

# Government and Laws in Wales Bill

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# Government and Laws in Wales Bill

An Act to reform and restate the constitutional arrangements for Wales and to establish distinct legal jurisdictions of Wales and of England.

**BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-**

## PART 1

### GOVERNMENT AND LAWS IN WALES

#### 1 Welsh Parliament and Welsh Government

- (1) The National Assembly for Wales is to continue in existence but is to become the Welsh Parliament or Senedd Cymru (see Part 2).
- (2) There is to continue to be a Welsh Government or Llywodraeth Cymru (see Part 4).
- (3) The Welsh Parliament and the Welsh Government are a permanent part of the United Kingdom’s constitutional arrangements.
- (4) Nothing in subsections (1) to (3) may be repealed unless—
  - (a) the Welsh Parliament has consented to the proposed repeal, and
  - (b) a referendum of the people of Wales has been held on the proposed repeal and a majority of those voting at the referendum have consented to it.

#### 2 Laws in Wales

- (1) The Welsh Parliament may make laws to be known as Acts of the Welsh Parliament or Deddfau Senedd Cymru (referred to in this Act as “Welsh Acts”).
- (2) A Welsh Act may make any provision that could be made by an Act of the United Kingdom Parliament, subject to the provisions of Part 3.
- (3) This Act does not affect the power of the United Kingdom Parliament to make laws extending to Wales.
- (4) But the United Kingdom Parliament will not normally pass Acts making provision about a devolved matter without the consent of the Welsh Parliament.
- (5) A provision is about a devolved matter if the provision—
  - (a) extends to Wales and does not relate to reserved matters,
  - (b) modifies the legislative competence of the Welsh Parliament, or
  - (c) modifies the functions of any member of the Welsh Government.

**3 Legal jurisdiction of Wales**

There is to be a legal jurisdiction of Wales (see Part 5).

**PART 2****THE WELSH PARLIAMENT***Membership of Welsh Parliament***4 Seats and members**

Schedule 1 makes provision about the seats in the Welsh Parliament and the arrangements for the filling of them with members of the Welsh Parliament.

**5 Term of office of members**

The term of office of a member of the Welsh Parliament –

- (a) begins when the member is declared to be returned, and
- (b) ends with the dissolution of the Welsh Parliament.

**6 Resignation of members**

A member of the Welsh Parliament may at any time resign by giving notice in writing to the Presiding Officer.

**7 Disqualification from membership**

Schedule 2 makes provision about disqualification from being a member of the Welsh Parliament.

*Elections***8 Ordinary general elections every 5 years**

- (1) The poll at an ordinary general election is to be held on the first Thursday in May in the fifth calendar year following that in which the previous ordinary general election was held, unless –
  - (a) subsection (2) prevents the poll being held on that day, or
  - (b) the day of the poll is determined by a proclamation under section 9.
- (2) The poll is not to be held on the same date as the date of the poll at –
  - (a) a United Kingdom parliamentary general election (other than an early parliamentary general election), or
  - (b) a European parliamentary general election.
- (3) Where subsection (2) prevents the poll being held on the day specified in subsection (1), the poll must be held on a day specified by regulations made by the Welsh Ministers.
- (4) The Welsh Parliament –
  - (a) is dissolved by virtue of this section at the beginning of the minimum period which ends with the day of the poll at an ordinary general election, and

(b) must meet within the period of 7 days beginning immediately after the day of such a poll.

(5) In subsection (4) “the minimum period” means the period determined in accordance with regulations made by the Welsh Ministers.

5 (6) In calculating any period of days for the purposes of provision made by virtue of subsection (4)(b), the following days are to be disregarded –

(a) Saturday and Sunday,

(b) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

10 (c) any day appointed for public thanksgiving or mourning.

(7) No regulations may be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Welsh Parliament.

## 9 Power to vary date of ordinary general election

15 (1) This section applies if the Presiding Officer proposes a day for the holding of the poll at an ordinary general election on a day which is neither –

(a) more than one month earlier, nor

(b) more than one month later,

20 than the first Thursday in May and the holding of the poll on that day would not contravene section 8(2).

(2) Her Majesty may by proclamation under the Welsh Seal –

(a) dissolve the Welsh Parliament,

(b) require the poll at the election to be held on the day proposed, and

25 (c) require the Welsh Parliament to meet within the period of 7 days beginning immediately after the day of the poll.

(3) In calculating any period of days for the purposes of subsection (2)(c) the following days are to be disregarded –

(a) Saturday and Sunday,

(b) Good Friday,

30 (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

(d) any day appointed for public thanksgiving or mourning.

## 10 Extraordinary general elections

35 (1) The Presiding Officer must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.

(2) This subsection applies if –

(a) the Welsh Parliament resolves that it should be dissolved, and

(b) if the resolution is passed on a vote, the number of members of the Welsh Parliament voting in favour of it is not less than two-thirds of the total number of Welsh Parliament seats.

5 (3) This subsection applies if any period during which the Welsh Parliament is required under section 55 to nominate one of its members for appointment as the First Minister ends without such a nomination being made.

(4) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh seal—

10 (a) dissolve the Welsh Parliament and require an extraordinary general election to be held,

(b) require the poll at the election to be held on the day proposed, and

(c) require the Welsh Parliament to meet within the period of 7 days beginning immediately after the day of the poll.

15 (5) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 9), that ordinary general election is not to be held.

(6) But subsection (5) does not affect the year in which the subsequent ordinary general election is to be held.

20 (7) In calculating any period of days for the purposes of subsection (4)(c), the following days are to be disregarded—

(a) Saturday and Sunday,

(b) Christmas Eve, Christmas Day and Good Friday,

(c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

25 (d) any day appointed for public thanksgiving or mourning.

#### *Franchise and conduct of elections*

### **11 Entitlement to vote**

30 The persons entitled to vote at an election of members of the Welsh Parliament (or of a member of the Welsh Parliament) in a constituency are those who on the day of the poll—

(a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the constituency, and

(b) are registered in the register of local government electors at an address within the constituency.

### **12 Power of Welsh Ministers to make provision about elections**

35 (1) The Welsh Ministers may by regulations make any provision that would be within the legislative competence of the Welsh Parliament as to—

(a) the conduct of elections for membership of the Welsh Parliament,

(b) the questioning of such an election and the consequences of irregularities, and

- (c) the return of members of the Welsh Parliament otherwise than at an election.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision—
- (a) about the registration of electors;
- 5 (b) for disregarding alterations in a register of electors;
- (c) about the limitation of the election expenses of candidates;
- (d) for the combination of polls;
- 10 (e) for modifying the application of paragraph 5(2) of Schedule 1 where the poll for the election for the return of a constituency member is abandoned (or notice of it is countermanded);
- (f) for modifying paragraph 6(7) and (8) of Schedule 1 to ensure the allocation of the correct number of seats for a region.
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying paragraph 8(3) to (5) of Schedule 1.
- 15 (4) The provision that may be made about registration of voters under subsection (2)(a) does not include provision about the use of any digital service provided by a Minister of the Crown for the registration of electors.
- (5) Regulations under subsection (1) may—
- 20 (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the election enactments, and
- (b) so far as may be necessary in consequence of any provision made by regulations under this section, make modifications of any provision made by virtue of any enactment relating to the registration of parliamentary electors or local government electors.
- 25 (6) In subsection (5)(a) “the election enactments” means—
- (a) the Representation of the People Acts,
- (b) the European Parliamentary Elections Act 2002 (c. 24), or
- (c) any other enactments relating to parliamentary elections, European Parliamentary elections or local government elections.
- 30 (7) The return of a member of the Welsh Parliament at an election may be questioned only under the provisions of Part 3 of the Representation of the People Act 1983 (c. 2) as applied or incorporated in regulations under this section.
- (8) No regulations may be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Welsh
- 35 Parliament.

### 13 Power of Secretary of State to make provision about combination of polls

- (1) The Secretary of State may by regulations make provision for—
- (a) the combination of polls at ordinary general elections of members of the Welsh Parliament with polls at the elections listed in subsection (2), and

(b) the combination of polls at extraordinary general elections of members of the Welsh Parliament, and by-elections for the return of members of the Welsh Parliament, with polls at the elections listed in subsections (2) and (3).

(2) The elections are –

- 5 (a) early United Kingdom parliamentary general elections,  
(b) United Kingdom parliamentary by-elections, and  
(c) European parliamentary by-elections.

(3) The elections are –

- 10 (a) United Kingdom parliamentary general elections, and  
(b) European parliamentary general elections.

(4) The Secretary of State may not make regulations under this section without the agreement of the Welsh Ministers.

(5) Regulations under subsection (1) may –

- 15 (a) apply, with or without modifications or exceptions, any provision made by or under the election enactments, and  
(b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for membership of the Welsh Parliament.

20 (6) In subsection (5)(a) “the election enactments” has the meaning given by section 12(6).

#### 14 Further provision about elections

Schedule 3 makes further provision about elections.

*Remuneration, oaths etc.*

#### 15 Remuneration of members

25 (1) Provision must be made for the payment of salaries to members of the Welsh Parliament.

(2) Provision may be made for the payment of allowances to members of the Welsh Parliament.

(3) Provision may be made for the payment of pensions, gratuities or allowances to, or in respect of, any person who –

- 30 (a) has ceased to be a member of the Welsh Parliament, or  
(b) has ceased to hold office as the Presiding Officer or Deputy Presiding Officer, or such other office in connection with the Welsh Parliament as the Welsh Parliament may determine, but continues to be a member of the Welsh Parliament.

(4) Such provision may, in particular, include provision for –

- 35 (a) contributions or payments towards provision for such pensions, gratuities or allowances, and  
(b) the establishment and administration (whether by the Welsh Parliament Commission or otherwise) of one or more pension schemes.

