defamation

- (1) For the purposes of the law of defamation—
- (a) any statement made in, for the purposes of or for purposes incidental to proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee), and
  - (b) the publication by or under the authority of the Assembly of a report of such proceedings,
- is absolutely privileged.
- (2) Subsection (1)(a) applies, in particular, to any statement made in—
- (a) evidence given before the Assembly, a committee of the Assembly or a sub-committee of such a committee,
  - (b) a document laid before the Assembly or such a committee or sub-committee,
  - (c) a document prepared for the purposes of, or for purposes incidental to, the transaction of business by the Assembly or such a committee or sub-committee,
  - (d) a document (other than a report to which subsection (1)(b) applies) formulated, made or published by or under the authority of the Assembly or such a committee or sub-committee,
  - (e) any communication—
    - (i) between any person and a person having functions in connection with the registration of interests of Assembly members, or
    - (ii) between any person and an Assembly member,in connection with such registration, or
  - (f) any communication—
    - (i) between any person and a person having functions in connection with the investigation of complaints about actions or failures on the part of the Assembly, or
    - (ii) between any person and an Assembly member,in connection with any such complaint.
- (3) In subsections (1) and (2) “statement” has the same meaning as in the Defamation Act 1996.
- (4) The Assembly—
- (a) is a legislature for the purposes of Schedule 1 to that Act (qualified privilege for fair and accurate report of public proceedings of legislatures etc.), and
  - (b) shall be treated as if it were a Minister of the Crown for the purposes of paragraph 11(1)(c) of that Schedule (report of proceedings of person appointed by a Minister etc. for the purposes of an inquiry).

- (5) Section 10 of the Defamation Act 1952 and section 10 of the Defamation Act Northern Ireland) 1955 (limitation on privilege at elections) have effect in relation to elections of Assembly members as to elections to Parliament.

## **78 Contempt of court**

- (1) The strict liability rule shall not apply in relation to any publication—
- (a) made in, for the purposes of or for purposes incidental to proceedings of the Assembly (including proceedings of a committee of the Assembly or of a sub-committee of such a committee), or
  - (b) to the extent that it consists of a report of such proceedings which either is made by or under the authority of the Assembly or is fair and accurate and made in good faith.
- (2) Paragraph (a) of subsection (1) applies, in particular, to any publication made in any evidence, document or communication such as is specified in section 77(2)(a) to (f); and in that subsection “the strict liability rule” and “publication” have the same meanings as in the Contempt of Court Act 1981.

## **79 Corrupt practices**

The Assembly is a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

# **PART IV**

## **ASSEMBLY FINANCE**

### *Payments to Assembly etc.*

## **80 Grants to Assembly**

- (1) The Secretary of State shall from time to time make payments to the Assembly out of money provided by Parliament of such amounts as he may determine.
- (2) Any Minister of the Crown, and any government department, may make to the Assembly payments of such amounts as the Minister or department may determine.

## **81 Statement of estimated payments etc**

- (1) The Secretary of State shall for each financial year make a written statement showing—
- (a) the total amount of the payments which he estimates will be made by him for that financial year under section 80(1),
  - (b) the total amount of any other payments which he estimates will be made to the Assembly for that financial year by Ministers of the Crown and government departments, and
  - (c) the total amount of the payments which he estimates will be made to the Assembly for that financial year otherwise than by a Minister of the Crown or government department.

- (2) The statement shall also—
- (a) show the total amount of any basic credit approvals which the Secretary of State estimates will be issued by the Assembly for that financial year under section 53 of the Local Government and Housing Act 1989, and
  - (b) include such other information as the Secretary of State considers appropriate (including, in particular, information relating to amounts of any supplementary credit approvals which he estimates have been, or are to be, issued by the Assembly under section 54 of that Act).
- (3) The statement shall also show the total amount which the Secretary of State for Wales proposes to expend for that financial year out of money provided by Parliament otherwise than on making payments to the Assembly.
- (4) The statement shall include details of how the total amounts referred to in subsections (1)(a), (b) and (c), (2)(a) and (3) have been arrived at.
- (5) The statement for each financial year after the first financial year of the Assembly shall be made no later than four months before the beginning of the financial year; and the statement for the first financial year of the Assembly shall be made as soon as is reasonably practicable.
- (6) The Secretary of State shall lay before the Assembly any statement made under this section.

## **82 Loans to Assembly by Secretary of State**

- (1) The Secretary of State may from time to time lend to the Assembly such sums as it appears to the Assembly are required for the purpose of—
- (a) meeting a temporary excess of expenditure by the Assembly over its receipts, or
  - (b) providing the Assembly with a working balance.
- (2) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as he needs for making loans under this section.
- (3) Any loans which the Secretary of State makes under this section shall be repaid to him at such times, and interest on them shall be paid to him at such rates and at such times, as the Treasury from time to time determine.
- (4) Sums received by the Secretary of State under subsection (3) shall be paid into the National Loans Fund.
- (5) The aggregate outstanding in respect of the principal of loans made under this section shall not exceed £500 million.
- (6) The Secretary of State may from time to time by order made with the consent of the Treasury substitute for the amount specified in subsection (5) such greater amount as is specified in the order.

## **83 Accounts relating to loans under section 82**

- (1) The Secretary of State shall for each financial year prepare accounts in such form and manner as the Treasury may direct of—
- (a) loans made by him under section 82, and

- (b) repayments and payments of interest made to him under that section.
- (2) The Secretary of State shall send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (3) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on accounts sent to him under subsection (2), and
  - (b) lay copies of the accounts, together with his report, before each House of Parliament.

#### **84 Destination of receipts etc**

- (1) Sums received by the Assembly shall be paid into the Consolidated Fund (but subject as follows).
- (2) Sums received by the Assembly—
  - (a) under section 80 or 82, or
  - (b) under any other provision of this Act or any other enactment for the making of payments or loans to the Assembly by a Minister of the Crown or a government department,
 are not required to be paid into the Consolidated Fund.
- (3) Sums received by the Assembly—
  - (a) under section 54 of the Local Government Finance Act 1988 (central rating),
  - (b) under section 59 of that Act (contributions in respect of Crown hereditaments), or
  - (c) under paragraph 5 of Schedule 8 to that Act or regulations under sub-paragraph (15) of that paragraph (non-domestic rating contributions),
 are not required to be paid into the Consolidated Fund.
- (4) Sums received by the Assembly shall not be paid into the Consolidated Fund if they are required by any provision of this Act or any other enactment to be dealt with in some other way.
- (5) Sums received by the Assembly are not required to be paid into the Consolidated Fund if they are authorised (but not required) by any provision of this Act or any other enactment to be dealt with in some other way (and are so dealt with).
- (6) The Treasury may direct that sums received by the Assembly which are, or are of a description, specified in the direction are not required to be paid into the Consolidated Fund.

#### *Expenditure by Assembly etc.*

#### **85 Expenditure by Assembly**

- (1) No expenditure shall be incurred by the Assembly except—
  - (a) in, or in connection with, the exercise of any of the functions of the Assembly, or
  - (b) for a purpose for which expenditure is authorised or required to be incurred by the Assembly by any enactment.

- (2) The ways in which the Assembly may incur expenditure include, in particular, giving financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which the Assembly considers will secure, or help to secure, the attainment of any objective which the Assembly aims to attain in the exercise of any of its functions.
- (3) The Assembly may attach conditions to the giving of financial assistance by the Assembly; and the conditions which may be attached include, in particular, conditions requiring the repayment of the whole or any part of a grant, or the making of any other payments, in any circumstances.

## **86 Statement of proposed expenditure etc**

- (1) The Assembly shall before the beginning of each financial year after the first financial year of the Assembly make a written statement showing—
  - (a) the total amount of the expenditure which it proposes to incur for the financial year, and
  - (b) on what it proposes to incur that expenditure.
- (2) The statement shall also show—
  - (a) the total amount of the payments which the Assembly expects will be made by the Secretary of State for the financial year under section 80(1),
  - (b) the total amount of any other payments which the Assembly expects will be made to the Assembly for the financial year by Ministers of the Crown and government departments, and
  - (c) the total amount of the payments which the Assembly expects will be made to the Assembly for the financial year otherwise than by a Minister of the Crown or government department.
- (3) The statement shall also—
  - (a) show the total amount of any basic credit approvals which the Assembly has issued, or expects to issue, for the financial year under section 53 of the Local Government and Housing Act 1989, and
  - (b) include such other information as the Assembly considers appropriate (including, in particular, information relating to amounts of any supplementary credit approvals which the Assembly has issued, or expects to issue, under section 54 of that Act).
- (4) A statement under this section shall be published by the Assembly as soon after being made as is reasonably practicable.

## **87 National Loans Fund lending**

- (1) This section applies where—
  - (a) a power of a Minister of the Crown to lend money is transferred to the Assembly by an Order in Council under section 22, and
  - (b) any sums required for the exercise of the power are issued out of the National Loans Fund.
- (2) The rate of interest on any loan made by the Assembly in the exercise of the power shall be not less than the lowest rate determined by the Treasury under section 5 of the

National Loans Act 1968 in respect of similar loans made out of the National Loans Fund on the day the loan is made.

