

SCHEDULES

SCHEDULE 7

Section 108

ACTS OF THE ASSEMBLY

PART 1

SUBJECTS

Agriculture, fisheries, forestry and rural development

- 1 Agriculture, including animal health and welfare. Plant health. Plant varieties and seeds. Horticulture. Fisheries. Fish health. Forestry. Rural development.

Exceptions—

Hunting with dogs.

Regulation of scientific or other experimental procedures on animals.

Import and export control, and regulation of movement, of animals, plants and other things, apart from (but subject to provision made by or by virtue of any Act of Parliament relating to the control of imports or exports)—

- (a) the movement into and out of, and within, Wales of animals, animal products, plants, plant products and other things related to them for the purposes of protecting human, animal or plant health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy, and
- (b) the movement into and out of, and within, Wales of animal feedstuff, fertilisers and pesticides (or things treated by virtue of any enactment as pesticides) for the purposes of protecting human, animal or plant health or the environment.

Authorisations of veterinary medicines and medicinal products.

Ancient monuments and historic buildings

- 2 Archaeological remains. Ancient monuments. Buildings and places of historical or architectural interest. Historic wrecks.

Culture

- 3 Arts and crafts. Museums and galleries. Libraries. Archives and historical records. Cultural activities and projects.

Exceptions—

Public lending right.

Broadcasting.

Classification of films, and video recordings.

Government indemnities for objects on loan.

Status: This is the original version (as it was originally enacted).

Payments to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax, apart from property in which there is a Welsh national interest.

Economic development

- 4 Economic regeneration and development, including social development of communities, reclamation of derelict land and improvement of the environment. Promotion of business and competitiveness.

Exceptions—

Fiscal, economic and monetary policy and regulation of international trade.
 Regulation of anti-competitive practices and agreements, abuse of dominant position and monopolies and mergers.
 Intellectual property, apart from plant varieties.
 Creation, operation, regulation and dissolution of types of business association.
 Insolvency.
 Product standards, safety and liability, apart from in relation to food (including packaging and other materials which come into contact with food), agricultural and horticultural products, fish and fish products, seeds, fertilisers and pesticides (and things treated by virtue of any enactment as pesticides).
 Consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indications, apart from in relation to food (including packaging and other materials which come into contact with food), agricultural and horticultural products, fish and fish products, seeds, fertilisers and pesticides (and things treated by virtue of any enactment as pesticides).
 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.
 Financial markets, including listing and public offers of securities and investments, transfers of securities, insider dealing and money laundering.
 Telecommunications, wireless telegraphy (including electromagnetic disturbance), internet services and electronic encryption.
 Postal services, post offices and the Post Office, apart from financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices.
 Generation, transmission and supply of electricity, apart from pollution.
 Energy conservation, apart from the encouragement of energy efficiency otherwise than by prohibition or regulation.
 Coal, including mining and subsidence, apart from land restoration and other environmental matters.
 Oil and gas, apart from pollution.
 Units and standards of weights and measurement and the regulation of trade so far as involving weighing, measuring and quantities.
 Industrial Development Advisory Board.

Education and training

- 5 Education, vocational, social and physical training and the careers service. Promotion of advancement and application of knowledge.

Exception—

Research Councils.

Environment

- 6 Environmental protection, including pollution, nuisances and hazardous substances. Collection, management and disposal of waste. Land drainage and land improvement. Countryside and open spaces (including the designation and regulation of national parks and areas of outstanding natural beauty). Nature conservation and sites of special scientific interest. Protection of natural habitats, coast and marine environment (including seabed). Biodiversity. Genetically modified organisms. Smallholdings and allotments. Common land. Town and village greens. Burial and cremation.

Fire and rescue services and promotion of fire safety

- 7 Fire and rescue services. Promotion of fire safety otherwise than by prohibition or regulation.

Food

- 8 Food and food products. Food safety (including packaging and other materials which come into contact with food). Protection of interests of consumers in relation to food.
“Food” includes drink.

Health and health services

- 9 Promotion of health. Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder. Control of disease. Family planning. Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities. Clinical governance and standards of health care. Organisation and funding of national health service.

Exceptions—

Abortion.

Human genetics, human fertilisation, human embryology, surrogacy arrangements.