- (5) Sums required for the making of payments by virtue of provision under subsection (1) or (3) to or in respect of a person who holds or has held the office of Presiding Officer or Deputy Presiding Officer are to be charged on the Welsh Consolidated Fund.
- (6) The National Assembly for Wales Remuneration Board is to continue in existence as Welsh Parliament Remuneration Board (referred to in this Act as “the Board”).
- (7) Provision under this section is to be made by determination made by the Board and the Welsh Parliament Commission must give effect to any determination made by the Board under this subsection.
- (8) Schedule 4 makes further provision about the Board.

## 16 Limit on salaries of members

- (1) The Welsh Parliament must make provision to ensure that the amount of the salary payable to a member of the Welsh Parliament in accordance with section 15 is reduced if a salary is payable to the member –
- (a) under section 4 of the Parliamentary Standards Act 2009 (c. 13) (salaries of members of the House of Commons),
  - (b) pursuant to a resolution (or combination of resolutions) of the House of Lords relating to the remuneration of members of that House, or
  - (c) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (c. 50) (remuneration of United Kingdom MEPs).
- (2) The provision made must ensure that the amount of salary is reduced –
- (a) to a particular proportion of what it otherwise would be or to a particular amount, or
  - (b) by the amount of any salary payable to the member as mentioned in subsection (1), by a particular proportion of that amount or by some other particular amount.
- (3) Provision may be made under this section by –
- (a) the standing orders, or
  - (b) resolutions of the Welsh Parliament,
- and may include provision conferring functions on the Welsh Parliament Commission.

## 17 Remuneration: supplementary

- (1) Different provision may be made under section 15 or 16 for different cases.
- (2) The Welsh Parliament Commission must ensure that information concerning –
- (a) the amounts paid to each member of the Welsh Parliament as salary and allowances, and
  - (b) the total amount paid to members of the Welsh Parliament as salaries and allowances,
- is published for each financial year.
- (3) The Welsh Parliament Commission must lay before the Welsh Parliament every determination made by the Board under section 15(7) as soon as is reasonably practicable after it is made.

- (4) For the purposes of sections 15 and 16 a person who –
- (a) ceases to be a member of the Welsh Parliament when the Welsh Parliament is dissolved, but
  - (b) is nominated as a candidate at the subsequent general election,
- 5 is to be treated as a member of the Welsh Parliament until the end of the day on which the poll at the election is held.
- (5) Where a person –
- (a) ceases to be a member of the Welsh Parliament when the Welsh Parliament is dissolved, but
  - 10 (b) continues to hold office as Presiding Officer or as a member of the Welsh Parliament Commission by virtue of paragraph 1(1) or (2) of Schedule 5],
- the fact that the person is no longer a member of the Welsh Parliament does not affect any entitlement under sections 15 and 16 in respect of the holding of office as Presiding Officer or as a member of the Welsh Parliament Commission (or both) until the end of the
- 15 day on which the person ceases to hold the office.
- (6) Provision made under section 16 does not affect pensions or allowances in payment before the provision was made.

## 18 **Members' oath (or affirmation) of allegiance**

- 20 (1) A member of the Welsh Parliament must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation) as soon as is reasonably practicable after being returned as a member (whether for the first time or subsequently).
- (2) The standing orders must specify the person before whom the oath is to be taken (or the affirmation made).
- 25 (3) Subsection (1) does not require a member of the Welsh Parliament to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) by the member in compliance with section 61(2) since being returned (or last returned).
- (4) Until a member of the Welsh Parliament has taken the oath (or made the affirmation) the member must not do anything as a member of the Welsh Parliament, other than –
- 30 (a) take part in proceedings of the Welsh Parliament at which members take the oath (or make the affirmation), or
- (b) take part in any earlier proceedings for the election of the Presiding Officer or Deputy Presiding Officer.
- (5) If a member of the Welsh Parliament has not taken the oath (or made the affirmation)
- 35 within –
- (a) the period of two months beginning with the day on which the member was declared to be returned, or
  - (b) such longer period as the Welsh Parliament may have allowed before the end of that period of two months,
- 40 at the end of that period of 2 months or longer period the member ceases to be a member of the Welsh Parliament (so that the member's seat is vacant).

- (6) Until a member of the Welsh Parliament has taken the oath (or made the affirmation), no salary, allowance, gratuity or payment towards the provision of a pension, allowance or gratuity is to be paid under this Act to or in respect of the member.
- (7) But subsection (6) does not affect any entitlement to payments in respect of the period before the member took the oath (or made the affirmation) once the member has done so.

## 19 Assistance to groups of members

- (1) The Welsh Parliament Commission must make to (or in respect of) political groups to which members of the Welsh Parliament belong such payments as the Board from time to time determines for the purpose of assisting members who belong to those political groups to perform their functions as members of the Welsh Parliament.
- (2) A determination under subsection (1) may make provision—
- (a) for calculating the amount of any payment to (or in respect of) a political group,
  - (b) for the conditions subject to which payments to (or in respect of) a political group are to be made, and
  - (c) for claims for such payments to be made to the Welsh Parliament Commission.
- (3) A determination under subsection (1) may make different provision for different political groups.
- (4) The standing orders must include provision for determining for the purposes of this Act whether any member of the Welsh Parliament belongs to a political group and, if so, to which; and (in particular)—
- (a) may include provision for treating a member as not belonging to a political group unless a specified number of members of the Welsh Parliament belong to it, and
  - (b) must include provision requiring the Presiding Officer to decide any questions arising under the provision included by virtue of this subsection.
- (5) The Welsh Parliament Commission must lay before the Welsh Parliament every determination made by the Board under subsection (1) as soon as is reasonably practicable after it is made.
- (6) The Welsh Parliament Commission must ensure that information concerning the sums paid under this section is published for each financial year.

### *Presiding Officer and administration*

## 20 Presiding Officer etc.

- (1) Following an ordinary election the Welsh Parliament—
- (a) must elect from among its members a presiding officer, and
  - (b) may elect from among its members such number of deputy presiding officers as the standing orders may provide.
- (2) The elections must be made—
- (a) before the Welsh Parliament conducts any other proceedings, except the taking by members of the oath of allegiance (or corresponding affirmation), and

(b) in any event, within the period of 14 days beginning immediately after the day of the poll at the election.

(3) The person elected under paragraph (a) of subsection (1) is to be known as the Presiding Officer, or *y Llywydd*, or by such other title as the standing orders may provide; and a person elected under paragraph (b) of that subsection is to be known as a Deputy Presiding Officer, or *Dirprwy Lywydd*, or by such other title as the standing orders may provide.

(4) The Presiding Officer holds office until the conclusion of the next election of a Presiding Officer under subsection (1).

(5) A Deputy Presiding Officer holds office until the Welsh Parliament is dissolved.

(6) But the Presiding Officer or a Deputy Presiding Officer –

(a) may at any time resign,

(b) ceases to hold office on ceasing to be a member of the Welsh Parliament otherwise than by reason of a dissolution, and

(c) may be removed from office by the Welsh Parliament.

(7) If the Presiding Officer ceases to hold office under subsection (6) (or dies), the Welsh Parliament must elect a replacement from among the members of the Welsh Parliament; and if a Deputy Presiding Officer does so, the Welsh Parliament may elect such a replacement.

(8) Subject to subsection (10) the Presiding Officer and a Deputy Presiding Officer –

(a) must not belong to the same political group, and

(b) must not belong to different political groups both of which are political groups with an executive role.

(9) For the purposes of this Act a political group is a political group with an executive role if the First Minister or one or more of the Welsh Ministers appointed under section 56 belong to it.

(10) The Welsh Parliament may resolve that subsection (8) is not to apply for so long as the resolution so provides; but if the motion for the resolution is passed on a vote it is of no effect unless at least two-thirds of the members of the Welsh Parliament voting support it.

(11) The Presiding Officer's functions may be exercised by a Deputy Presiding Officer if –

(a) the office of Presiding Officer is vacant, or

(b) the Presiding Officer is for any reason unable to act.

(12) The Presiding Officer may (subject to the standing orders) authorise a Deputy Presiding Officer to exercise functions of the Presiding Officer.

(13) The standing orders may include provision for the Presiding Officer's functions to be exercisable by any person specified in, or determined in accordance with, the standing orders if –

(a) the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act, and

(b) no-one holds office as a Deputy Presiding Officer or no person holding office as a Deputy Presiding Officer is able to act.

(14) The standing orders may include provision as to the participation (including voting) in Welsh Parliament proceedings of the Presiding Officer, a Deputy Presiding Officer and any person acting by virtue of subsection (13).

(15) The validity of any act of a person as the Presiding Officer, a Deputy Presiding Officer or any person acting by virtue of subsection (13), is not affected by any defect in the person's appointment by the Welsh Parliament.

## 21 Clerk of Welsh Parliament

(1) The Welsh Parliament Commission must appoint a person to be the Clerk of the Welsh Parliament (referred to in this Act as the "Clerk").

(2) The person appointed under subsection (1) is to be known as the Clerk of the Welsh Parliament, or Clerc Senedd Cymru, or by such other title as the standing orders may provide.

(3) The Clerk's functions may be exercised by any other member of the staff of the Welsh Parliament (or person seconded to work at the Welsh Parliament) authorised by the Welsh Parliament Commission if –

(a) the office of Clerk is vacant, or

(b) the Clerk is for any reason unable to act.

(4) The Clerk may authorise any other member of the staff of the Welsh Parliament (or person seconded to work at the Welsh Parliament) to exercise functions on the Clerk's behalf.

## 22 Welsh Parliament Commission

(1) There is to be a body corporate to be known as the Welsh Parliament Commission or Comisiwn Senedd Cymru.

(2) The members of the Welsh Parliament Commission are to be –

(a) the Presiding Officer, and

(b) four other members of the Welsh Parliament.

(3) The standing orders must make provision for the appointment of the 4 other members of the Welsh Parliament as members of the Welsh Parliament Commission.

(4) The provision included in the standing orders in compliance with subsection (3) must (so far as it is reasonably practicable to do so) secure that not more than one of the members of the Welsh Parliament Commission (other than the Presiding Officer) belongs to any one political group.