- (3) The provision for the issue of the sums shall, so far as relating to the issue of sums required for the exercise of the power by the Assembly, have effect as provision for the issue of the sums to the Secretary of State and for imposing a duty on him to pay them to the Assembly.
- (4) If, before the power is transferred, any repayment of, or payment of interest on, any loan made in the exercise of the power is required to be made to a Minister of the Crown for payment by him into the National Loans Fund, any such repayment or payment made after the transfer shall be made to the Assembly and the Assembly shall then pay it to the Secretary of State for payment by him into that Fund.
- (5) Subsection (4) applies in relation to loans made, before the transfer, by the Minister of the Crown as well as to loans made, after the transfer, by the Assembly.

## **88 Accounts relating to funds paid to Assembly for lending**

- (1) The Secretary of State shall for each financial year prepare accounts in such form and manner as the Treasury may direct of—
  - (a) relevant loan funds paid by him to the Assembly, and
  - (b) sums paid to him by the Assembly which are repayments of, or payments of interest on, loans made out of relevant loan funds.
- (2) In subsection (1) “relevant loan funds” means sums which are—
  - (a) issued to the Secretary of State out of the National Loans Fund,
  - (b) paid by him to the Assembly, and
  - (c) lent by the Assembly in exercise of a power to lend money.
- (3) The Secretary of State shall send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (4) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on accounts sent to him under subsection (3), and
  - (b) lay copies of the accounts, together with his report, before each House of Parliament.

## **89 Source of sums paid by Assembly**

Any enactment which—

- (a) charges the payment of any sum on the Consolidated Fund or requires or authorises the payment of any sum from that Fund, or
- (b) requires or authorises the payment of any sum out of money provided by Parliament,

shall cease to have effect in so far as that sum is payable by the Assembly.

### *The Auditor General for Wales*

#### **90 Auditor General for Wales**

- (1) There shall be an office of Auditor General for Wales or Archwilydd Cyffredinol Cymru.
- (2) The person for the time being holding that office shall by the name of that office be a corporation sole.
- (3) The Auditor General for Wales shall be appointed by Her Majesty.
- (4) Subject to subsections (5) and (6), the Auditor General for Wales shall hold office until the end of the period for which he is appointed.
- (5) Her Majesty may relieve the Auditor General for Wales of office before the end of the period for which he was appointed—
  - (a) at his request, or
  - (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (6) Her Majesty may remove the Auditor General for Wales from office before the end of the period for which he was appointed if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.
- (7) The Auditor General for Wales shall not be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but he shall be taken to be a Crown servant for the purposes of the Official Secrets Act 1989.

#### **91 Remuneration**

- (1) The Assembly (or, before the first ordinary election, the Secretary of State) shall—
  - (a) pay the Auditor General for Wales such salary and any such allowances, and
  - (b) make any such payments towards the provision of superannuation benefits for or in respect of him,as may be provided for by or under the terms of his appointment.
- (2) The Assembly shall pay to or in respect of a person who has ceased to hold office as Auditor General for Wales such amounts (if any) by way of—
  - (a) pension or gratuities, or
  - (b) provision for those benefits,as may have been provided for by or under the terms of his appointment.
- (3) In Schedule 1 to the Superannuation Act 1972 (offices etc. to which section 1 of that Act applies), in the list of “Offices” insert—

“Auditor General for Wales.”
- (4) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to subsection (3) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**92 Staff etc**

- (1) Arrangements may be made between the Auditor General for Wales and the Comptroller and Auditor General for the provision of administrative, professional or technical services to the Auditor General for Wales by the National Audit Office.
- (2) The Auditor General for Wales may, having regard to any arrangements made or capable of being made under subsection (1), appoint such staff or secure the provision of such services as he considers necessary for assisting him in the exercise of his functions.
- (3) No arrangements shall be made—
  - (a) for any of the functions of the Auditor General for Wales or of the Assembly to be exercised by the other or by a member of the other's staff, or
  - (b) for the provision of any administrative, professional or technical services by the Auditor General for Wales or the Assembly for the other.
- (4) The staff of the Auditor General for Wales shall be appointed on such terms and conditions as he may determine; and he shall pay his staff such remuneration as may be provided for by or under their terms of appointment.
- (5) In Schedule 1 to the Superannuation Act 1972 (employments etc. to which section 1 of that Act applies), at the appropriate place in the list of "Other Bodies" insert—

"Employment as a member of the staff of the Auditor General for Wales."
- (6) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to subsection (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (7) No member of the staff of the Auditor General for Wales shall be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but each member of his staff shall be taken to be a Crown servant for the purposes of the Official Secrets Act 1989.
- (8) Any function of the Auditor General for Wales may be exercised by—
  - (a) a member of his staff,
  - (b) a member of the staff of the National Audit Office providing services to him in pursuance of arrangements made under subsection (1), or
  - (c) any other person providing services to him,if authorised by him for that purpose.
- (9) An authority under subsection (8) to certify or report on accounts (or statements of accounts) for the Assembly—
  - (a) shall extend only to accounts (or statements) which the presiding officer has certified to the Assembly that the Auditor General for Wales is unable to certify or report on himself, and
  - (b) shall cease on a vacancy arising in the office of Auditor General for Wales.
- (10) The reference in subsection (9)(a) to the presiding officer includes a reference to any person for the time being performing the functions of presiding officer.



### **93 Expenses, fees and accounts**

- (1) The expenses of the Auditor General for Wales shall, so far as they cannot be met out of income received by him, be met by the Assembly (or, before the first ordinary election, by the Secretary of State).
- (2) Those expenses include any sums payable by the Auditor General for Wales in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him in the exercise of his functions).
- (3) The Auditor General for Wales may charge a fee for auditing the accounts of any person other than the Assembly.
- (4) For each financial year after the first financial year of the Assembly the Auditor General for Wales shall prepare, and submit to the Audit Committee, an estimate of the income and expenses of his office.
- (5) Each such estimate shall be submitted to the Audit Committee at least five months before the beginning of the financial year to which it relates.
- (6) The Audit Committee shall examine each such estimate submitted to it and, after having done so, shall lay the estimate before the Assembly with any such modifications as the Committee thinks fit.
- (7) Where the Audit Committee proposes to lay such an estimate before the Assembly with modifications, the Committee shall first consult the Secretary of State and have regard to any advice which he may give.
- (8) The Auditor General for Wales shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
- (9) The directions which the Treasury may give under subsection (8) include, in particular, directions as to—
  - (a) the information to be contained in the accounts and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the accounts are to be prepared, and
  - (c) the additional information (if any) that is to accompany the accounts.

### **94 Audit of Auditor General's accounts**

- (1) The Assembly shall appoint an auditor of the accounts of the Auditor General for Wales.
- (2) The Assembly may not delegate the function of appointing the auditor.
- (3) A person shall not be appointed as the auditor unless—
  - (a) he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989, or
  - (b) he is a member of a body of accountants, established in the United Kingdom or another EEA State, which is for the time being approved by the Assembly;

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and “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.

- (4) The Assembly may delegate to the Audit Committee the function of approving bodies of accountants, or of withdrawing approval from such bodies, but may not otherwise delegate those functions.
- (5) If a person appointed as the auditor ceases to be a person who could be so appointed, his appointment is ended and he ceases to be the auditor.
- (6) The auditor shall be appointed on such terms and conditions as the Assembly may determine; and the Auditor General for Wales shall pay the auditor such remuneration as may be provided for by or under the terms of the auditor’s appointment.
- (7) Any accounts which the Auditor General for Wales is directed to prepare under section 93(8) for any financial year shall be submitted by him (after he has signed them) to the auditor no later than five months after the end of that financial year.
- (8) The auditor shall carry out an audit of any accounts submitted to him under subsection (7); and on completing the audit the auditor shall certify the accounts and lay them, together with his report on them, before the Assembly.
- (9) The auditor—
  - (a) shall have a right of access at all reasonable times to all such documents as appear to him necessary for the purposes of his audit of the accounts of the Auditor General for Wales,
  - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes, and
  - (c) may require the Auditor General for Wales to furnish him at times specified by him with accounts of such of the transactions of the Auditor General for Wales as he may specify.
- (10) The auditor—
  - (a) may carry out examinations into the economy, efficiency and effectiveness with which the Auditor General for Wales has used his resources in discharging his functions, and
  - (b) may lay before the Assembly a report of the results of any such examinations.
- (11) For the purpose of carrying out examinations under subsection (10), the auditor—
  - (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Auditor General for Wales as he may reasonably require for that purpose, and
  - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.

## **95 Access to documents by Auditor General**

- (1) For the purposes of his examination of any auditable accounts, the Auditor General for Wales—
  - (a) shall have a right of access at all reasonable times to all the documents relating to the accounts of any relevant person,

- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes, and
  - (c) may require any relevant person to furnish him at times specified by him with accounts of such of that relevant person’s transactions as he may specify.
- (2) In subsection (1) “relevant person”, in relation to any auditable accounts, means—
  - (a) the person by whom they are prepared, and
  - (b) in the case of any accounts which the Assembly is directed to prepare under section 97, any person to whose financial affairs and transactions the auditable accounts are to relate by virtue of directions under subsection (2) of that section.
- (3) In this section “auditable accounts” means any accounts or statement of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or by virtue of this or any other Act.
- (4) For the purpose of carrying out, in accordance with any provision made by or by virtue of this or any other Act, examinations into the economy, efficiency and effectiveness with which any person has used his resources in discharging his functions, the Auditor General for Wales—
  - (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of that person as he may reasonably require for that purpose, and
  - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.

