

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 5

Expenditure

Part 6: Miscellaneous and Supplementary

Overview of Part 6

517. **Part 6** of the Act deals with Miscellaneous and Supplementary matters; only some of these are referred to here.
518. The provisions (ss.116-118) in the 1998 Act relating to Welsh public records are carried forward into this Act, with amendments. These take account of the changes being implemented by this Act, together with other changes in public administration in Wales (so for example the records of the newly-created Welsh Centre for Health are included as Welsh public records).
519. In the same way, the existing provisions in Schedule 8 of the 1998 Act on legal proceedings on “Devolution issues” are carried forward into the new Act as Schedule 9, but the provisions are updated to take account of the creation of the Supreme Court by the Constitutional Reform Act 2005.
520. **Sections 150, 151 and 153** deal with issues potentially arising as a result of use by the Assembly of its Measure-making or Act-making powers. Section 150 (which is based on s.104 of the Scotland Act 1998) authorises the Secretary of State to make orders amending legislation or any other instrument or document consequential upon an Assembly Measure or Act or another piece of subordinate legislation relating to Wales. The purpose of this is to enable the Secretary of State to ensure that the statute book for England and Wales maintains general consistency and coherence, and that questions as to the meaning of legislation (other than that made by the Assembly) are not inadvertently raised as a result of any Measure adopted by the Assembly. Section 151 is similarly a “tidying-up” power, enabling Her Majesty in Council to make orders to deal with any consequences of possible *ultra vires* action by the Assembly in exercise of its legislative functions. Section 153 carries forward, with amendments, the existing provision (s. 110) of the 1998 Act, enabling courts or tribunals, in circumstances where they have concluded that either the Assembly or the Welsh Ministers have gone beyond their legislative powers, to make orders limiting or removing the retrospective effect of any such conclusion.
521. Finally, sections 154 and 156 provide guidance to the courts on the interpretation of Assembly legislation. By section 156, and following s.122 of the 1998 Act, the English and Welsh texts of legislation are to be treated as of equal standing. Section 154 authorises a court to “read down” Assembly legislation, so far as that is possible, in order to be able to conclude that a provision in issue is *intra vires*.