(5) The Welsh Parliament Commission must –

(a) provide to the Welsh Parliament, or

(b) ensure that the Welsh Parliament is provided with, the property, staff and services required for the Welsh Parliament's purposes.

- (6) The Welsh Parliament may give special or general directions to the Welsh Parliament Commission for the purpose of, or in connection with, the exercise of the Welsh Parliament Commission's functions.
- (7) Any property, rights or liabilities acquired or incurred in relation to matters to which the Welsh Parliament would otherwise be entitled or subject are to be treated for all purposes as property, rights or liabilities of the Welsh Parliament Commission.
- (8) Schedule 5 makes further provision about the Welsh Parliament Commission.

*Equality of English and Welsh languages*

**23 English and Welsh to be official languages**

- (1) The official languages of the Welsh Parliament are English and Welsh.
- (2) The official languages must, in the conduct of Welsh Parliament proceedings, be treated on a basis of equality.
- (3) All persons have the right to use either official language when participating in Welsh Parliament proceedings.

*Standing orders*

**24 Standing orders**

- (1) Welsh Parliament proceedings are to be regulated by standing orders (referred to in this Act as "the standing orders").
- (2) The standing orders must include provision for preserving order in Welsh Parliament proceedings, including provision for –
- (a) preventing conduct which would constitute a criminal offence or contempt of court, and
- (b) a sub judice rule.
- (3) The standing orders may include provision for excluding a member of the Welsh Parliament from Welsh Parliament proceedings.
- (4) The standing orders may include provision for withdrawing from a member of the Welsh Parliament any or all of the rights and privileges of membership of the Welsh Parliament.
- (5) The standing orders –
- (a) must include provision requiring the proceedings of the Welsh Parliament to be held in public, and for proceedings of a committee of the Welsh Parliament or a sub-committee of such a committee to be held in public except in circumstances provided for in the standing orders, and
- (b) may include provision as to the conditions to be complied with by members of the public attending the proceedings (including provision for excluding any member of the public who does not comply with the conditions).
- (6) The standing orders must include provision –
- (a) for reporting the proceedings of the Welsh Parliament, and for reporting proceedings of committees of the Welsh Parliament and sub-committees of such committees which are held in public, and

(b) for publishing the reports of proceedings as soon as reasonably practicable after the proceedings take place.

(7) The Welsh Parliament may by resolution remake or revise the standing orders; but if the motion for a resolution to remake or revise the standing orders is passed on a vote, it has no effect unless at least two-thirds of the members of the Welsh Parliament voting support it.

(8) The Clerk must from time to time publish the standing orders.

### *Committees*

#### 10 **25 Committees and sub-committees**

(1) The standing orders may provide –

(a) for the appointment of committees of the Welsh Parliament, and

(b) for such committees to have power to appoint sub-committees.

(2) The members of a committee of the Welsh Parliament, or of a sub-committee of such a committee, may not include anyone who is not a member of the Welsh Parliament.

(3) The standing orders must make provision about the membership, chairing and procedure of committees of the Welsh Parliament and sub-committees of such committees.

(4) The provision made about the membership of committees of the Welsh Parliament and sub-committees of such committees must ensure that regard is had to the balance of political parties in the Welsh Parliament.

(5) The standing orders may include provision for the Counsel General, if not a member of the Welsh Parliament, to participate in Welsh Parliament proceedings but not vote and for them to apply to the Counsel General in other respects as to a member of the Welsh Parliament.

(6) The standing orders may include provision for excluding from the proceedings of a committee of the Welsh Parliament, or a sub-committee of such a committee, a member of the Welsh Parliament who is not a member of the committee or sub-committee.

(7) The validity of any proceedings of a committee of the Welsh Parliament, or of a sub-committee of such a committee, is not affected by –

(a) any vacancy in its membership,

(b) any defect in the appointment of its members or of the person who chairs it, or

(c) any failure to comply with provisions of the standing orders relating to procedure.

#### 26 **Audit Committee**

(1) The committees of the Welsh Parliament must include one to be known as the Audit Committee or Pwyllgor Archwilio or by such other name as the Welsh Parliament may determine; and, if the Welsh Parliament makes such a determination, references to the committee in –

(a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or

(b) any other instrument or document,  
have effect accordingly.

(2) None of the following may be a member of the Audit Committee—

- 5
- (a) the First Minister or any person designated to exercise the functions of the First Minister,
  - (b) a Minister appointed under section 56,
  - (c) the Counsel General or any person designated to exercise the functions of the Counsel General, or
  - (d) a Deputy Minister.

10 (3) The Audit Committee must not be chaired by a member of the Welsh Parliament who is a member of a political group with an executive role.

### *Standards*

## **27 Integrity**

(1) The standing orders must include provision—

- 15
- (a) for a register of interests of members of the Welsh Parliament, and
  - (b) for the register to be published and made available for public inspection.

(2) The standing orders must require members of the Welsh Parliament to register in the register of interests registrable interests, as defined for the purposes of this subsection.

(3) The standing orders must require any member of the Welsh Parliament who has—

- 20
- (a) a financial interest, as defined for the purposes of this subsection, or
  - (b) any other interest, or an interest of any other kind, as so defined,

in any matter to declare that interest before taking part in Welsh Parliament proceedings relating to that matter.

(4) The standing orders may include provision for preventing or restricting the participation in any Welsh Parliament proceedings of a member of the Welsh Parliament who has an interest within subsection (2) or (3) in any matter to which the proceedings relate.

(5) The standing orders must include provision prohibiting a member of the Welsh Parliament from—

- 30
- (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified, or
  - (b) urging, in consideration of any such payment or benefit in kind, any other member of the Welsh Parliament to advocate or initiate any cause or matter on behalf of any person by any such means.

35 (6) A member of the Welsh Parliament who—

- (a) takes part in Welsh Parliament proceedings without having complied with, or in contravention of, any provision included in the standing orders in pursuance of subsections (2) to (4), or

(b) contravenes any provision included in the standing orders in pursuance of subsection (5),

commits an offence.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine.

(8) A prosecution for an offence under subsection (6) cannot be instituted except by or with the consent of the Director of Public Prosecutions.

(9) The validity of any Welsh Parliament proceedings is not affected by any contravention or failure to comply with any provision included in the standing orders in pursuance of this section.

(10) In this section—

(a) references to a member of the Welsh Parliament include the Counsel General, if not a member Welsh Parliament, and

(b) “financial interest” includes a benefit in kind.

## 28 Welsh Parliament Commissioner for Standards

(1) The office of National Assembly for Wales Commissioner for Standards is to continue in existence as the Welsh Parliament Commissioner for Standards (referred to in this Act as “the Commissioner”).

(2) Schedule 6 makes further provision about the Commissioner.

### *Witnesses and documents*

## 29 Power to call etc.

(1) Subject as follows, the Welsh Parliament may require any person—

(a) to attend Welsh Parliament proceedings for the purpose of giving evidence, or

(b) to produce for the purposes of the Welsh Parliament (or a committee of the Welsh Parliament or a sub-committee of such a committee) documents in the possession, or under the control, of the person,

concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions, relevant to the exercise of any of the Auditor General for Wales’ functions, or relevant to the oversight and supervision of the Auditor General for Wales, or to the oversight and supervision of the exercise of the functions of the Auditor General for Wales.

(2) The Welsh Parliament may not impose a requirement under subsection (1) on a person who is not involved in the exercise of functions, or the carrying on of activities, in relation to Wales or the Welsh zone.

(3) The Welsh Parliament may not impose a requirement under subsection (1) on a person who—

(a) is or has been a Minister of the Crown, or

(b) serves or has served in the department of a Minister of the Crown,

in relation to the exercise of any functions of a Minister of the Crown.

- (4) The Welsh Parliament –
- (a) may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and
  - (b) may not impose such a requirement on a person who is not within paragraph (a) but who is or has been a member of any court or tribunal in connection with the exercise of functions as such a member.
- (5) Where a requirement under subsection (1) is imposed on a person who is or has been a member of the staff of the Welsh Government (or a person seconded to work for the Welsh Government) in relation to the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any of them may issue a direction under subsection (6).
- (6) A direction under this subsection is a direction –
- (a) that the person on whom the requirement was imposed need not comply with it, and
  - (b) that the requirement is instead to be complied with by another person specified in the direction.
- (7) The powers conferred by subsection (1) –
- (a) may be exercised by and for the purposes of the Audit Committee, and
  - (b) may be exercised by and for the purposes of any other committee of the Welsh Parliament, or any sub-committee of any committee of the Welsh Parliament, if the committee or sub-committee is expressly authorised to do so by the Welsh Parliament (whether by the standing orders or otherwise).
- (8) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in Wales.
- (9) A person acting as prosecutor in criminal proceedings is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the appropriate officer –
- (a) considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest, and
  - (b) has authorised the person to decline to answer the question or produce the document on that ground.
- (10) In subsection (9) “the appropriate officer” means –
- (a) before the deferred transfer date, if the proceedings were instituted by or on behalf of the Welsh Ministers, the First Minister or the Counsel General, the Counsel General, but otherwise, the Attorney General;
  - (b) from the deferred transfer date, the Counsel General.
- (11) The Counsel General may, in any Welsh Parliament proceedings, decline to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if considering that answering the question or producing the document –

- (a) might prejudice criminal proceedings in the case, or
- (b) would otherwise be contrary to the public interest.