## **96 Auditor General for Wales: miscellaneous**

- (1) Where the Assembly is entitled to appoint the auditor of the accounts of any person (other than the Auditor General for Wales), the Assembly may appoint the Auditor General for Wales to be the auditor (even if he would not otherwise be eligible to be appointed).
- (2) Where in such a case the auditor falls to be appointed annually, the Assembly may appoint the Auditor General for Wales to be the auditor for a year, or for two or more years, or indefinitely until further exercise of the power of appointment.
- (3) The Auditor General for Wales may—
  - (a) examine, certify or report on a person’s accounts, or
  - (b) carry out examinations into the economy, efficiency and effectiveness with which a person has used his resources in discharging his functions,if provision is made for the Auditor General for Wales to do so by an agreement entered into by the person with either the Assembly or a Minister of the Crown.
- (4) In determining how to exercise his functions under paragraph (b) of subsection (3), the Auditor General for Wales shall take into account the views of the Audit Committee (or, before the first ordinary election, the views of the Secretary of State) as to the examinations which he should carry out under that paragraph.
- (5) Where by an Order in Council under section 22 there is transferred to the Assembly a function of preparing any accounts, the Secretary of State may by order provide for

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the transfer to the Auditor General for Wales of any function of the Comptroller and Auditor General in relation to those accounts.

- (6) An order under subsection (5) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (7) An Order in Council under section 22 may include any provision that may be included in an order under subsection (5).

*Financial accountability of Assembly etc.*

**97 Preparation and audit of Assembly’s annual accounts**

- (1) The Assembly shall, for each financial year, prepare accounts in accordance with directions given to it by the Treasury.
- (2) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Assembly.
- (3) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—
  - (a) the financial affairs and transactions to which the accounts are to relate,
  - (b) the information to be contained in the accounts and the manner in which it is to be presented,
  - (c) the methods and principles in accordance with which the accounts are to be prepared, and
  - (d) the additional information (if any) that is to accompany the accounts.
- (4) Any accounts which the Assembly is directed under this section to prepare for any financial year shall be submitted by the Assembly to the Auditor General for Wales no later than five months after the end of that financial year.
- (5) The Auditor General for Wales shall—
  - (a) examine and certify any accounts submitted to him under this section, and
  - (b) no later than four months after the accounts are submitted to him, lay before the Assembly a copy of them as certified by him together with his report on them.
- (6) In examining any accounts submitted to him under this section, the Auditor General for Wales shall, in particular, satisfy himself—
  - (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
  - (b) that money received by the Assembly for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.
- (7) Where—
  - (a) by virtue of any enactment other than this section the Assembly is under an obligation to prepare accounts dealing with any matters, and
  - (b) it appears to the Treasury that those matters fall to be dealt with in accounts directed to be prepared under this section,

the Treasury may relieve the Assembly of that obligation for or in respect of such periods as they may direct.

## **98 Accounting officers**

- (1) The Treasury shall designate a member of the Assembly's staff as the Assembly's principal accounting officer.
- (2) The Assembly's principal accounting officer shall have—
  - (a) in relation to the Assembly's accounts and finances, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,the responsibilities which are from time to time specified by the Treasury.
- (3) The Treasury may designate other members of the Assembly's staff as additional accounting officers.
- (4) An additional accounting officer shall have—
  - (a) in relation to such of the Assembly's accounts and finances as may be specified by the Treasury, and
  - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act (other than this section) of their responsibilities as accounting officers,the responsibilities which are from time to time specified by the Treasury.
- (5) The responsibilities that may be specified under this section in relation to the Assembly's accounts and finances (or any of them) include in particular—
  - (a) responsibilities in relation to the signing of accounts,
  - (b) responsibilities for the propriety and regularity of the Assembly's finances, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the Assembly uses its resources.
- (6) The responsibilities which may be specified under this section include responsibilities owed to—
  - (a) the Assembly or the Audit Committee, or
  - (b) the House of Commons or its Committee of Public Accounts,and in the case of an additional accounting officer include responsibilities owed to the Assembly's principal accounting officer.

## **99 Accounts of Assembly subsidiaries etc**

- (1) For the purposes of his examination of any accounts of the Assembly, the Auditor General for Wales—
  - (a) shall have a right of access at all reasonable times to all the documents relating to the accounts of any Assembly subsidiary (whether or not the accounts of the Assembly being examined relate to the financial affairs and transactions of the subsidiary),

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- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes, and
  - (c) may require any Assembly subsidiary to furnish him at times specified by him with accounts of such of the subsidiary's transactions as he may specify.
- (2) The Treasury may, by directions given to an Assembly subsidiary, require the subsidiary to include in any accounts which the subsidiary prepares (under, for example, the law relating to companies or charities) such additional information as may be specified in the directions.
- (3) Including information in any accounts in compliance with such directions shall not be treated as a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
- (4) In this section “Assembly subsidiary” means—
- (a) any body corporate or other undertaking (as defined in section 259(1) of the Companies Act 1985) of which the Assembly is a parent undertaking (within the meaning of section 258 of that Act),
  - (b) any trust of which the Assembly is a settlor, or
  - (c) any charitable institution of which the Assembly is a founder but which is neither a body corporate nor a trust.

#### **100 Examinations into Assembly's use of resources**

- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Assembly has used its resources in discharging its functions.
- (2) Subsection (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Assembly.
- (3) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this section.
- (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this section.
- (5) In section 6(3) of the National Audit Act 1983 (public bodies subject to economy etc. examinations by the Comptroller and Auditor General), after paragraph (a) insert—
- “(aa) the National Assembly for Wales;”.
- (6) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Assembly under this section or section 6 of the National Audit Act 1983 (economy etc. examinations).

#### **101 Examinations by Comptroller and Auditor General**

- (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Assembly, the Comptroller and Auditor General—

- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Assembly or any other person audited by the Auditor General for Wales, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
  - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General shall—
- (a) consult the Auditor General for Wales, and
  - (b) take into account any relevant work done or being done by the Auditor General for Wales,
- before he acts in reliance on subsection (1) or carries out an examination in respect of the Assembly under section 6 of the National Audit Act 1983 (economy etc. examinations).

## **102 Audit Committee reports**

- (1) The Audit Committee may consider, and lay before the Assembly a report on, any accounts, statement of accounts or report laid before the Assembly by—
- (a) the Auditor General for Wales, or
  - (b) the auditor appointed under section 94.
- (2) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from the Assembly's principal accounting officer or any additional accounting officer designated under section 98, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

## **103 Publication of accounts and audit reports etc**

- (1) A document to which this subsection applies shall be published by the Assembly as soon after being laid before it as is reasonably practicable.
- (2) The documents to which subsection (1) applies are—
- (a) any accounts, statement of accounts or report laid before the Assembly by the Auditor General for Wales,
  - (b) any accounts or report laid before the Assembly by the auditor appointed under section 94, and
  - (c) any estimate or report laid before the Assembly under section 93(6) or 102(1) by the Audit Committee.

### *Funding of school inspections and forestry in Wales*

## **104 Her Majesty's Chief Inspector of Schools in Wales**

- (1) The provision of funding for Her Majesty's Chief Inspector of Schools in Wales ("the Chief Inspector") shall be the responsibility of the Assembly.

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- (2) What subsection (1) requires of the Assembly is that it shall provide such funding for the Chief Inspector as it considers appropriate.
- (3) In deciding what funding it considers appropriate to provide for the Chief Inspector, the Assembly shall have regard in particular to what it considers the Chief Inspector needs to spend in order to discharge his functions effectively.
- (4) The Assembly shall before the beginning of each financial year consult the Chief Inspector about the funding it is to provide for him in that financial year; and in determining the amount of that funding the Assembly shall take account of the Chief Inspector's estimates of—
  - (a) what he will need to spend in that financial year in order to discharge his functions effectively, and
  - (b) the income which he will receive in that financial year and be entitled to apply towards meeting his expenses.
- (5) But the consultation required by subsection (4) about the funding to be provided for the Chief Inspector in the first financial year in which his funding is the responsibility of the Assembly shall, if it cannot be carried out before the beginning of that financial year, be carried out as soon as is reasonably practicable.
- (6) Schedule 6 (which makes further provision about the Chief Inspector) has effect.

#### **105 Forestry Commissioners**

- (1) The provision of funding for the exercise by the Forestry Commissioners of their functions in relation to Wales shall be the responsibility of the Assembly.
- (2) What subsection (1) requires of the Assembly is that it shall provide such funding as the Assembly considers appropriate for the exercise by the Forestry Commissioners of their functions in relation to Wales.
- (3) In deciding what funding it considers appropriate to provide for the exercise by the Forestry Commissioners of their functions in relation to Wales, the Assembly shall have regard in particular to what it considers those Commissioners need to spend in order effectively to discharge their functions in relation to Wales.
- (4) The Assembly shall before the beginning of each financial year consult the Forestry Commissioners about the funding it is to provide for them in that financial year; and in determining the amount of that funding the Assembly shall take account of the Forestry Commissioners' estimates of—
  - (a) what they will need to spend in that financial year in order effectively to discharge their functions in relation to Wales, and
  - (b) the income which they will receive in that financial year and be entitled to apply towards meeting their expenditure on the exercise of their functions in relation to Wales.
- (5) Schedule 7 (which makes further provision about the Forestry Commissioners and the exercise of their functions in relation to Wales) has effect.