Xenotransplantation.

Regulation of health professionals (including persons dispensing hearing aids).

Poisons.

Misuse of and dealing in drugs.

Human medicines and medicinal products, including authorisations for use and regulation of prices.

Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).

Vaccine damage payments.

Welfare foods.

Health and Safety Commission, Health and Safety Executive and Employment Medical Advisory Service and provision made by health and safety regulations.

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

Highways and transport

- 10 Highways, including bridges and tunnels. Streetworks. Traffic management and regulation. Transport facilities and services.

Exceptions—

Road freight transport services, including goods vehicles operating licensing.
Regulation of use of motor vehicles and trailers on roads, their construction and equipment and conditions under which they may be so used, apart from regulation of use of vehicles carrying animals for purpose of protecting human, animal or plant health, animal welfare or the environment.

Road traffic offences.

Driver licensing.

Driving instruction.

Insurance of motor vehicles.

Drivers' hours.

Traffic regulation on special roads, pedestrian crossings, traffic signs and speed limits.

International road transport services for passengers.

Public service vehicle operator licensing.

Documents relating to vehicles and drivers for purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.

Vehicle excise duty and vehicle registration.

Provision and regulation of railway services, apart from financial assistance which—

- (a) does not relate to the carriage of goods,
- (b) is not made in connection with a railway administration order, and
- (c) is not made in connection with Council Regulation (EEC) No. 1893/91 on public service obligations in transport.

Rail transport security.

Railway heritage.

Aviation, air transport, airports and aerodromes, apart from—

- (a) financial assistance to providers or proposed providers of air transport services or airport facilities or services,
- (b) strategies by the Welsh Ministers or local or other public authorities about provision of air services, and
- (c) regulation of use of aircraft carrying animals for purpose of protecting human, animal or plant health, animal welfare or the environment.

Shipping, apart from—

- (a) financial assistance for shipping services to, from or within Wales, and
- (b) regulation of use of vessels carrying animals for purpose of protecting human, animal or plant health, animal welfare or the environment.

Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.

Technical and safety standards of vessels.

Harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for the fishing or agricultural industries, for recreation or for communications between places in Wales.

Carriage of dangerous goods (including transport of radioactive material).

Housing

- 11 Housing and housing finance. Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes.

Local government

- 12 Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

“Local authorities” does not include police authorities.

Exceptions—

- Local government franchise.
- Electoral registration and administration.
- Registration of births, marriages, civil partnerships and deaths.
- Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.
- Anti-social behaviour orders.
- Local land charges, apart from fees.
- Sunday trading.
- Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

National Assembly for Wales

- 13 Complaints about Assembly members (including provision for and about an office or body for investigating such complaints and reporting outcome of investigations). Assembly Commission. Salaries, allowances, pensions and gratuities for and in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers. Register of interests of Assembly members and the Counsel General. Meaning of Welsh words and phrases in Assembly Measures and Acts of the Assembly, in subordinate legislation made under Assembly Measures and Acts of the Assembly and in other subordinate legislation if made by the Welsh Ministers, the First Minister or the Counsel General. Private legislation in the Assembly. Financial assistance for political groups to which Assembly members belong. The Welsh Seal. Arrangements for the printing of Acts of the Assembly, of subordinate legislation made under Assembly Measures and Acts of the Assembly and of other subordinate legislation if made by the Welsh Ministers, the First Minister or the Counsel General.

Public administration

- 14 Public Services Ombudsman for Wales. Audit, examination, regulation and inspection of auditable public authorities. Inquiries. Equal opportunities in relation to equal opportunity public authorities. Access to information held by open access public authorities.

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

The following are “auditable public authorities” and “equal opportunity public authorities”—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Assembly Government,
- (d) persons who exercise functions of a public nature and in respect of whom the Welsh Ministers exercise functions,
- (e) persons who exercise functions of a public nature and at least half of the cost of whose functions in relation to Wales are funded (directly or indirectly) by the Welsh Ministers, and
- (f) persons established by enactment and having power to issue a precept or levy.

The following are “open access public authorities”—

- (a) the Assembly,
- (b) the Assembly Commission,
- (c) the Welsh Assembly Government, and
- (d) authorities which are Welsh public authorities, within the meaning of the Freedom of Information Act 2000 (c. 36).