### 30 Notice

- 5 (1) A requirement under section 29 is to be imposed on a person by the Clerk giving the person notice in writing specifying –
- (a) whether the requirement is imposed for the purposes of the Welsh Parliament or a specified committee or sub-committee, and
  - (b) the matters mentioned in either paragraph (a) or paragraph (b) of subsection (2).
- 10 (2) Those matters are –
- (a) the time and place at which the person is to attend and the particular subject concerning which the person is required to give evidence;
  - (b) the documents, or types of documents, which the person is to produce, the date by which and person to whom they are to be produced and the particular subject concerning which they are required.
- 15 (3) Notice under subsection (1) is to be given –
- (a) in the case of an individual, by sending it in accordance with subsection (4) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address, or
  - (b) in any other case, by so sending it addressed to the person at the person's registered or principal office.
- 20 (4) A notice is sent in accordance with this subsection if it is sent –
- (a) by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)), or
  - (b) by a postal service which provides for its delivery by post to be recorded.
- 25 (5) If a direction is issued under subsection (6) of section 29 in relation to a requirement imposed under subsection (1) of that section, the person or persons by whom it is issued must give notice in writing that the direction has been issued –
- (a) if the requirement was imposed for the purposes of the Welsh Parliament, to the Presiding Officer, and
  - (b) otherwise, to the person who chairs the committee or sub-committee for the purposes of which it was imposed.
- 30

### 31 Offences

- 35 (1) A person to whom a notice under section 30(1) has been given commits an offence if the person –
- (a) refuses or fails without reasonable excuse to attend proceedings as required by the notice,
  - (b) refuses or fails without reasonable excuse, when attending proceedings as required by the notice, to answer any question concerning the subjects specified in the notice,

(c) refuses or fails without reasonable excuse to produce any document required to be produced by the notice, or

(d) intentionally alters, suppresses, conceals or destroys any such document.

(2) Subsection (1) is subject to sections 29(5), (6), (8), (9) and (11).

(3) If a person charged with an offence under subsection (1)(a), (b) or (c) adduces evidence of a reasonable excuse for the refusal or failure, it is for the prosecution to prove that the person did not have such an excuse.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction—

(a) to a fine,

(b) to imprisonment for a term not exceeding 12 months, or

(c) to both.

(5) Where an offence under subsection (1) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

(6) In subsection (5) “director”, in the case of a body corporate whose affairs are managed by its members, means a member of the body corporate.

## 32 General

(1) The Presiding Officer or such other person as may be authorised by the standing orders may—

(a) require any person giving evidence in Welsh Parliament proceedings to take an oath (or make an affirmation), and

(b) administer the oath (or affirmation) to the person.

(2) A person commits an offence if the person—

(a) is required to attend Welsh Parliament proceedings for the purpose of giving evidence by a notice under section 30(1), and

(b) refuses to take an oath (or make an affirmation) when required to do so for the purposes of the Welsh Parliament proceedings.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction—

(a) to a fine,

(b) to imprisonment for a term not exceeding 12 months, or

(c) to both.

(4) The standing orders may provide for the payment of allowances and expenses to persons—

(a) attending Welsh Parliament proceedings for the purpose of giving evidence, or

- (b) producing for the purposes of the Welsh Parliament (or a committee of the Welsh Parliament or a sub-committee of such a committee) documents which they have been required or requested to produce,

whether or not in pursuance of a notice under section 30(1).

(5) The provision made by virtue of subsection (4) may confer functions on the Welsh Parliament Commission.

(6) For the purposes of sections 29 to 31 and this section –

- (a) a person is to be taken to comply with a requirement to produce a document if the person produces a copy of the document or an extract of the relevant part of the document,

(b) “document” means anything in which information is recorded in any form, and references to producing a document are to producing the information recorded in it in a visible and legible form.

#### *Legal issues*

### 33 Proceedings by or against Welsh Parliament etc.

(1) Proceedings by or against the Welsh Parliament are to be instituted by or against the Welsh Parliament Commission on behalf of the Welsh Parliament.

(2) Proceedings by or against –

- (a) the Presiding Officer or Deputy Presiding Officer, or

- (b) a member of the staff of the Welsh Parliament,

are (unless instituted against or by the Welsh Parliament Commission) to be instituted by or against the Welsh Parliament Commission on behalf of the Presiding Officer, Deputy Presiding Officer or member of staff.

(3) In any proceedings against the Welsh Parliament the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings but may instead make a declaration.

(4) In any proceedings against –

- (a) any member of the Welsh Parliament,

- (b) the Presiding Officer or Deputy Presiding Officer,

- (c) any member of the staff of the Welsh Parliament, or

- (d) the Welsh Parliament Commission,

the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings if the effect of doing so would be to give any relief against the Welsh Parliament which could not have been given in proceedings against the Welsh Parliament.

(5) References in this section to an order include an order which is not final.

### 34 Defamation

(1) For the purposes of the law of defamation –

(a) any statement made in Welsh Parliament proceedings, and  
(b) the publication under the authority of the Welsh Parliament of any statement,  
is absolutely privileged.

5 (2) The Welsh Ministers may by regulations make provision for and in connection with establishing in any legal proceedings that any statement or publication is absolutely privileged by virtue of subsection (1).

(3) No regulations may be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Welsh Parliament.

10 (4) In this section “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

### 35 Contempt of court

(1) The strict liability rule does not apply in relation to any publication--

(a) made in, for the purposes of, or for purposes incidental to, Welsh Parliament proceedings, or

15 (b) to the extent that it consists of a report of Welsh Parliament proceedings which either is made by or under the authority of the Welsh Parliament or is fair and accurate and made in good faith.

(2) In subsection (1) –

“the strict liability rule”, and

20 “publication”,

have the same meaning as in the Contempt of Court Act 1981 (c. 49).

**PART 3****LEGISLATION***Legislative power***36 Welsh Acts**

- 5 (1) A Welsh Act is not law so far as any provision of it is outside the legislative competence of the Welsh Parliament.
- (2) Proposed Welsh Acts are to be known as Bills; and a Bill becomes a Welsh Act when it has been passed by the Welsh Parliament and has received Royal Assent.
- 10 (3) The validity of a Welsh Act is not affected by any invalidity in the Welsh Parliament proceedings leading to its enactment.
- (4) Every Welsh Act is to be judicially noticed.

**37 Legislative competence**

- (1) A provision of a Welsh Act is outside the legislative competence of the Welsh Parliament so far as any of the following paragraphs apply –
- 15 (a) it would form part of the law of a country or territory other than Wales, or confer or remove functions exercisable otherwise than in relation to Wales;
- (b) it relates to a reserved matter in Part 1 of Schedule 7 and is not ancillary to another provision (whether in the Act or another enactment) that does not relate to a reserved matter;
- 20 (c) it is incompatible with any of the Convention rights or with EU law;
- (d) it breaches any of the restrictions in Schedule 8.
- (2) For the purposes of this Act, a provision is ancillary to another provision if it is a provision –
- 25 (a) which provides for the enforcement of that other provision or is otherwise appropriate for making that other provision effective or more effective in any respect, or
- (b) which is otherwise incidental to, or consequential on, that other provision.
- (3) For the purposes of this Act, the question whether a provision relates to a reserved matter is to be determined by reference to the purpose of the provision, having regard (among
- 30 other things) to its effect in all the circumstances.

**38 Legislative competence: transitory provision**

- 35 (1) A provision of a Welsh Act is also outside the legislative competence of the Welsh Parliament so far as it relates to a deferred matter in Part 2 of Schedule 7 and is not ancillary to another provision (whether in the Act or another enactment) that does not relate to a deferred matter or a reserved matter; but this is subject to subsections (2) and (3).

- (2) A provision of a Welsh Act which would otherwise be outside the legislative competence of the Welsh Parliament by virtue of private law being a deferred matter is not outside the legislative competence of the Welsh Parliament if it modifies private law for a purpose that does not relate to a reserved matter or another deferred matter.
- 5 (3) A provision of a Welsh Act which would otherwise be outside the legislative competence of the Welsh Parliament by virtue of subsection (1) is not outside the legislative competence of the Welsh Parliament if the Bill for the Welsh Act has been enacted after a copy of it has been laid before both Houses of the United Kingdom Parliament under section 47(6) and (7).
- 10 (4) See section 46(3)(b) for provision which prevents a Bill containing a provision relating to a deferred matter from being enacted where the Bill is laid before both Houses of the United Kingdom Parliament under section 47(6) and (7) and either House resolves to disapprove the Bill.
- 15 (5) For the purposes of this Act, the question whether a provision relates to a deferred matter is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.
- (6) In this section and paragraph 145 of Part 2 of Schedule 7, “private law” means the law of—
- (a) contract;
  - 20 (b) tort;
  - (c) agency;
  - (d) equity and trusts;
  - (e) succession;
  - (f) property;
  - 25 (g) unjust enrichment and restitution;
  - (h) bailment.
- (7) This section ceases to have effect on the deferred transfer date.

### 39 **Legislative competence: supplementary provision**

- (1) Her Majesty may by Order in Council amend Schedule 7 or 8.
- 30 (2) Her Majesty may by Order in Council specify functions that are to be treated, for such purposes of this Act as may be specified in the Order in Council, as being, or as not being, functions that are exercisable in relation to Wales.
- (3) An Order in Council under this section may make such modifications of—
- 35 (a) any enactment (including any enactment contained in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- as Her Majesty considers appropriate in connection with other provision made by the Order in Council.
- (4) An Order in Council under this section may make provision having retrospective effect.

(5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council—

(a) has been laid before, and approved by a resolution of, the Welsh Parliament, and

(b) has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament.

(6) See sections 40 and 41 for the provision about procedure for Orders in Council under this section.

(7) Subsection (8) applies where—

(a) a modification is made to the matters which are reserved matters or deferred matters in Schedule 7,

(b) a modification is made to the restrictions in Schedule 8,

(c) provision is made for a function to be treated, for any purpose of this Act, as being, or not being, a function which is exercisable in relation to Wales,

whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise.

(8) The modification or provision does not affect—

(a) the validity of a provision of a Welsh Act passed before the modification or provision comes into force, or

(b) the previous or continuing operation of a provision of a Welsh Act.

#### **40 Orders in Council beginning with Welsh Parliament procedure**

(1) This section applies where a draft of an Order in Council under section 39 is laid before the Welsh Parliament before being laid before each House of the United Kingdom Parliament.