## PART V

### OTHER PROVISIONS ABOUT THE ASSEMBLY

#### *Community law, human rights and international obligations*

#### **106 Community law**

- (1) A Community obligation of the United Kingdom is also an obligation of the Assembly if, and to the extent that, the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Assembly of any of its functions.
- (2) Subsection (1) does not apply in the case of a Community obligation of the United Kingdom if—
  - (a) it is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales).
- (3) But if such a Community obligation could (to any extent) be implemented (or enabled to be implemented) or complied with by the exercise by the Assembly of any of its functions, a Minister of the Crown may by order provide for the achievement by the Assembly (in the exercise of its functions) of so much of the result to be achieved under the Community obligation as is specified in the order.
- (4) The order may specify the time by which any part of the result to be achieved by the Assembly is to be achieved.
- (5) No order shall be made by a Minister of the Crown under subsection (3) unless he has consulted the Assembly.
- (6) Where an order under subsection (3) is in force in relation to a Community obligation, to the extent that the Community obligation involves achieving what is specified in the order it is also an obligation of the Assembly (enforceable as if it were an obligation of the Assembly under subsection (1)).
- (7) The Assembly has no power—
  - (a) to make, confirm or approve any subordinate legislation, or
  - (b) to do any other act,so far as the subordinate legislation or act is incompatible with Community law or an obligation under subsection (6).

#### **107 Human rights**

- (1) The Assembly has no power—
  - (a) to make, confirm or approve any subordinate legislation, or
  - (b) to do any other act,so far as the subordinate legislation or act is incompatible with any of the Convention rights.
- (2) Subsection (1) does not enable a person—

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- (a) to bring any proceedings in a court or tribunal, or
  - (b) to rely on any of the Convention rights in any such proceedings,
- in respect of an act unless he would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act.
- (3) Subsection (2) does not apply to the Attorney General, the Assembly, the Advocate General for Scotland or the Attorney General for Northern Ireland.
- (4) Subsection (1)—
- (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998, is not unlawful under subsection (1) of that section, and
  - (b) does not enable a court or tribunal to award in respect of an act any damages which it could not award on finding the act unlawful under that subsection.
- (5) In this Act “the Convention rights” has the same meaning as in the Human Rights Act 1998 and in subsection (2) “the Convention” has the same meaning as in that Act.

## **108 International obligations**

- (1) If a Minister of the Crown considers that any action proposed to be taken by the Assembly would be incompatible with any international obligation, he may by order direct that the proposed action shall not be taken.
- (2) If a Minister of the Crown considers that any action capable of being taken by the Assembly is required for the purpose of giving effect to any international obligation, he may by order direct the Assembly to take the action.
- (3) If a Minister of the Crown considers that any subordinate legislation made, or which could be revoked, by the Assembly is incompatible with any international obligation, he may by order revoke the legislation.
- (4) An order under subsection (3) may include provision for the order to have effect from a date earlier than that on which it is made; but—
- (a) such a provision shall not affect any rights or liabilities acquired or incurred before the date on which the order is made, and
  - (b) no person shall be guilty of an offence merely because of such a provision.
- (5) An order under subsection (1), (2) or (3) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings.
- (6) In this section “international obligation” means an international obligation of the United Kingdom other than—
- (a) an obligation under Community law, or
  - (b) an obligation not to act (or fail to act) in a way which is incompatible with any of the Convention rights.
- (7) A Minister of the Crown may make an order containing provision such as is specified in subsection (8) where—
- (a) an international obligation is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), and

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- (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales).
- (8) The provision referred to in subsection (7) is provision for the achievement by the Assembly (in the exercise of its functions) of so much of the result to be achieved under the international obligation as is specified in the order.
- (9) The order may specify the time by which any part of the result to be achieved by the Assembly is to be achieved.
- (10) Where an order under subsection (7) is in force in relation to an international obligation, references to the international obligation in subsections (1) to (3) are to an obligation to achieve so much of the result to be achieved under the international obligation as is specified in the order by the time or times so specified.
- (11) No order shall be made by a Minister of the Crown under subsection (2), (3) or (7) unless he has consulted the Assembly.
- (12) In this section “action” includes making, confirming or approving subordinate legislation.

#### *Decisions about Assembly functions*

### **109 Resolution of devolution issues**

Schedule 8 (which makes provision about devolution issues) has effect.

### **110 Power to vary retrospective decisions**

- (1) This section applies where any court or tribunal decides that the Assembly did not have the power to make a provision of subordinate legislation which it has purported to make.
- (2) The court or tribunal may make an order—
  - (a) removing or limiting any retrospective effect of the decision, or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In determining whether to make an order under this section, the court or tribunal shall (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected by the decision.
- (4) Where a court or tribunal is considering whether to make an order under this section, it shall order notice (or intimation) of that fact to be given to the relevant law officer and the Assembly (unless he or it is a party to the proceedings).
- (5) Where the relevant law officer or the Assembly is given notice (or intimation) under subsection (4), he or it may take part as a party in the proceedings so far as they relate to the making of the order.
- (6) In deciding any question as to costs or expenses, the court or tribunal may—
  - (a) take account of any additional expense which it considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of subsection (5), and

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- (b) award the whole or part of the additional expense as costs or expenses to the party who incurred it (whether or not it makes an order under this section and whatever the terms of any such order it does make).
- (7) Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this section including, in particular, provision for determining the manner in which and the time within which any notice (or intimation) is to be given.
- (8) In this section “the relevant law officer” means—
  - (a) in relation to proceedings in England and Wales, the Attorney General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Attorney General for Northern Ireland;
 and in subsection (1) “make” includes confirm or approve.

*Investigation of complaints*

**111 Welsh Administration Ombudsman**

- (1) There shall be an office of Welsh Administration Ombudsman or Ombwdsmon Gweinyddiaeth Cymru.
- (2) Schedule 9 (which makes provision about the Welsh Administration Ombudsman and, in particular, enables him to investigate administrative action taken by the Assembly and certain other public bodies in Wales in response to complaints claiming maladministration) has effect.

**112 Amendments of Health Service Commissioners Act 1993**

Schedule 10 (which makes amendments of the Health Service Commissioners Act 1993 in relation to the Health Service Commissioner for Wales and in consequence of the establishment of the office of Welsh Administration Ombudsman) has effect.

*Local government, the voluntary sector and business*

**113 Relations with local government**

- (1) The Assembly shall make a scheme (referred to in this Act as the local government scheme) setting out how the Assembly proposes, in the exercise of its functions, to sustain and promote local government in Wales.
- (2) The Assembly shall establish and maintain a body to be known as the Partnership Council for Wales or Cyngor Partneriaeth Cymru (but referred to in this Act as the Partnership Council).
- (3) The Partnership Council shall consist of Assembly members and members of local authorities in Wales.
- (4) The Partnership Council may—
  - (a) give advice to the Assembly about matters affecting the exercise of any of the Assembly’s functions,

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- (b) make representations to the Assembly about any matters affecting, or of concern to, those involved in local government in Wales, and
  - (c) give advice to those involved in local government in Wales.
- (5) In determining at any time the provision to be included in the local government scheme the Assembly shall have regard to any advice which has been given, and to any representations which have been made, to the Assembly by the Partnership Council.
- (6) Schedule 11 (which makes provision supplementing this section) has effect.
- (7) For the purposes of subsection (3) and that Schedule the following are local authorities in Wales—
- (a) county councils, county borough councils and community councils in Wales,
  - (b) National Park authorities for National Parks in Wales,
  - (c) police authorities for police areas in Wales,
  - (d) fire authorities for combined areas in Wales, and
  - (e) authorities of any description specified for the purposes of this paragraph by order made by the Assembly.
- (8) No order shall be made under subsection (7)(e) unless the Assembly has consulted the Partnership Council.

#### **114 Relations with voluntary organisations**

- (1) The Assembly shall make a scheme setting out how it proposes, in the exercise of its functions, to promote the interests of relevant voluntary organisations.
- (2) In this section “relevant voluntary organisations” means bodies (other than local authorities or other public bodies) whose activities—
- (a) are carried on otherwise than for profit, and
  - (b) directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area).
- (3) In determining the provision to be included in the scheme the Assembly shall consider how it intends to exercise such of its functions as relate to matters affecting, or of concern to, relevant voluntary organisations.
- (4) The scheme shall specify—
- (a) how the Assembly proposes to provide assistance to relevant voluntary organisations (whether by grants, loans, guarantees or any other means),
  - (b) how the Assembly proposes to monitor the use made of any assistance provided by it to relevant voluntary organisations, and
  - (c) how the Assembly proposes to consult relevant voluntary organisations about the exercise of such of its functions as relate to matters affecting, or of concern to, such organisations.
- (5) The Assembly shall keep the scheme under review and in the year following each ordinary election (after the first) shall consider whether it should be remade or revised.
- (6) The Assembly may not delegate the function of making, or remaking or revising, the scheme.

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- (7) The Assembly shall publish the scheme when first made and whenever subsequently remade and, if the scheme is revised without being remade, shall publish either the revisions or the scheme as revised (as it considers appropriate).
- (8) The Assembly shall consult such relevant voluntary organisations as it considers appropriate before making, remaking or revising the scheme.
- (9) After each financial year the Assembly shall publish a report of how its proposals as set out in the scheme were implemented in that financial year.

### **115 Consultation with business**

The Assembly shall carry out consultation with such organisations representative of business and such other organisations as it considers appropriate having regard to the impact of the exercise by the Assembly of its functions on the interests of business.

