

2007 No. 2143

CONSTITUTIONAL LAW

DEVOLUTION, WALES

**The National Assembly for Wales (Legislative Competence)
(Amendment of Schedule 7 to the Government of Wales Act
2006) Order 2007**

Made - - - - *25th July 2007*

Coming into force - - *26th July 2007*

At the Court at Buckingham Palace, the 25th day of July 2007

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 109(4)(a) of the Government of Wales Act 2006(a), a draft of this Order has been laid before, and approved by resolution of, each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 109(1) of that Act, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Amendment of Schedule 7 to the Government of Wales Act 2006) Order 2007.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order, any reference to the position of an exception under a heading is a reference to the position of that exception under that heading immediately before this Order comes into force.

Amendments to Part 1 of Schedule 7 to the Government of Wales Act 2006

2. Part 1 of Schedule 7 to the Government of Wales Act 2006 (subjects) is amended as follows.

3. Under the heading *Agriculture, fisheries, forestry and rural development*—

(a) in paragraph (a) of the third exception—

- (i) after “animals, animal products,” insert “fish, fish products,”;
 - (ii) after “protecting human, animal” insert “, fish”;
- (b) in paragraph (b) of that exception—
- (i) after “animal feedstuff,” insert “fish feedstuff,”;
 - (ii) after “protecting human, animal” insert “, fish”.
4. Under the heading *Economic development*—
- (a) after the eighth exception, insert—
- “Occupational and personal pension schemes (including schemes which make provision for compensation for loss of office or employment, compensation for loss or diminution of emoluments, or benefits in respect of death or incapacity resulting from injury or disease), apart from schemes for or in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General or Deputy Welsh Ministers.”;
- (b) in the twelfth and fifteenth exceptions, omit “, apart from pollution”; and
- (c) after the fifteenth exception, insert—
- “Nuclear energy and nuclear installations.”.
5. Under the heading *Environment*, after “Burial and cremation” insert “, except coroners’ functions”.
6. Under the heading *Highways and transport*—
- (a) at the start of the list of exceptions, insert—
- “Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.”;
- (b) in the second exception, for “purpose of protecting human, animal or plant health” substitute “the purposes of protecting human, animal, fish or plant health”;
- (c) in paragraph (c) of the thirteenth exception, after “is not made in connection with” insert “Council Regulation (EEC) No. 1191/69 as amended by”;
- (d) in the fourteenth exception, for “Rail transport” substitute “Transport”;
- (e) in paragraph (c) of the sixteenth exception and paragraph (b) of the seventeenth exception, for “purpose of protecting human, animal or plant health” substitute “the purposes of protecting human, animal, fish or plant health”; and
- (f) in the twentieth exception, for the words after “Harbours, docks, piers and boatslips,” substitute—
- “apart from—
- (a) those used or required wholly or mainly for the fishing industry, for recreation, or for communication between places in Wales (or for two or more of those purposes), and
 - (b) regulation for the purposes of protecting human, animal, fish or plant health, animal welfare or the environment.”.
7. Under the heading *Housing*, for “Housing and housing finance.” substitute “Housing. Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits.”.
8. Under the heading *Public administration*, after “Inquiries” insert “in respect of matters in relation to which the Welsh Ministers, the First Minister or the Counsel General exercise functions”.
9. Under the heading *Social welfare*, in the list of exceptions, after “Social security.” insert—
- “Independent Living Funds.

Motability.”.

10. Under the heading *Town and country planning*, for “, conservation areas, hazardous substances” substitute “and conservation areas”.

11. Under the heading *Water and flood defence*, for the words after “Water supply” substitute—
“, water resources management (including reservoirs), water quality and representation of consumers of water and sewerage services. Flood risk management and coastal protection.

Exceptions—

Appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales.

Licensing and regulation of any licensed water supplier within the meaning of the Water Industry Act 1991 (c. 56), apart from regulation in relation to licensed activities using the supply system of a water undertaker whose area is wholly or mainly in Wales.”.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

Part 4 of the Government of Wales Act 2006 (“the Act”) includes provisions enabling the National Assembly for Wales (“the Assembly”) to pass Acts of the Assembly relating to any of the subjects set out in Part 1 of Schedule 7 to the Act. Those provisions may be brought into force by order of the Welsh Ministers only if the majority of voters in a referendum held throughout Wales vote in favour of their coming into force.

Section 109 of the Act provides that Her Majesty may by Order in Council amend Schedule 7. Part 1 of Schedule 7 sets out the subjects to which Acts of the Assembly may relate, and exceptions from those subjects. Parts 2 and 3 of Schedule 7 set out general restrictions on the legislative competence of the Assembly and exceptions from those restrictions.

This Order amends the subjects and exceptions set out in Part 1 of Schedule 7 as follows.

Article 3 amends the qualifications to the exception relating to import and export control, to refer to the movement of fish, fish products and fish feedstuff and the purpose of protecting fish health.

Article 4 amends a number of exceptions listed under “Economic development”. Article 4(a) inserts an exception for occupational and personal pension schemes; article 4(b) removes qualifying words from the exceptions relating to electricity, oil and gas; and article 4(c) inserts an exception for nuclear energy and nuclear installations.

Article 5 amends the subject “burial and cremation” to state that it excludes coroners’ functions.

Article 6 amends a number of exceptions listed under “Highways and transport”. Article 6(a) inserts a new exception relating to local bus services; articles 6(b) and (e) amend the exceptions relating to motor vehicles, aviation and shipping to state that they do not apply to regulation of vehicles, aircraft or vessels carrying animals for the purpose of protecting fish health; article 6(c) corrects a reference to an EEC Regulation in the exception relating to railway services; article 6(d) converts the exception for rail transport security into an exception for all transport security; and article 6(f) amends the exception relating to harbours.

Article 7 amends the subject “housing and housing finance” to exclude certain housing finance schemes which provide individual social security benefits.

Article 8 restricts the subject “inquiries” to inquiries in respect of matters in relation to which the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government exercise functions.

Article 9 amends the list of exceptions under “Social security” by inserting new exceptions for Independent Living Funds and Motability.

Article 10 removes the reference to “hazardous substances” in the subject “town and country planning”. Hazardous substances are also listed in the subject “environmental protection”.

Article 11 amends the subjects listed in paragraph 19 under “Water and flood defence”.

This is the first Order under section 109 of which a draft has been laid before Parliament. Therefore, in accordance with section 109(4)(b), it is not also required to be laid before and approved by a resolution of the Assembly.

A full regulatory impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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