(2) As soon as is reasonably practicable after the draft has been approved by a resolution of the Welsh Parliament, the First Minister must ensure that—

(a) notice in writing of the resolution, and

(b) a copy of the draft,

is sent to the Secretary of State.

(3) The Secretary of State must lay the draft before each House of the United Kingdom Parliament.

#### **41 Orders in Council beginning with United Kingdom Parliament procedure**

(1) This section applies where a draft of an Order in Council under section 39 is laid before each House of the United Kingdom Parliament before being laid before the Welsh Parliament.

(2) As soon as is reasonably practicable after the draft has been approved by a resolution of each House of the United Kingdom Parliament, the Secretary of State must ensure that—

(a) notice in writing of the resolution, and

(b) a copy of the draft,

is sent to the First Minister.

- (3) The First Minister must lay the draft before the Welsh Parliament.

*Legislative procedure*

**42 Introduction of Bills: competence**

- (1) The person in charge of a Bill must, on or before introduction of the Bill in the Welsh Parliament, state that in his or her view the provisions of the Bill would be within the legislative competence of the Welsh Parliament.
- (2) The Presiding Officer must, on or before the introduction of a Bill in the Welsh Parliament, decide whether or not, in his or her view, the provisions of the Bill would be within the legislative competence of the Welsh Parliament and state that decision.
- (3) The form of any statement under subsection (2), and the manner in which it is to be made, is to be determined under the standing orders, and the standing orders may provide for any statement to be published.
- (4) For the purposes of this section, a reference to a provision of a Bill being within the legislative competence of the Welsh Parliament includes a provision that would be within the legislative competence of the Welsh Parliament if –
- (a) any necessary consent of the Secretary of State under Schedule 8 is given, or
  - (b) the Bill containing the provision is enacted after being laid before both Houses of the United Kingdom Parliament under section 47.

**43 Stages of Bills: general**

- (1) The standing orders must include provision –
- (a) for general debate on a Bill with an opportunity for members to vote on its general principles,
  - (b) for the consideration of, and an opportunity for members to vote on, the details of a Bill, and
  - (c) for a final stage at which a Bill can be passed or rejected.
- (2) Subsection (1) does not prevent the standing orders making provision to enable the Welsh Parliament to expedite proceedings in relation to a particular Bill.
- (3) The standing orders may make provision different from that required by subsection (1) for the procedure applicable to Bills of any of the following kinds –
- (a) Bills which restate the law;
  - (b) Bills which repeal spent enactments;
  - (c) private Bills.
- (4) The standing orders must include provision for securing that the Welsh Parliament may not pass a Bill containing provisions which would, if contained in a Bill for an Act of the United Kingdom Parliament, require the consent of Her Majesty or the Duke of Cornwall unless such consent has been signified in accordance with the standing orders.

- (5) The standing orders must include provision for securing that the Welsh Parliament may not pass a Bill unless the text of the Bill is in both English and Welsh, except the circumstances are such as are specified by the standing orders as any in which the text need not be in both languages.

5 **44 Two-thirds majority for Bills relating to protected subject-matter**

- (1) The Presiding Officer must, after the last time when a Bill may be amended but before the decision whether to pass or reject it, decide whether or not, in his or her view, any provision of the Bill relates to a protected subject-matter and state that decision.
- 10 (2) If the Presiding Officer states under subsection (1) that, in his or her view, any provision of a Bill relates to a protected subject-matter, the Bill is not passed unless the number of members voting in favour of it at the final stage is at least two-thirds of the total number of seats for members of the Welsh Parliament.
- 15 (3) The form of any statement under subsection (1), and the manner in which it is to be made, is to be determined under the standing orders, and the standing orders may provide for any statement to be published.
- (4) For the purposes of this Part, a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (5) (but not if the provision is incidental to, or consequential on, another provision of the Bill).
- (5) The matters are –
- 20 (a) the persons entitled to vote as electors at an election for membership of the Welsh Parliament,
- (b) the system by which members of the Welsh Parliament are returned,
- (c) the number and boundaries of constituencies, regions or any equivalent electoral areas, and
- 25 (d) the number of members to be returned for each constituency, region or equivalent electoral area.

**45 Reconsideration stage**

- (1) The standing orders must provide for an opportunity for the reconsideration of a Bill after its passing if (and only if) –
- 30 (a) the Supreme Court decides, on a reference under section 48, that the Bill, or any provision of it, would not be within the legislative competence of the Welsh Parliament,
- (b) a reference made in relation to the Bill under section 48 is withdrawn following a request for withdrawal of the reference under subsection (6)(b) of that section,
- 35 (c) the Supreme Court decides, on a reference under section 49 made during the period specified in subsection (2)(b) of that section, that any provision of the Bill that is subject to the reference relates to a protected subject-matter,
- (d) the Bill has been laid before both Houses of the United Kingdom Parliament under section 47(6) and (7) and either House has resolved to disapprove the Bill, or
- 40 (e) an order is made in relation to the Bill under section 50.

(2) The standing orders must provide for an opportunity for the reconsideration of the Bill after its rejection if (and only if) the Supreme Court decides, on a reference under section 49 made during the period specified in subsection (2)(a) of that section, that no provision of the Bill that is subject to the reference relates to a protected subject-matter.

5 (3) The standing orders must, in particular, ensure that –

- (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (1)(a), (b), (d) or (e), or
- (b) any Bill reconsidered in accordance with standing orders made by virtue of subsection (1)(c) or (2),

10 is subject to a final stage at which it can be approved or rejected.

(4) In the case of –

- (a) any Bill amended on reconsideration in accordance with standing orders made by virtue of subsection (1)(a), (b), (d) or (e), or
- (b) any Bill reconsidered in accordance with standing orders made by virtue of

15 subsection (1)(c) or (2),  
references in subsection (1) of this section and sections 36(2), 43(4) and (5), 50(4) and 100(4) to the passing of a Bill are to be read as references to the approval of the Bill.

(5) And in the case of any Bill reconsidered in accordance with standing orders made by virtue of subsection (1)(c) or (2) references in sections 44(1) and (2) to the passing of a Bill are also to be read as references to the approval of the Bill.

(6) The following provisions of this section cease to have effect on the deferred transfer date –

- (a) paragraph (d) of subsection (1);
- (b) the references to it in paragraph (a) of subsections (3) and (4).

#### 25 **46 Submission of Bills for Royal Assent**

(1) It is for the Presiding Officer to submit Bills for Royal Assent.

(2) The Presiding Officer may not submit a Bill for Royal Assent at any time when –

- (a) the Counsel General or the Attorney General is entitled to make a reference to the Supreme Court in relation to the Bill under section 48 or 49,
- 30 (b) such a reference has been made but has not been decided or otherwise disposed of by the Supreme Court,
- (c) the Counsel General is entitled to give a notification to the Presiding Officer under section 47,
- (d) such a notification has been given but the Bill has not been laid before both
- 35 Houses of the United Kingdom Parliament,
- (e) a copy of the Bill has been laid before both Houses of the United Kingdom Parliament under section 47(6) and (7) but the 40 day period beginning with the day on which the copy was laid before both Houses (or, if a copy was laid before the two Houses on different days, with the later of those days) has not ended, or
- 40 (f) an order may be made in relation to the Bill under section 50.

- (3) The Presiding Officer may not submit a Bill in its unamended form for Royal Assent if –
- (a) the Supreme Court has decided that the Bill, or any provision of it, would not be within the legislative competence of the Welsh Parliament,
  - (b) the Bill contains a provision which would be outside the legislative competence of the Welsh Parliament by virtue of section 38(1) and either House of the United Kingdom Parliament has resolved to disapprove the Bill before the end of the period of 40 days beginning with the day on which the Bill was laid before it under section 47(6) or (7), or
  - (c) a reference made in relation to the Bill under section 48 has been withdrawn following a request for withdrawal of the reference under subsection (6)(b) of that section.
- (4) For the purposes of calculating the 40 day periods in subsections (2)(e) and (3)(b), no account is to be taken of any period during which the United Kingdom Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (5) The following provisions of this section cease to have effect on the deferred transfer date –
- (a) paragraphs (c), (d) and (e) of subsection (2);
  - (b) paragraph (b) of subsection (3);
  - (c) subsection (4).

#### **47 Bills with provisions relating to deferred matters**

- (1) If the Counsel General considers that a Bill passed by the Welsh Parliament contains a provision which would be outside the legislative competence of the Welsh Parliament by virtue of section 38(1), the Counsel General must notify the Presiding Officer of that opinion.
- (2) The Counsel General may give a notification under subsection (1) at any time during –
- (a) the period of four weeks beginning with the day of the passing of the Bill, and
  - (b) any period of four weeks beginning with the day of any subsequent approval of the Bill in accordance with standing orders made by virtue of section 45.
- (3) No notification may be given under subsection (1) in relation to a Bill by the Counsel General if the Counsel General has previously informed the Presiding Officer that no notification is to be given in relation to it.
- (4) But subsection (3) does not apply if the Bill has been approved as mentioned in subsection (2)(b) since the Counsel General informed the Presiding Officer that no notification was to be given in relation to it.
- (5) If the Presiding Officer is notified under subsection (1), the Presiding Officer must send a copy of the Bill to the Speaker of the House of Commons and the Speaker of the House of Lords.
- (6) The Speaker of the House of Commons must –
- (a) lay a copy of the Bill sent under subsection (5) before the House of Commons, and

(b) notify the Presiding Officer if the House of Commons resolves to disapprove the Bill.

(7) The Speaker of the House of Lords must—

(a) lay a copy of the Bill sent under subsection (5) before the House of Lords, and

(b) notify the Presiding Officer if the House of Lords resolves to disapprove the Bill.

(8) This section ceases to have effect on the deferred transfer date.

#### **48 Scrutiny of Bills by Supreme Court (legislative competence)**

(1) The Counsel General or the Attorney General may refer the question whether a Bill, or any provision of a Bill, would be within the legislative competence of the Welsh Parliament to the Supreme Court for decision.