#### *Welsh public records*

### **116 Status of Welsh public records**

- (1) Welsh public records shall not be public records for the purposes of the Public Records Act 1958.
- (2) But that Act shall have effect in relation to Welsh public records (as if they were public records for the purposes of that Act) until an order under section 117 imposes a duty to preserve them on the Assembly (or a member of the Assembly's staff); and this subsection applies to Welsh public records whether or not, apart from subsection (1), they would be public records for those purposes.

### **117 Transfer of responsibility**

- (1) The Lord Chancellor may by order make provision—
  - (a) imposing or conferring on the Assembly (or a member of the Assembly's staff) functions relating to Welsh public records (including, in particular, functions of preserving them and of making them available for inspection by the public), and
  - (b) imposing on persons responsible for Welsh public records duties relating to the selection of such records for permanent preservation, the safe-keeping of such records and their transfer to a place specified in, or appointed under, the order.
- (2) An order under this section may (in particular)—
  - (a) make in relation to Welsh public records provision analogous to that made by the Public Records Act 1958 in relation to records which are public records for the purposes of that Act, and
  - (b) contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (3) An order under this section—

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- (a) may make provision in relation to all Welsh public records or any description of Welsh public records (or all Welsh public records apart from those of a particular description), and
  - (b) may make different provision in relation to different descriptions of Welsh public records.
- (4) An order under this section which imposes on the Assembly (or a member of the Assembly's staff) a duty to preserve Welsh public records, or Welsh public records of any description, must include provision for the Lord Chancellor to make such arrangements as appear appropriate for the transfer of Welsh public records, or Welsh public records of that description, which are in—
- (a) the Public Record Office, or
  - (b) a place of deposit appointed under the Public Records Act 1958, to a place specified in, or appointed under, the order.
- (5) No order shall be made under this section unless the Lord Chancellor has consulted the Assembly.

## **118 Meaning of “Welsh public records”**

- (1) The following are Welsh public records—
- (a) records of the Assembly,
  - (b) administrative and departmental records of the Auditor General for Wales,
  - (c) administrative and departmental records belonging to Her Majesty which are records of or held in any government department which is wholly or mainly concerned with Welsh affairs,
  - (d) administrative and departmental records belonging to Her Majesty which are records of any office, commission or other body or establishment under Her Majesty's Government which is wholly or mainly concerned with Welsh affairs in a field or fields in which the Assembly has functions,
  - (e) administrative and departmental records of the bodies and establishments specified in subsection (2) (but not records of health service hospitals in Wales which are of the descriptions excepted from being public records for the purposes of the Public Records Act 1958 in the case of health service hospitals in England), and
  - (f) any other description of records (other than records of any court or tribunal or held in any department of the Supreme Court) which is specified by order made by the Lord Chancellor.
- (2) The bodies and establishments referred to in subsection (1)(e) are—
- (a) the Countryside Council for Wales,
  - (b) the Curriculum and Assessment Authority for Wales,
  - (c) Family Practitioner Committees for localities in Wales,
  - (d) the Further Education Funding Council for Wales,
  - (e) the General Teaching Council for Wales,
  - (f) health service hospitals, within the meaning of the National Health Service Act 1977, in Wales,
  - (g) the Higher Education Funding Council for Wales,
  - (h) the Local Government Boundary Commission for Wales,

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- (i) National Health Service Authorities for districts or localities in Wales, or for areas in or consisting of Wales, including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales,
  - (j) the Qualifications, Curriculum and Assessment Authority for Wales, and
  - (k) the Welsh Board of Health.
- (3) An order under subsection (1)(f) may be made in relation to a description of records—
- (a) which (immediately before the order is made) are public records for the purposes of the Public Records Act 1958, or
  - (b) which (at that time) are not public records for those purposes.
- (4) No order under subsection (1)(f) may be made in relation to records within subsection (3)(a) unless the Lord Chancellor has consulted the Assembly; and no such order may be made in relation to records within subsection (3)(b) unless the Assembly has resolved that the Lord Chancellor be requested to make the order.
- (5) In this section “records” includes not only written records but records conveying information by any other means whatsoever.

#### *Miscellaneous*

### **119 Publication and inspection of documents**

- (1) Where the Assembly publishes any document, it shall make a copy of the document available for public inspection.
- (2) Where the Assembly makes any document available for public inspection—
- (a) the document shall be made available for such inspection free of charge, and
  - (b) (subject to subsection (3)) members of the public shall be afforded facilities for obtaining copies of the document (or of any part of it).
- (3) The Assembly may make a charge for supplying copies of (or of any part of) any document which it publishes or makes available for public inspection.
- (4) Subsections (2) and (3) have effect subject to any provision contained in, or made under, any enactment which provides for—
- (a) the making of charges for the inspection of documents,
  - (b) the making of charges for supplying copies of documents (or parts of documents), or
  - (c) the supply of copies of documents (or parts of documents) free of charge.
- (5) An Assembly member shall be entitled to a single free copy of any document such as is mentioned in subsection (3).
- (6) Neither subsection (2)(b) nor subsection (5) requires or authorises the doing of any act which infringes the copyright in any work; but nothing done in pursuance of subsection (2)(b) or (5) constitutes an infringement of Crown copyright.
- (7) Subsection (4) does not authorise the inclusion in the standing orders of provision contrary to subsection (2).



## **120 Equality of opportunity**

- (1) The Assembly shall make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) After each financial year the Assembly shall publish a report containing—
  - (a) a statement of the arrangements made in pursuance of subsection (1) which had effect during that financial year, and
  - (b) an assessment of how effective those arrangements were in promoting equality of opportunity.

## **121 Sustainable development**

- (1) The Assembly shall make a scheme setting out how it proposes, in the exercise of its functions, to promote sustainable development.
- (2) The Assembly shall keep the scheme under review and in the year following each ordinary election (after the first) shall consider whether it should be remade or revised.
- (3) The Assembly may not delegate the function of making, or remaking or revising, the scheme.
- (4) The Assembly shall publish the scheme when first made and whenever subsequently remade and, if the scheme is revised without being remade, shall publish either the revisions or the scheme as revised (as it considers appropriate).
- (5) The Assembly shall consult such persons or bodies as it considers appropriate before making, remaking or revising the scheme.
- (6) After each financial year the Assembly shall publish a report of how its proposals as set out in the scheme were implemented in that financial year.
- (7) In the year following each ordinary election (after the first) the Assembly shall publish a report containing an assessment of how effective its proposals (as set out in the scheme and implemented) have been in promoting sustainable development.

## **122 English and Welsh texts of Assembly instruments**

- (1) The English and Welsh texts of any subordinate legislation made by the Assembly which is in both English and Welsh when made shall be treated for all purposes as being of equal standing.
- (2) The Assembly may by order provide in respect of any Welsh word or phrase that, where it appears in the Welsh text of any subordinate legislation made by the Assembly, it is to be taken as having the same meaning as the English word or phrase specified in relation to it in the order.
- (3) An order under subsection (2) may, in respect of any Welsh word or phrase, make different provision for different purposes.
- (4) Subordinate legislation made by the Assembly shall, subject to any provision to the contrary contained in it, be construed in accordance with any order under subsection (2).

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### **123 Provision of information to Treasury**

Where it appears to the Treasury that any information in the possession or under the control of the Assembly is required for the exercise of any function by the Treasury, the Treasury may require the Assembly to provide the information to the Treasury in such form as the Treasury may reasonably specify.

### **124 Documentary evidence**

A document purporting to be—

- (a) duly executed under the seal of the Assembly, or
- (b) signed on behalf of the Assembly,

shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

### **125 Minor and consequential amendments**

Schedule 12 (minor and consequential amendments relating to Parts I to IV and this Part) has effect.

## **PART VI**

### REFORM OF WELSH PUBLIC BODIES

#### *The Welsh Development Agency*

### **126 Extension of functions**

- (1) Section 1 of the Welsh Development Agency Act 1975 (functions of Agency and purposes for which they may be exercised) is amended as follows.
- (2) In subsection (2) (purposes for which functions may be exercised)—
  - (a) in paragraph (a) (furtherance of economic development of Wales or a part of Wales), after “economic” insert “and social”, and
  - (b) in paragraph (b) (promotion of industrial efficiency in Wales), for “industrial efficiency” substitute “efficiency in business”.
- (3) In subsection (3) (functions)—
  - (a) in paragraph (a) (promotion of Wales as location of industrial development), for “of industrial development” substitute “for businesses”,
  - (b) in paragraphs (b), (c), (f), (g) and (j) (functions relating to industrial undertakings), for “industrial undertakings” (in each place) substitute “businesses”,
  - (c) in paragraph (d) (promotion etc. of an industry or an undertaking in an industry), for “an industry or any undertaking in an industry” substitute “businesses, or a particular business or particular businesses”, and
  - (d) after that paragraph insert—
    - “(da) to make land available for development;”.

- (4) In subsection (8) (power to make grants not to be used in connection with functions of providing finance for carrying on of industrial undertakings), for “shall not be used in connection with those functions” substitute “may only be exercised in connection with those functions in accordance with a programme approved by the Secretary of State under subsection (15) below”.

**127 Land acquisition and disposal etc**

Schedule 13 (amendments of Welsh Development Agency Act 1975 and other enactments for conferring on Welsh Development Agency functions relating to the acquisition of land etc.) has effect.