Exception—

Regulation of the profession of auditor.

Social welfare

- 15 Social welfare including social services. Protection and well-being of children (including adoption and fostering). Care of young adults, vulnerable persons and older persons, including care standards. Badges for display on motor vehicles used by disabled persons.

Exceptions—

Child support.

Child trust funds.

Tax credits.

Child benefit and guardian’s allowance.

Social security.

Intercountry adoption, apart from adoption agencies and their functions, and functions of “the Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

The Children’s Commissioner (established under the Children Act 2004 (c. 31)).

Family law and proceedings, apart from—

- (a) welfare, advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and
- (b) Welsh family proceedings officers.

Sport and recreation

- 16 Sport and recreational activities.

Exception—

Betting, gaming and lotteries.

Tourism

17 Tourism.

Town and country planning

18 Town and country planning, including listed buildings, conservation areas, hazardous substances. Caravan sites. Spatial planning. Mineral workings. Urban development. New towns. Protection of visual amenity.

Water and flood defence

19 Water supply and sewerage, including abstraction and impounding of water, water resources management, water quality, water industry, water charges and representation of consumers of water. Safety of reservoirs and other inland water. Management and protection of watercourses and flood prevention.

Exceptions—

Appointment of water undertakers or sewerage undertakers for any area most of which is in England.

Licensing of water suppliers.

Welsh language

20 Welsh language

Exception—

Use of the Welsh language in courts.

PART 2

GENERAL RESTRICTIONS

Functions of a Minister of the Crown

- 1 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any pre-commencement function of a Minister of the Crown.
- (2) A provision of an Act of the Assembly cannot confer or impose, or confer power by subordinate legislation to confer or impose, any function on a Minister of the Crown.
- (3) In this Schedule “pre-commencement function” means a function which is exercisable by a Minister of the Crown before the day on which the Assembly Act provisions come into force.

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

Enactments other than this Act

- 2 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the Table below—

TABLE

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972 (c. 68)	The whole Act
Data Protection Act 1998 (c. 29)	The whole Act
Government of Wales Act 1998 (c. 38)	Sections 144(7), 145, 145A and 146A(1)
Human Rights Act 1998 (c. 42)	The whole Act
Civil Contingencies Act 2004 (c. 36)	The whole Act
Re-Use of Public Sector Information Regulations 2005 (S.I. 2005/1505)	The whole set of Regulations

- 3 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.

- 4 A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, any functions of the Comptroller and Auditor General.

This Act

- 5 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.
- (2) Sub-paragraph (1) does not apply to sections 20, 22, 24, 36(1) to (5) and (7) to (11), 53, 54, 146, 147, 148 and 156(2) to (5).
- (3) Sub-paragraph (1) does not apply to any provision—
- making modifications of so much of any enactment as is modified by this Act, or
 - repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Act of the Assembly.

PART 3

EXCEPTIONS FROM PART 2

Functions of Ministers of the Crown

- 6 (1) Part 2 does not prevent a provision of an Act of the Assembly removing or modifying, or conferring power by subordinate legislation to remove or modify, any pre-commencement function of a Minister of the Crown if—
- (a) the Secretary of State consents to the provision, or
 - (b) the provision is incidental to, or consequential on, any other provision contained in the Act of the Assembly.
- (2) Part 2 does not prevent a provision of an Act of the Assembly conferring or imposing, or conferring power by subordinate legislation to confer or impose, any function on a Minister of the Crown if the Secretary of State consents to the provision.

Comptroller and Auditor General

- 7 Part 2 does not prevent a provision of an Act of the Assembly modifying, or conferring power by subordinate legislation to modify, any enactment relating to the Comptroller and Auditor General if the Secretary of State consents to the provision.

Restatement

- 8 Part 2 does not prevent an Act of the Assembly—
- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
 - (b) repealing or revoking any spent enactment,
- or conferring power by subordinate legislation to do so.

Subordinate legislation

- 9 Part 2 does not prevent an Act of the Assembly making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes—
- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised,
 - (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject, and
 - (c) applying any enactment comprised in or made under an Act of the Assembly relating to the documents by which such powers may be exercised.