(2) The Counsel General or the Attorney General may make a reference in relation to a Bill under subsection (1) at any time during—

(a) the period of four weeks beginning with the day of the passing of the Bill, and

(b) any period of four weeks beginning with the day of any subsequent approval of the Bill in accordance with standing orders made by virtue of section 45.

(3) No reference may be made in relation to a Bill under subsection (1)—

(a) by the Counsel General if the Counsel General has previously notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or

(b) by the Attorney General if the Attorney General has previously notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.

(4) But subsection (3) does not apply if the Bill has been approved as mentioned in subsection (2)(b) since the notification.

(5) Subsection (6) applies where—

(a) a reference has been made under subsection (1) in relation to a Bill,

(b) a reference of a question to the Court of Justice of the European Union under Article 267 of the Treaty on the Functioning of the European Union has been made by the Supreme Court in connection with that reference, and

(c) neither of those references has been decided or otherwise disposed of.

(6) If the Welsh Parliament resolves that it wishes to reconsider the Bill—

(a) the Presiding Officer must notify the Counsel General and the Attorney General of that fact, and

(b) the person who made the reference under subsection (1) must request withdrawal of the reference.

#### **49 Scrutiny of Bills by Supreme Court (protected subject-matter)**

(1) The Counsel General or the Attorney General may refer the question whether a Bill, or any provision of a Bill, relates to a protected subject-matter to the Supreme Court for decision.

- (2) The Counsel General or the Attorney General may make a reference in relation to a Bill under subsection (1) –
- (a) at any time during the period of four weeks beginning with the day of the rejection of the Bill if the Presiding Officer has made a statement under section 44(1) that in his or her view any provision of the Bill relates to a protected subject-matter, or
  - (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has made a statement under section 44(1) that in his or her view no provision of the Bill relates to a protected subject-matter unless the number of members voting in favour of the Bill at its passing is at least two-thirds of the total number of seats for members of the Welsh Parliament.
- (3) No reference may be made in relation to a Bill under subsection (1) –
- (a) by the Counsel General if the Counsel General has previously notified the Presiding Officer that no reference is to be made in relation to it by the Counsel General, or
  - (b) by the Attorney General if the Attorney General has previously notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
- (4) But subsection (3) does not apply if since the notification the Bill has been approved or rejected in accordance with standing orders made by virtue of section 45.

## 50 Power to intervene in certain cases

- (1) The Secretary of State may by regulations prohibit the Presiding Officer from submitting the Bill for Royal Assent if a Bill contains provisions –
- (a) which the Secretary of State has reasonable grounds to believe would be incompatible with any international obligations or the interests of defence or national security, or
  - (b) which make modifications of the law as it applies to reserved matters which the Secretary of State has reasonable grounds to believe would have an adverse effect on the operation of the law as it applies to reserved matters, or
  - (c) which make modifications of the law as it applies to deferred matters which the Secretary of State has reasonable grounds to believe would have an adverse effect on the operation of the law as it applies to deferred matters.
- (2) But regulations may not be made if the Bill has been laid before both Houses of the United Kingdom Parliament under section 47(6) and (7).
- (3) The regulations must identify the Bill and the provisions in question and state the reasons for making the regulations.
- (4) The regulations may be made at any time during –
- (a) the period of four weeks beginning with the day of the passing of the Bill,
  - (b) any period of four weeks beginning with the day of any subsequent approval of the Bill in accordance with standing orders made by virtue of section 45,

(c) if a reference is made in relation to the Bill under section 48, the period of four weeks beginning with the day on which the reference is decided or otherwise disposed of by the Supreme Court.

5 (5) The Secretary of State must not make regulations in relation to a Bill if the Secretary of State has notified the Presiding Officer that no regulations are to be made in relation to the Bill, unless the Bill has been approved as mentioned in subsection (4)(b) since the notification.

(6) Regulations in force under this section at a time when such approval is given ceases to have effect.

10 (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of the United Kingdom Parliament.

(8) Paragraph (c) of subsection (1) ceases to have effect on the deferred transfer date.

## 51 Royal Assent

15 (1) A Bill receives Royal Assent at the beginning of the day when Letters Patent under the Welsh Seal signed with Her Majesty's own hand signifying Her Assent are notified to the Clerk.

(2) The Keeper of the Welsh Seal must make arrangements to send the Letters Patent to the National Library of Wales.

20 (3) The date of Royal Assent is to be written on the Welsh Act by the Clerk and forms part of the Welsh Act.

(4) On the copy of the Welsh Act on which the Clerk writes the date of Royal Assent ("the official print") the Clerk must write –

(a) the calendar year, and

(b) any prefix and number which has been assigned to the Welsh Act,

25 and that forms part of the Welsh Act.

(5) The Clerk must make a copy of the official print and certify it as a true copy.

(6) The Clerk must send the certified copy to the Queen's Printer and the official print to the National Library of Wales.

30 (7) The National Library of Wales must ensure that the Letters Patent and official prints it receives are preserved and are open to public inspection at all reasonable times.

(8) The standing orders must include provision for notification by the Clerk to the Welsh Parliament of the date of Royal Assent to a Welsh Act.

(9) The validity of a Welsh Act is not affected by any failure to comply with provision made by or by virtue of this section.

## 35 52 Welsh Seal and Letters Patent

(1) There continues to be a Welsh Seal.

(2) The First Minister continues to be the Keeper of the Welsh Seal.

(3) Her Majesty may by Order in Council make provision as to –

(a) the form and manner of preparation, and

(b) the publication,

of Letters Patent signed with Her Majesty's own hand signifying Her Assent to a Bill passed by the Welsh Parliament.

- 5 (4) A statutory instrument containing an Order in Council under subsection (3) is subject to annulment in pursuance of a resolution of the Welsh Parliament.

## PART 4

### THE WELSH GOVERNMENT

#### *Ministers and their staff*

#### **53 Welsh Government**

- 10 (1) The members of the Welsh Government are –

- (a) the First Minister or Prif Weinidog,  
(b) Ministers or Gweinidogion appointed by the First Minister under section 56,  
(c) the Counsel General for Wales or Cwnsler Cyffredinol Cymru, and  
15 (d) the Deputy Ministers or Dirprwy Weinidogion appointed by the First Minister under section 58.

- (2) In this Act and in any other enactment or instrument the First Minister and the Ministers appointed by the First Minister under section 56 are referred to collectively as the Welsh Ministers or Gweinidogion Cymru.

- 20 (3) A person who holds a Ministerial office may not be appointed a member of the Welsh Government; and if a member of the Welsh Government is appointed to a Ministerial office he or she ceases to hold office as a member of the Welsh Government.

- (4) In subsection (3) “Ministerial office” has the same meaning as in section 2 of the House of Commons Disqualification Act 1975.

#### **54 First Minister**

- 25 (1) The First Minister is to be appointed by Her Majesty after nomination in accordance with section 55.

- (2) The First Minister holds office at Her Majesty's pleasure.

- (3) The First Minister may at any time resign by notifying Her Majesty and ceases to hold office as First Minister when the resignation is accepted.

- 30 (4) A person ceases to hold office as the First Minister if another person is appointed to that office.

- (5) The functions of the First Minister are exercisable by a person designated by the Presiding Officer if –

- (a) the office of First Minister is vacant,  
35 (b) the First Minister is for any reason unable to act, or  
(c) the First Minister has ceased to be a member of the Welsh Parliament otherwise than by reason of a dissolution.

- (6) A person may not be designated to exercise the functions of the First Minister unless the person is –
- (a) member of the Welsh Parliament, or
  - (b) if the Welsh Parliament has been dissolved, a person who ceased to be a member of the Welsh Parliament by reason of the dissolution.
- (7) A person may be designated to exercise the functions of the First Minister only on the recommendation of the Welsh Ministers (unless there is no-one holding office as a Welsh Minister appointed under section 56).
- (8) If a person is designated to exercise the functions of the First Minister, the designation continues to have effect even if the Welsh Parliament is dissolved.

## 55 Choice of First Minister

- (1) If one of the following events occurs, the Welsh Parliament must, before the end of the relevant period, nominate one of its members for appointment as First Minister.
- (2) The events are –
- (a) the holding of a poll at a general election,
  - (b) the Welsh Parliament resolving that the Welsh Ministers no longer enjoy the confidence of the Welsh Parliament,
  - (c) the First Minister resigning,
  - (d) the First Minister dying or becoming permanently unable to act and resign, and
  - (e) the First Minister ceasing to be a member of the Welsh Parliament otherwise than by reason of a dissolution.
- (3) The relevant period is the period of 28 days beginning with the day on which the event occurs; but –
- (a) if another of those events occurs within that period, the relevant period is (subject to paragraph (b)) extended to end with the period of 28 days beginning with the day on which that other event occurs, and
  - (b) the relevant period ends if the Welsh Parliament passes a resolution under section 10(2)(a) or when Her Majesty appoints a person as the First Minister.
- (4) The Presiding Officer must recommend to Her Majesty the appointment of the person nominated by the Welsh Parliament under subsection (1).

## 56 Ministers

- (1) The First Minister may, with the approval of Her Majesty, appoint Ministers from among the members of the Welsh Parliament.
- (2) A Minister appointed under this section holds office at Her Majesty's pleasure.
- (3) A Minister appointed under this section may be removed from office by the First Minister.
- (4) A Minister appointed under this section may at any time resign.
- (5) A Minister appointed under this section must resign if the Welsh Parliament resolves that the Welsh Government no longer enjoys the confidence of the Welsh Parliament.

- (6) A Minister appointed under this section who resigns ceases to hold office immediately.
- (7) A Minister appointed under this section ceases to hold office on ceasing to be a member of the Welsh Parliament otherwise than by reason of a dissolution.