**128 Other amendments**

Schedule 14 (other amendments relating to Welsh Development Agency) has effect.

*The Development Board for Rural Wales*

**129 Cessation of functions**

- (1) The functions of the Development Board for Rural Wales shall cease to exist.
- (2) Schedule 15 (amendments of enactments relating to that Board in consequence of subsection (1)) has effect.

**130 Transfer of property, staff etc. to Welsh Development Agency**

- (1) There shall be transferred to and vest in the Welsh Development Agency by virtue of this subsection all property, rights and liabilities to which the Development Board for Rural Wales is entitled or subject when the functions of that Board cease to exist.
- (2) A certificate issued by the Secretary of State that any property has been transferred by subsection (1) shall be conclusive evidence of the transfer.
- (3) Subsection (1) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that subsection.
- (4) Subsection (1) does not have effect to continue in force any contract of employment; but the Secretary of State may by order make provision for the transfer of staff of the Development Board for Rural Wales.
- (5) An order under subsection (4) may make any appropriate consequential, incidental, supplementary or transitional provisions or savings.

**131 Transitional provisions**

- (1) Nothing in section 129 or Schedule 15, or in any repeal made by this Act, affects the validity of anything done by or in relation to the Development Board for Rural Wales before its functions cease to exist.
- (2) There may be continued by or in relation to the Welsh Development Agency anything (including legal proceedings) which—

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- (a) relates to any of the functions of the Development Board for Rural Wales or to any property, rights or liabilities transferred by section 130(1), and
  - (b) is in the process of being done by or in relation to that Board when its functions cease to exist.
- (3) Anything which—
- (a) was done by the Development Board for Rural Wales for the purpose of or in connection with any of its functions or any property, rights or liabilities transferred by section 130(1), and
  - (b) is in effect immediately before its functions cease to exist,
- shall have effect as if done by the Welsh Development Agency.
- (4) The Welsh Development Agency shall be substituted for the Development Board for Rural Wales in any instruments, contracts or legal proceedings which—
- (a) relate to any of the functions of that Board or to any property, rights or liabilities transferred by section 130(1), and
  - (b) are made or commenced before its functions cease to exist.

## **132 Winding-down**

- (1) The Development Board for Rural Wales shall give to the Welsh Development Agency all the information, prepare all the documents and do all other things which appear to that Agency appropriate for the purpose of facilitating—
- (a) the carrying into effect of sections 130, 131 and 133 and Schedule 15, or
  - (b) the exercise of any functions imposed on that Agency, or conferred on the Secretary of State, by this section;
- and the Development Board for Rural Wales may do anything else which appears to it appropriate for that purpose.
- (2) The Development Board for Rural Wales shall comply with section 3(1)(e) of the Development of Rural Wales Act 1976 (reports)—
- (a) in relation to the last accounting year ending before its functions cease to exist (if it has not done so before then), and
  - (b) in relation to the period between the end of that accounting year and the time when its functions cease to exist (to which period that provision shall apply as if it were an accounting year).
- (3) As from the time when the functions of the Development Board for Rural Wales cease to exist, the Welsh Development Agency shall make available to that Board such facilities as that Board may reasonably require for exercising its functions under this section.
- (4) The statement of accounts prepared by the Welsh Development Agency in accordance with paragraph 8(1) of Schedule 3 to the Welsh Development Agency Act 1975 in respect of the accounting year in which the functions of the Development Board for Rural Wales cease to exist shall include a statement of accounts relating to the activities of that Board—
- (a) in respect of the last accounting year ending before the time when those functions cease to exist (if that Board has not before that time prepared a statement of accounts in accordance with section 14(1) of the Development of Rural Wales Act 1976 in relation to that accounting year), and
  - (b) in respect of the period between the end of that accounting year and that time.

- (5) The Secretary of State may pay to members of the Development Board for Rural Wales—
- (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of that Board after the time when its functions cease to exist, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.
- (6) The Secretary of State may determine that, as from the time when the functions of the Development Board for Rural Wales cease to exist or any later time, the number of members of that Board shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (7) In this section “accounting year” means the period of twelve months ending with 31st March.

### **133 Abolition etc**

- (1) The Development Board for Rural Wales shall cease to exist when the Secretary of State, being satisfied that its duties under section 132 have been discharged, by order so directs.
- (2) No amendment or repeal made by this Act or by virtue of subsection (3) affects—
- (a) the continuance of the Development Board for Rural Wales for the purpose of exercising its functions under section 132, or
  - (b) the continued operation for that purpose of any enactment relating to the Development Board for Rural Wales.
- (3) The Secretary of State may by order make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—
- (a) the functions of the Development Board for Rural Wales ceasing to exist under section 129,
  - (b) the transfer of property, rights and liabilities of that Board by section 130(1),
  - (c) the abolition of that Board, or
  - (d) the repeal by this Act of any provision of the Development of Rural Wales Act 1976.
- (4) An order under subsection (3) may include provisions in the form of amendments or repeals of any of sections 129 to 132, Schedule 15 or any other enactment.

### *The Land Authority for Wales*

### **134 Cessation of functions**

The functions of the Land Authority for Wales shall cease to exist.

### **135 Consequential amendments**

- (1) The following amendments relating to the Land Authority for Wales have effect in consequence of section 134.
- (2) In—
  - (a) paragraph 1(2)(xxiv) of Schedule 25 to the Water Act 1989,
  - (b) paragraph 1(1)(iv) of Schedule 16 to the Electricity Act 1989, and
  - (c) paragraph 2(1)(xxviii) of Schedule 4 to the Gas Act 1995,(which deem persons to be statutory undertakers for the purposes of certain enactments), for “Parts XII and” substitute “Part”.
- (3) In section 31(1)(c) of the Acquisition of Land Act 1981 (acquisition under certain provisions of statutory undertakers' land without a certificate), for “said Act of” substitute “Local Government, Planning and Land Act”.

### **136 Transfer of property, staff etc. to Welsh Development Agency**

- (1) There shall be transferred to and vest in the Welsh Development Agency by virtue of this subsection all property, rights and liabilities to which the Land Authority for Wales is entitled or subject when the functions of that Authority cease to exist.
- (2) A certificate issued by the Secretary of State that any property has been transferred by subsection (1) shall be conclusive evidence of the transfer.
- (3) Subsection (1) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that subsection.
- (4) Subsection (1) does not have effect to continue in force any contract of employment; but the Secretary of State may by order make provision for the transfer of staff of the Land Authority for Wales.
- (5) An order under subsection (4) may make any appropriate consequential, incidental, supplementary or transitional provisions or savings.

### **137 Transitional provisions**

- (1) Nothing in section 134 or 135, or in any repeal made by this Act, affects the validity of anything done by or in relation to the Land Authority for Wales before its functions cease to exist.
- (2) There may be continued by or in relation to the Welsh Development Agency anything (including legal proceedings) which—
  - (a) relates to any of the functions of the Land Authority for Wales or to any property, rights or liabilities transferred by section 136(1), and
  - (b) is in the process of being done by or in relation to that Authority when its functions cease to exist.
- (3) Anything which—
  - (a) was done by the Land Authority for Wales for the purpose of or in connection with any of its functions or any property, rights or liabilities transferred by section 136(1), and
  - (b) is in effect immediately before its functions cease to exist,

shall have effect as if done by the Welsh Development Agency.

- (4) The Welsh Development Agency shall be substituted for the Land Authority for Wales in any instruments, contracts or legal proceedings which—
- (a) relate to any of the functions of that Authority or to any property, rights or liabilities transferred by section 136(1), and
  - (b) are made or commenced before its functions cease to exist.

### **138 Winding-down**

- (1) The Land Authority for Wales shall give to the Welsh Development Agency all the information, prepare all the documents and do all other things which appear to that Agency appropriate for the purpose of facilitating—
- (a) the carrying into effect of sections 134 to 137 and section 139, or
  - (b) the exercise of any functions imposed on that Agency, or conferred on the Secretary of State, by this section;
- and the Land Authority for Wales may do anything else which appears to it appropriate for that purpose.
- (2) The Land Authority for Wales shall comply with paragraph 6 of Schedule 21 to the Local Government, Planning and Land Act 1980 (reports)—
- (a) in relation to the last accounting year ending before its functions cease to exist (if it has not done so before then), and
  - (b) in relation to the period between the end of that accounting year and the time when its functions cease to exist (to which period that paragraph shall apply as if it were an accounting year).
- (3) As from the time when the functions of the Land Authority for Wales cease to exist, the Welsh Development Agency shall make available to that Authority such facilities as that Authority may reasonably require for exercising its functions under this section.
- (4) The statement of accounts prepared by the Welsh Development Agency in accordance with paragraph 8(1) of Schedule 3 to the Welsh Development Agency Act 1975 in respect of the accounting year in which the functions of the Land Authority for Wales cease to exist shall include a statement of accounts relating to the activities of that Authority—
- (a) in respect of the last accounting year ending before the time when those functions cease to exist (if that Authority has not before that time prepared a statement of accounts in accordance with paragraph 3 of Schedule 21 to the Local Government, Planning and Land Act 1980 in relation to that accounting year), and
  - (b) in respect of the period between the end of that accounting year and that time.
- (5) The Secretary of State may pay to members of the Land Authority for Wales—
- (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of that Authority after the time when its functions cease to exist, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.

