



Government of Wales Act 1998

1998 CHAPTER 38

PART II

ASSEMBLY FUNCTIONS

Supplementary

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),

Status: This is the original version (as it was originally enacted).

- (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.