5 **57 Counsel General**

- (1) The Counsel General for Wales (referred to in this Act as the “Counsel General”) is to be appointed by Her Majesty on the recommendation of the First Minister.
- (2) The Counsel General may be removed from office by Her Majesty on the recommendation of the First Minister.
- 10 (3) No recommendation for the appointment or removal of a person as the Counsel General may be made by the First Minister without the agreement of the Welsh Parliament.
- (4) The Counsel General may at any time resign by notifying Her Majesty and ceases to hold office when the resignation is accepted.
- (5) The Counsel General ceases to hold office if a member of the Welsh Parliament is  
15 nominated under section 55(1) for appointment as First Minister.
- (6) The functions of the Counsel General are exercisable by a person designated by the First Minister if –
  - (a) the office of Counsel General is vacant, or
  - (b) the Counsel General is for any reason unable to act.
- 20 (7) But subsection (6) ceases to have effect at the end of the period of six months beginning with the day on which a person is designated under it and does not have effect again until after the office of the Counsel General has been filled, or the Counsel General has again become able to act.
- (8) The designation of a person under subsection (6) ceases to have effect if (another)  
25 member of the Welsh Parliament is nominated under section 55(1) for appointment as First Minister.
- (9) A person holding office as First Minister, a Minister appointed under section 56 or a Deputy Minister may not be appointed as Counsel General or designated under subsection (6); and the Counsel General or a person designated under subsection (6) may  
30 not be appointed to any of those offices.

**58 Deputy Ministers**

- (1) The First Minister may, with the approval of Her Majesty, appoint Deputy Ministers from among the members of the Welsh Parliament to assist the Welsh Ministers in the exercise of their functions.
- 35 (2) A Deputy Minister holds office at Her Majesty’s pleasure.
- (3) A Deputy Minister may be removed from office by the First Minister.
- (4) A Deputy Minister may at any time resign.
- (5) A Deputy Minister must resign if the Welsh Parliament resolves that the Welsh Government no longer enjoys the confidence of the Parliament.

- (6) A Deputy Minister who resigns ceases to hold office immediately.
- (7) A Deputy Minister ceases to hold office on ceasing to be a member of the Welsh Parliament otherwise than by reason of a dissolution.

## 59 Remuneration

- 5 (1) Provision must be made for the payment of salaries to persons to whom this section applies.
- (2) Provision may be made for the payment of allowances to persons to whom this section applies.
- 10 (3) Provision may be made for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a person to whom this section applies.
- (4) Such provision may, in particular, include provision for—
  - (a) contributions or payments towards provision for such pensions, gratuities or allowances, and
  - 15 (b) the establishment and administration (whether by the Welsh Parliament Commission or otherwise) of one or more pension schemes.
- (5) This section applies to—
  - (a) the First Minister,
  - (b) every Minister appointed under section 56,
  - (c) the Counsel General, and
  - 20 (d) every Deputy Welsh Minister.
- (6) Sums required for the making of payments by virtue of provision under this section are payable out of the Welsh Consolidated Fund.
- (7) Provision under this section is to be made by determination made by the Board and the Welsh Parliament Commission must give effect to any determination made by the Board under this subsection.
- 25

## 60 Remuneration: supplementary

- (1) Different provision may be made under section 59 for different cases.
- (2) The Welsh Parliament Commission must ensure that information concerning—
  - 30 (a) the amounts paid to each person to whom section 59 applies as salary and allowances, and
  - (b) the total amount paid to such persons as salaries and allowances,is published for each financial year.
- (3) The Welsh Parliament Commission must lay before the Welsh Parliament every determination made by the Board under section 59(7) as soon as is reasonably practicable after it is made.
- 35 (4) Provision made under section 59(3) does not affect pensions or allowances in payment before the provision was made.

**61 Ministers' oath or affirmation**

- (1) On appointment as First Minister, a Minister under section 56 or Counsel General a person must take the official oath in the form set out in section 3 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation).
- (2) On appointment as First Minister, a Minister under section 56, Counsel General or a Deputy Minister a person must take the oath of allegiance in the form set out in section 2 of the Promissory Oaths Act 1868 (c. 72) (or make the corresponding affirmation).
- (3) An oath required by this section is to be taken (or the corresponding affirmation made) before a judge of the High Court of Justice of Wales or the Court of Appeal of Wales.
- (4) Subsection (1) does not require a member of the Welsh Parliament to take the oath of allegiance (or make the corresponding affirmation) again if it has been taken (or made) by the member in compliance with his or her duty on return (or, if returned more than once, most recent return as a member of the Welsh Parliament).
- (5) Until a person who is required to take an oath (or make an affirmation) by this section in respect of any office has done so, no salary, allowance, gratuity or payment towards a salary, allowance or gratuity is to be paid under this Act to or in respect of the person as a holder of that office.
- (6) But subsection (5) does not affect any entitlement to payments in respect of the period before the person took the oath (or made the affirmation) once the person has done so.

**62 Validity of acts**

- (1) The validity of any act of a person as First Minister is not affected by any defect in the person's nomination by the Welsh Parliament.
- (2) The validity of any act of a person as Counsel General is not affected by any defect in the Welsh Parliament's agreement to the person's appointment.

**63 The Civil Service**

- (1) The Welsh Ministers may appoint persons to be members of the staff of the Welsh Administration.
- (2) Service as—
  - (a) the holder of any office in the Welsh Administration which is not a ministerial office, or
  - (b) a member of the staff of the Welsh Administration,is service in the civil service of the State.
- (3) See Part 1 of the Constitutional Reform and Governance Act 2010 (in particular, sections 3 and 4) for provision affecting—
  - (a) subsection (1), and
  - (b) any other enactment about the appointment of persons mentioned in subsection (2).
- (4) See also section 1 of the Civil Service (Management Functions) Act 1992 under which functions conferred on the Minister for the Civil Service by section 3 of the Constitutional Reform and Governance Act 2010 may be delegated to the Welsh Ministers etc..

- (5) Any salary or allowances payable to or in respect of the persons mentioned in subsection (2) (including contributions to any pension scheme) are be payable out of the Welsh Consolidated Fund.
- (6) Section 1(2) and (3) of the Superannuation Act 1972 (delegation of functions relating to civil service superannuation schemes etc.) have effect as if references to a Minister of the Crown (other than the Minister for the Civil Service) included the Welsh Ministers.
- (7) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister may determine, of such amounts as the Minister may determine in respect of—
- (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been in such service as is mentioned in subsection (2), and
- (b) any expenses to be incurred in administering those pensions, allowances or gratuities.
- (8) Amounts required for payments under subsection (7) are to be charged on the Welsh Consolidated Fund.

#### *Executive functions*

### **64 Prerogative powers and other executive functions**

The Prerogative and other executive functions of Her Majesty—

- (a) are exercisable on Her Majesty's behalf by the Welsh Ministers as respects matters within devolved competence,
- (b) are not exercisable by Ministers of the Crown as respects matters within devolved competence, except in connection with functions exercisable by virtue of this Act, and
- (c) are exercisable on Her Majesty's behalf by the Welsh Ministers in connection with functions conferred on or otherwise vested in the Welsh Ministers whether or not the functions are within devolved competence.

### **65 Transfer and continued exercise of functions conferred by enactments and prerogative instruments**

- (1) The functions mentioned in subsection (2)—
- (a) so far as they are exercisable within devolved competence by a Minister of the Crown, are to be exercisable by the Welsh Ministers instead of by a Minister of the Crown;
- (b) so far as they are exercisable by the Welsh Ministers (whether or not they are within devolved competence), continue to be exercisable by the Welsh Ministers.
- (2) The functions are—
- (a) functions conferred on a Minister of the Crown or the Welsh Ministers by virtue of any pre-commencement enactment, and
- (b) functions conferred on a Minister of the Crown or the Welsh Ministers by virtue of a pre-commencement prerogative instrument.

- (3) From the deferred transfer date, the functions also include –
- (a) functions relating to deferred matters that are conferred on a Minister of the Crown by virtue of any enactment passed or made before the deferred transfer date, and
  - (b) functions relating to deferred matters that are conferred on a Minister of the Crown by virtue of a prerogative instrument made before the deferred transfer date.
- (4) But subsection (3) does not include functions transferred to the Counsel General by section 66.
- (5) In this Act –
- “pre-commencement enactment” means –
- (a) an Act passed before or in the same session as this Act and any other enactment made before the passing of this Act,
  - (b) an enactment made, before the commencement of this section, under such an Act or such other enactment,
  - (c) regulations under section 121 (power to adapt functions), to the extent that the regulations state that it is to be treated as a pre-commencement enactment;
- “pre-commencement prerogative instrument” means a prerogative instrument made before or during the session in which this Act was passed.

## **66 Transfer of Law Officer functions**

The functions exercisable by the Attorney General immediately before the deferred transfer date are transferred to the Counsel General from that date in so far as the functions are exercisable within devolved competence.

## **67 Exercise of functions**

- (1) Functions may be conferred on the Welsh Ministers by name.
- (2) Functions of the Welsh Ministers, the First Minister or the Counsel General are exercisable on behalf of Her Majesty.
- (3) Functions of the Welsh Ministers are exercisable by Deputy Ministers.
- (4) Any act or omission of, or in relation to, any member of the Welsh Government is to be treated as an act or omission of, or in relation to, each of them; and any property acquired, or liability incurred, by any member of the Welsh Government is to be treated accordingly.
- (5) Subsection (4) does not apply in relation to the exercise of –
  - (a) functions conferred on the First Minister alone,
  - (b) functions conferred on the Counsel General alone.
- (6) In this section “functions” means functions conferred by virtue of any enactment or prerogative instrument.

**68 Devolved competence**

- (1) References in this Act to the exercise of a function being within or outside devolved competence are to be read in accordance with this section.
- 5 (2) It is outside devolved competence –
- (a) to make any provision by subordinate legislation which would be outside the legislative competence of the Welsh Parliament if it were included in a Welsh Act, or
  - (b) to confirm or approve any subordinate legislation containing such provision.
- 10 (3) In the case of any function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or exercise it in any way) so far as a provision of Welsh Act conferring the function (or, as the case may be, conferring it so as to be exercisable in that way) would be outside the legislative competence of the Welsh Parliament.
- 15 (4) For the purpose of this Part, a provision relating to a deferred matter is to be treated as being outside the legislative competence of the Welsh Parliament even if it falls within, or would fall within, section 38.
- (5) Subsection (4) ceases to have effect on the deferred transfer date.