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- (6) The Secretary of State may determine that, as from the time when the functions of the Land Authority for Wales cease to exist or any later time, the number of members of that Authority shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (7) In this section “accounting year” means the period of twelve months ending with 31st March.

### **139 Abolition etc**

- (1) The Land Authority for Wales shall cease to exist when the Secretary of State, being satisfied that its duties under section 138 have been discharged, by order so directs.
- (2) No amendment or repeal made by this Act or by virtue of subsection (3) affects—
  - (a) the continuance of the Land Authority for Wales for the purpose of exercising its functions under section 138, or
  - (b) the continued operation for that purpose of any enactment relating to the Land Authority for Wales.
- (3) The Secretary of State may by order make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—
  - (a) the functions of the Land Authority for Wales ceasing to exist under section 134,
  - (b) the transfer of the property, rights and liabilities of that Authority by section 136(1), or
  - (c) the abolition of that Authority.
- (4) An order under subsection (3) may include provisions in the form of amendments or repeals of any of sections 134 to 138 or any other enactment.

### *Housing for Wales*

### **140 Transfer of functions, property, staff etc. to Secretary of State**

- (1) The functions of Housing for Wales shall be transferred to the Secretary of State in accordance with the provisions of Schedule 16 which amends the enactments relating to that body for the purpose of—
  - (a) transferring its functions to the Secretary of State, and
  - (b) making provision consequential on the transfer.
- (2) There shall be transferred to and vest in the Secretary of State for Wales by virtue of this subsection all property, rights and liabilities to which Housing for Wales is entitled or subject when its functions are transferred to the Secretary of State in accordance with the provisions of Schedule 16.
- (3) A certificate issued by the Secretary of State that any property has been transferred by subsection (2) shall be conclusive evidence of the transfer.
- (4) Subsection (2) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that subsection.



- (5) Subsection (2) does not have effect to continue in force any contract of employment; but the Secretary of State may by order make provision for the transfer of staff of Housing for Wales.
- (6) An order under subsection (5) may make any appropriate consequential, incidental, supplementary or transitional provisions or savings.

#### **141 Transitional provisions**

- (1) Nothing in section 140 or Schedule 16, or in any repeal made by this Act, affects the validity of anything done by or in relation to Housing for Wales before its functions are transferred.
- (2) There may be continued by or in relation to the Secretary of State for Wales anything (including legal proceedings) which—
  - (a) relates to any of the functions of Housing for Wales or to any property, rights or liabilities transferred by section 140(2), and
  - (b) is in the process of being done by or in relation to Housing for Wales when its functions are transferred.
- (3) Anything which—
  - (a) was done by Housing for Wales for the purpose of or in connection with any of its functions or by Housing for Wales or the Housing Corporation for the purpose of or in connection with any property, rights or liabilities transferred by section 140(2), and
  - (b) is in effect immediately before its functions are transferred,shall have effect as if done by the Secretary of State for Wales.
- (4) The Secretary of State for Wales shall be substituted—
  - (a) for Housing for Wales in any instruments, contracts or legal proceedings which relate to any of the functions of Housing for Wales and are made or commenced before its functions are transferred, and
  - (b) for Housing for Wales or the Housing Corporation in any instruments, contracts or legal proceedings which relate to any property, rights or liabilities transferred by section 140(2) and are so made or commenced.

#### **142 Winding-down**

- (1) Housing for Wales shall give to the Secretary of State all the information, prepare all the documents and do all other things which appear to the Secretary of State appropriate for the purpose of facilitating—
  - (a) the carrying into effect of sections 140, 141 and 143 and Schedule 16, or
  - (b) the exercise of any functions transferred to the Secretary of State by Schedule 16 or conferred or imposed on him by this section;and Housing for Wales may do anything else which appears to it appropriate for that purpose.
- (2) Housing for Wales shall comply with section 78(1) and (2) (annual reports) and section 97(1) to (3) (accounts) of the Housing Associations Act 1985—
  - (a) in relation to the last financial year ending before its functions are transferred (if it has not done so before then), and

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- (b) in relation to the period between the end of that financial year and the time when its functions are transferred (to which period those provisions shall apply as if it were a financial year).
- (3) As from the time when the functions of Housing for Wales are transferred, the Secretary of State shall make available to Housing for Wales such facilities as it may reasonably require for exercising its functions under this section.
- (4) Section 78(3) of the Housing Associations Act 1985 (duty of Secretary of State to lay reports before Parliament) shall apply in relation to a report made pursuant to subsection (2).
- (5) Section 97(4) of that Act (duty of Secretary of State to prepare accounts) shall, so far as it relates to Housing for Wales, apply in relation to the period between—
  - (a) the end of the last financial year before its functions are transferred, and
  - (b) the time when its functions are transferred,
 as if it were a financial year.
- (6) The Secretary of State may pay to members of Housing for Wales—
  - (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of Housing for Wales after the time when its functions are transferred, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.
- (7) The Secretary of State may determine that, as from the time when the functions of Housing for Wales are transferred or any later time, the number of members of Housing for Wales shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (8) The Secretary of State shall meet the costs of remunerating auditors and any other costs incurred by Housing for Wales in connection with the exercise of any of its functions under this section.

### **143 Abolition etc**

- (1) Housing for Wales shall cease to exist when the Secretary of State, being satisfied that its duties under section 142 have been discharged, by order so directs.
- (2) No amendment or repeal made by this Act or by virtue of subsection (3) affects—
  - (a) the continuance of Housing for Wales for the purpose of exercising its functions under section 142, or
  - (b) the continued operation for that purpose of any enactment relating to Housing for Wales.
- (3) The Secretary of State may by order make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—
  - (a) the transfer of functions, property, rights and liabilities of Housing for Wales by section 140(1) and (2) and Schedule 16, or
  - (b) the abolition of Housing for Wales.

- (4) An order under subsection (3) may include provisions in the form of amendments or repeals of sections 140 to 142, Schedule 16 or any other enactment.

### *Accountability*

#### **144 Accounts, audit and reports**

- (1) The Secretary of State may by order make provision about—
- (a) the accounts of any body specified in Part I or II of Schedule 17,
  - (b) the audit of any such body's accounts, or
  - (c) reports by any such body on its exercise of its functions.
- (2) An order under subsection (1) may not make any provision about, or about the audit of, the accounts kept in pursuance of section 98(1) of the National Health Service Act 1977 (accounts subject to audit by auditors appointed by the Audit Commission) by any body specified in Part II of Schedule 17.
- (3) An order under subsection (1) may include provision imposing, varying or abolishing requirements in respect of any accounts or reports or the audit of any accounts and, in particular, may provide for—
- (a) designating accounting officers and specifying their responsibilities,
  - (b) the preparation by a body of accounts extending to financial affairs and transactions of any undertaking (as defined in section 259(1) of the Companies Act 1985) of which the body is (or, if it were an undertaking as so defined, would be) a parent undertaking (within the meaning of section 258 of that Act),
  - (c) the granting to auditors, and persons considering reports by any auditor or body, of rights of access to documents and of rights to obtain information, explanations and assistance from persons holding or accountable for documents,
  - (d) the giving of directions by the Assembly (or, before the first ordinary election, by the Secretary of State), and
  - (e) the publication and public inspection of documents.
- (4) The Secretary of State may by order make provision for designating accounting officers of any body specified in Part III of Schedule 17 and specifying their responsibilities.
- (5) An order under subsection (1) or (4) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (6) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1) or (4).
- (7) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from a person designated in pursuance of subsection (3)(a) or (4) as an accounting officer of a body specified in Schedule 17, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

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- (8) The Secretary of State may by order amend any of the Parts of Schedule 17 by—
- (a) adding any public body (other than the Auditor General for Wales, Her Majesty’s Chief Inspector of Schools in Wales, the Welsh Administration Ombudsman, the Health Service Commissioner for Wales, a county council, a county borough council or a community council) whose functions relate exclusively to Wales or an area of Wales,
  - (b) omitting any body, or
  - (c) altering the description of any body.
- (9) In this section—
- (a) “audit”, in relation to any accounts, includes their examination and certification and reporting on them or on any examination of them, and
  - (b) “body” includes office.

#### **145 Examinations into use of resources**

- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which a body or office specified in Schedule 17 has used its resources in discharging its functions.
- (2) Subsection (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of any body or office in respect of which an examination is carried out.
- (3) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee (or, before the first ordinary election, the views of the Secretary of State) as to the examinations which he should carry out under this section.
- (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this section.
- (5) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations under this section, or section 6 or 7 of the National Audit Act 1983 (economy etc. examinations), in respect of a body or office specified in Schedule 17.
- (6) The Comptroller and Auditor General shall—
  - (a) consult the Auditor General for Wales, and
  - (b) take into account any relevant work done or being done by the Auditor General for Wales,
 before he carries out an examination under section 6 or 7 of the National Audit Act 1983 (economy etc. examinations) in respect of a body or office specified in Schedule 17.

#### **146 Transfer etc. of functions of Comptroller and Auditor General**

- (1) The Secretary of State may by order provide for any function of the Comptroller and Auditor General, so far as relating to a body or office falling within subsection (2), to be transferred to, or become a function also of, the Auditor General for Wales.
- (2) The bodies and offices falling within this subsection are—
  - (a) any body or office specified in Schedule 17, and

- (b) any body or office (other than one specified in Schedule 17) whose functions relate exclusively to Wales or an area of Wales (but not the Auditor General for Wales, Her Majesty’s Chief Inspector of Schools in Wales, the Welsh Administration Ombudsman, the Health Service Commissioner for Wales, a county council, a county borough council or a community council).
- (3) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (4) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1).

