

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 2

Ministers, staff, etc

Section 49: The Counsel General

230. This section provides for there to be a Counsel General who is legal adviser to, and representative in the courts of, the Welsh Assembly Government. The Counsel General is appointed by Her Majesty on the recommendation of the First Minister but with the agreement of the Assembly. The person appointed need not be a member of the Assembly.
231. The Counsel General is a member of the Welsh Assembly Government but although the office is of “ministerial” status the holder is not one of “the Welsh Ministers”.
232. The Counsel General may resign at any time. Unlike Welsh Ministers and Deputy Welsh Ministers, the Counsel General can only be removed from office by Her Majesty and does not have to resign after a vote of no confidence in the Welsh Ministers. The Counsel General ceases to hold office on the nomination of a First Minister under section 47 (but could of course be re-appointed).
233. [Section 34](#) deals with the participation of the Counsel General in the proceedings of the Assembly and includes provision enabling the Counsel General to decline to provide documents or to answer questions about particular criminal cases (the Counsel General may be conducting criminal proceedings on behalf of the Welsh Assembly Government) if the Counsel General considers that doing so might prejudice the proceedings in that case or would otherwise be contrary to the public interest. If the office of Counsel General is vacant, or if the Counsel General is for any reason unable to act, the functions of the office can, under subsection (6) be exercised by a person designated by the First Minister. There is no requirement for Her Majesty’s approval or the agreement of the Assembly to this designation. The period during which Counsel General functions can be exercised by virtue of a designation under subsection (6) is limited to a maximum of 6 months and a designation comes to an end if a person is nominated for appointment as First Minister. This ensures that a First Minister who has been newly appointed is not in a position where there is already an acting Counsel General in office.
234. A person who is appointed as Counsel General (or designated to exercise the functions of the office under subsection (6)) cannot also hold, or be appointed to the office of First Minister, or a Welsh Minister or Deputy Welsh Minister.