#### **147 Environment Agency**

- (1) The Secretary of State may by order—
  - (a) make provision for any function of the Comptroller and Auditor General relating to the Environment Agency to become a function also of the Auditor General for Wales so far as it relates to any of the Agency’s Welsh functions or to any funding provided to the Agency by the Assembly, or
  - (b) make provision about reports to the Assembly by the Environment Agency on the Agency’s activities in exercise of its Welsh functions (including provision for the giving of directions by the Assembly about such reports).
- (2) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (3) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1).
- (4) In this section references to the Environment Agency’s Welsh functions are to its functions so far as exercisable in relation to Wales or to a cross-border body, or an English border area, in relation to which environmental functions of the Assembly are exercisable; and “environmental functions of the Assembly” means functions of the Assembly in a field in which the Environment Agency also has functions.

#### *Miscellaneous*

#### **148 Health Authorities**

In section 8(2) of the National Health Service Act 1977 (each Health Authority to act for such area of England or of Wales as is specified in the order establishing it), at the end insert “or, if the order so provides, for the whole of Wales”.

#### **149 Agricultural wages committees**

In section 2 of the Agricultural Wages Act 1948 (agricultural wages committees for counties and combinations of counties), in the proviso to subsection (1) (exceptions to proposition that there be one committee for each county in England and Wales), at the end insert “and

- (c) there may, if the Minister thinks it expedient, be established as aforesaid a committee for the combination of all the counties in Wales

instead of separate committees for counties or combinations of counties in Wales.”

### **150 Abolition of Residuary Body for Wales**

- (1) Paragraph 18 of Schedule 13 to the Local Government (Wales) Act 1994 (provisions for winding up of Residuary Body for Wales) is amended as follows.
- (2) In sub-paragraph (2) (meaning of “the transitional period” within which the Residuary Body must try to complete its work and at the end of which it is to be wound up), for “period of five years beginning with the establishment of the Residuary Body” substitute “period beginning with the establishment of the Residuary Body and ending with 31st March 1999”.
- (3) Omit—
  - (a) in sub-paragraph (3), “Subject to sub-paragraph (4),”, and
  - (b) sub-paragraph (4),
 (under which the Secretary of State may specify a period longer than the transitional period as the period at the end of which the Residuary Body is to be wound up).
- (4) For sub-paragraphs (5) to (7) (duty of Residuary Body to submit scheme for its winding up and to make arrangements for transfers etc. and power of Secretary of State to make orders) substitute—
  - “(5) The Residuary Body shall, before the end of the period of three months beginning with the day on which the Government of Wales Act 1998 is passed, submit to the Secretary of State a scheme for the winding up of the Residuary Body.
  - (6) The scheme shall include in relation to the Residuary Body’s remaining functions, property, rights and liabilities—
    - (a) a statement of arrangements made by the Residuary Body for their transfer by the Residuary Body to another body or bodies,
    - (b) proposals for their transfer by the Secretary of State to another body or bodies, or
    - (c) such a statement in relation to some of them and such proposals in relation to the rest.
  - (7) The Secretary of State may by order make provision for giving effect to the scheme (with or without modifications) and for the transfer of functions, property, rights and liabilities of the Residuary Body to another body or bodies (whether or not as proposed in the scheme).”

## **PART VII**

### **SUPPLEMENTARY**

### **151 Power to amend enactments**

- (1) The Secretary of State may by order make in any enactment—
  - (a) contained in an Act passed before or in the same session as this Act, or

- (b) made before the passing of this Act or in the session in which this Act is passed,  
such amendments or repeals as appear to him to be appropriate in consequence of this Act.
- (2) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1).

## **152 Repeals**

Schedule 18 (which contains repeals, including repeals of spent enactments) has effect.

## **153 Transitional provisions etc**

- (1) The Secretary of State may by order make such transitional, consequential, incidental or supplementary provision, or such savings, as he considers appropriate for the purpose of or in connection with the coming into force of any provision of this Act.
- (2) If section 107 comes into force before the Human Rights Act 1998 has come into force (or come fully into force), that section shall have effect until the time when that Act is fully in force as it will have effect after that time.

## **154 Orders and directions**

- (1) Any power of a Minister of the Crown or the Assembly under this Act to make an order shall be exercisable by statutory instrument.
- (2) No order to which this subsection applies shall be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Subsection (2) applies—
  - (a) to an order under section 11, 75(5), 108(2) or (3), 144(8) or 155(2), and
  - (b) to an order under section 96(5), 117, 133(3), 139(3), 143(3), 144(1) or (4), 146(1), 147(1) or 151 or paragraph 1 of Schedule 7 which contains provisions in the form of amendments or repeals of enactments contained in an Act.
- (4) No order shall be made under section 82(6) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.
- (5) A statutory instrument containing an order to which this subsection applies shall (unless a draft of the statutory instrument has been approved by a resolution of each House of Parliament) be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (5) applies—
  - (a) to an order under section 3, 15(5), 17, 25, 36(5), 39, 49(1), 96(5), 106(3), 108(7), 117, 118(1)(f), 130(4), 133(3), 136(4), 139(3), 140(5), 143(3), 144(1) or (4), 146(1), 147(1), 151 or 153, paragraph 2 of Schedule 6, paragraph 1 of Schedule 7 or paragraph 17(9) of Schedule 9, and
  - (b) subject to subsection (7), to an order under section 108(1).

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- (7) A statutory instrument containing only an order under subsection (1) of section 108 revoking a previous order under that subsection—
- (a) shall not be subject to annulment in pursuance of a resolution of either House of Parliament, but
  - (b) shall be laid before Parliament.
- (8) Any power conferred by this Act to give a direction includes power to vary or revoke the direction.

## 155 Interpretation

- (1) In this Act—
- “Community law” means—
- (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Treaties, and
  - (b) all the remedies and procedures from time to time provided for by or under the Community Treaties,
- “delegate” includes further delegate,
- “enactment” includes subordinate legislation,
- “functions” includes powers and duties,
- “Minister of the Crown” includes the Treasury,
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978, and
- “Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea;
- and related expressions shall be construed accordingly.
- (2) The Secretary of State may by order determine, or make provision for determining, for the purposes of the definition of “Wales” any boundary between—
- (a) the parts of the sea which are to be treated as adjacent to Wales, and
  - (b) those which are not,
- and may make different determinations or provision for different purposes; and an Order in Council under section 22 may include any provision that may be included in an order under this subsection.
- (3) In this Act “financial year” means the twelve months ending with 31st March; and the first financial year of the Assembly is the financial year ending with the 31st March following the day of the first ordinary election.
- (4) Section 13 of the National Audit Act 1983 (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as for those of that Act.

## 156 Defined expressions

In this Act the expressions listed below are defined by, or otherwise fall to be construed in accordance with, the provisions indicated—

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the Assembly

section 1(1)



Assembly constituency	section 2(2) and Schedule 1
Assembly electoral region	section 2(2) and Schedule 1
Assembly First Secretary	section 53
Assembly general subordinate legislation	section 58(6)
Assembly members	section 2(3)
Assembly Secretary	section 53
Audit Committee	section 60
Auditor General for Wales	section 90(1)
Committee of Public Accounts	section 155(4)
Community law	section 155(1)
constituency vote	section 4(2)
the Convention rights	section 107(5)
cross-border body	paragraph 3(2) of Schedule 3
delegate	section 155(1)
deputy presiding officer	section 52(1)(b) and (2)
electoral region figure	section 6(3)
electoral region vote	section 4(3)
enactment	section 155(1)
English border area	paragraph 3(2) of Schedule 3
executive committee	section 56
financial year	section 155(3)
first financial year of the Assembly	section 155(3)
functions	section 155(1)
largest party with an executive role	section 59(7)
local government scheme	section 113(1)
Minister of the Crown	section 155(1)
ordinary election	section 2(4)
Partnership Council	section 113(2)
presiding officer	section 52(1)(a) and (2)
regional committee	section 61
regional returning officer	section 11(6)
registered political party	section 4(8)
regulatory appraisal	section 65(1)
relevant Parliamentary procedural provision	section 44(3)

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subject committee	section 57
subordinate legislation	section 155(1)
subordinate legislation procedures	section 64
subordinate legislation scrutiny committee	section 58
Wales	section 155(1) and (2)
Welsh Administration Ombudsman	section 111
Welsh public records	section 118

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### **157 Financial provisions**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenditure incurred by any Minister of the Crown or government department under or by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) There shall be paid out of the National Loans Fund any increase attributable to this Act in the sums payable out of that Fund under any other enactment.
- (3) There shall be paid into the National Loans Fund any increase attributable to this Act in the sums payable into that Fund under any other enactment.
- (4) There shall be paid into the Consolidated Fund any sums received by the Secretary of State under or by virtue of this Act (apart from any required to be paid into the National Loans Fund).

### **158 Commencement**

- (1) Parts I and II, the provisions of Part III other than sections 50 and 51, Parts IV to VI and section 152 (and Schedule 18) shall not come into force until such day as the Secretary of State may by order appoint.
- (2) Different days may be appointed under this section for different purposes.

### **159 Short title**

This Act may be cited as the Government of Wales Act 1998.