**69 Functions exercisable with agreement**

- 20 (1) A statutory provision, or any provision not contained in an enactment, which provides for a Minister of the Crown to exercise a function with the agreement of, or after consultation with, any other Minister of the Crown ceases to have effect in relation to the exercise of the function by a member of the Welsh Government by virtue of sections 64 and 65.
- 25 (2) In subsection (1) “statutory provision” means any provision in a pre-commencement enactment other than paragraph 5 or 15 of Schedule 32 to the Local Government, Planning and Land Act 1980 (designation of enterprise zones).

**70 Functions of Ministers of the Crown within legislative competence**

- 30 (1) Her Majesty may by Order in Council provide for a function which is transferred by virtue of section 64 or 65 (or which would transfer were it not for the Order in Council) to be exercisable, so far as the Order in Council provides, –
- (a) by a Minister of the Crown as well as by the Welsh Ministers, or
  - (b) by a Minister of the Crown instead of the Welsh Ministers.
- 35 (2) An Order in Council under this section may provide that the restriction in paragraph 5 of Schedule 8 applies to the function.
- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council –
- (a) has been laid before, and approved by resolution of, the Welsh Parliament, and

(b) has been laid before, and approved by resolution of, both Houses of the United Kingdom Parliament.

(4) Any power referred to in section 64 to establish, maintain or abolish a body, office or office-holder having functions which include both—

(a) functions which are exercisable in relation to Wales and do not relate to reserved matters or deferred matters, and

(b) other functions,

is, despite that section, exercisable jointly by the Minister of the Crown and the Welsh Ministers.

(5) In subsection (4), “office-holder” includes employee or other post-holder.

## 71 EU law and Convention rights

(1) Despite the transfer to the Welsh Ministers by virtue of sections 64 and 65 of functions in relation to observing and implementing obligations under EU law, any function of a Minister of the Crown in relation to any matter continue to be exercisable by the Minister of the Crown as regards Wales for the purposes specified in section 2(2) of the European Communities Act 1972.

(2) A member of the Welsh Government has no power to make any subordinate legislation, or to do any other act, so far as the legislation or act is incompatible with any of the Convention rights or with EU law.

(3) Subsection (2) does not apply to an act of the Counsel General in prosecuting any offence.

(4) The European Communities Act 1972 is amended as follows.

(5) In section 2 (general implementation of Treaties)—

(a) references to a statutory power or duty include a power or duty conferred by a Welsh Act or an instrument made under a Welsh Act, and

(b) references to an enactment include an enactment within the meaning of this Act.

(6) In relation to any order, rules, regulations or scheme made by the Welsh Ministers, or an Order in Council made on the recommendation of the First Minister, under section 2—

(a) in subsection (2), “designated” in the first sentence, and the second sentence, is to be disregarded,

(b) references to an Act of Parliament are to be read as references to a Welsh Act, and

(c) paragraph 2(2) of Schedule 2 has effect as if the references to each, or either, House of Parliament were to the Welsh Parliament.

(7) In section 3(4) (evidence), references to a government department include any part of the Welsh Administration.

## 72 Power to prevent or require action: international obligations of the UK

(1) If the Secretary of State has reasonable grounds to believe that any action proposed to be taken by a member of the Welsh Government would be incompatible with any international obligations, the Secretary of State may by regulations direct that the proposed action is not to be taken.

(2) If the Secretary of State has reasonable grounds to believe that any action capable of being taken by a member of the Welsh Government is required for the purpose of giving effect to any such obligations, the Secretary of State may by regulations direct that the action is to be taken.

5 (3) In subsections (1) and (2), “action” includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a Bill in the Welsh Parliament.

(4) If any subordinate legislation made or which could be revoked by a member of the Welsh Government contains provisions –

10 (a) which the Secretary of State has reasonable grounds to believe to be incompatible with any international obligations or the interests of defence or national security,

(b) which make modifications of the law as it applies to reserved matters and which the Secretary of State has reasonable grounds to believe to have an adverse effect on the operation of the law as it applies to reserved matters, or

15 (c) which make modifications of the law as it applies to deferred matters and which the Secretary of State has reasonable grounds to believe to have an adverse effect on the operation of the law as it applies to deferred matters,

the Secretary of State may by regulations revoke the legislation.

(5) Regulations under this section must state the reasons for making the regulations.

20 (6) Paragraph (c) of subsection (4) ceases to have effect on the deferred transfer date.

### 73 Specific new functions

Schedule 9 makes provision for specific new functions of the Welsh Ministers.

#### *Property, rights and liabilities*

### 74 Property, rights and liabilities of the Welsh Ministers etc.

25 (1) Property, rights and liabilities may belong to –

(a) the Welsh Ministers by that name,

(b) the First Minister by that name, or

(c) the Counsel General for Wales by that name.

30 (2) Property and rights acquired by or transferred to the Welsh Ministers belong to, and liabilities incurred by the Welsh Ministers are liabilities of, the Welsh Ministers for the time being.

(3) Property and rights acquired by or transferred to any of the Welsh Ministers appointed under section 56 belong to, and liabilities incurred by any of those Welsh Ministers are liabilities of, the Welsh Ministers for the time being.

35 (4) Property and rights acquired by or transferred to the First Minister belong to, and liabilities incurred by the First Minister are liabilities of, the First Minister for the time being.

(5) Property and rights acquired by or transferred to the Counsel General belong to, and liabilities incurred by the Counsel General are liabilities of, the Counsel General for the time being.

5 (6) In relation to property and rights acquired by or transferred to (or belonging to), or to liabilities incurred by –

- (a) the Welsh Ministers or any of the Welsh Ministers appointed under section 56,
- (b) the First Minister, or
- (c) the Counsel General,

10 references to the Welsh Ministers, the First Minister or the Counsel General in any register or other document are to be read in accordance with this section.

## 75 Transfers to the Welsh Ministers, First Minister or Counsel General

(1) Her Majesty by Order in Council or the Secretary of State by regulations may provide –

- (a) for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any property belonging to a Minister of the Crown or government department, or
- 15 (b) for the Welsh Ministers, the First Minister or the Counsel General to have such rights or interests in relation to any property belonging to a Minister of the Crown or government department as the person making the legislation considers appropriate (whether in connection with a transfer or otherwise).

20 (2) Her Majesty by Order in Council or the Secretary of State by regulations may provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any liabilities to which a Minister of the Crown or government department is subject.

25 (3) An Order in Council or regulations under this section may only be made in connection with any transfer or sharing of functions of a Minister of the Crown by virtue of section 64, 65, 66, 76 or 110 or in any other circumstances in which the person making the Order in Council or regulations considers it appropriate to do so for the purposes of this Act.

### *Transfer of additional functions*

## 76 Power to transfer functions

(1) Her Majesty may by Order in Council –

- 30 (a) provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of any function so far as exercisable by a Minister of the Crown in relation to Wales,
- (b) direct that any function so far as so exercisable is to be exercisable by the Welsh Ministers, the First Minister or the Counsel General concurrently with the Minister of the Crown,
- 35 (c) direct that any function so far as exercisable by the Welsh Ministers, the First Minister or the Counsel General is to be exercisable by whichever of them it is exercisable only with the agreement of, or after consultation with the Minister of the Crown or other person.

- 5 (2) An Order in Council under this section may, in particular, provide for any function exercisable by the Welsh Ministers, the First Minister or the Counsel General by virtue of an Order in Council under subsection (1)(a) or (b) to be exercisable either generally or in such circumstances as may be specified in the Order in Council, concurrently with any other of the Welsh Ministers, the First Minister or the Counsel General.
- 10 (3) Where an Order is made under subsection (1)(a) or (b) in relation to a function of a Minister of the Crown which is exercisable only with the agreement of, or after consultation with, another Minister of the Crown, the function, unless the Order provides otherwise, is to be exercisable by the Welsh Ministers, the First Minister or Counsel General (as appropriate) free from any such requirement.
- (4) An Order in Council under this section may make such modifications of—
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,
- 15 as Her Majesty considers appropriate in connection with the provision made by the Order in Council.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of—
- 20 (a) each House of the United Kingdom Parliament, and
  - (b) the Welsh Parliament.

**PART 5****LEGAL JURISDICTION***Establishment of two distinct jurisdictions***77 Legal jurisdictions of Wales and of England**

5 The legal jurisdiction of England and Wales becomes two legal jurisdictions, that of Wales and that of England.

**78 The law of Wales and the law of England**

(1) The law of England and Wales is divided into the law of Wales and the law of England.

10 (2) All of the law that extends to England and Wales immediately before the coming into force of this section –

(a) except in so far as it applies only in relation to England, is to extend to Wales (and becomes the law of Wales), and

(b) except in so far as it applies only in relation to Wales, is to extend to England (and becomes the law of England).

15 (3) In this section “law” includes –

(a) rules and principles of common law and equity,

(b) provision made by virtue of an Act of the United Kingdom Parliament, an Act of the Welsh Parliament or an Act or Measure of the National Assembly for Wales, and

20 (c) provision made pursuant to the prerogative.

(4) Any provision of any enactment or instrument enacted or made, but not in force, when subsection (1) comes into force is to be treated for the purposes of that subsection as part of the law that extends to England and Wales (but this subsection does not affect provision made for its coming into force).

**25 79 Senior Courts system**

(1) The Senior Courts of England and Wales cease to exist (except for the purposes of sections 83(3) and (4)) and there are established in place of them –

(a) the Senior Courts of Wales, and

(b) the Senior Courts of England.

30 (2) The Senior Courts of Wales consist of –

(a) the Court of Appeal of Wales,

(b) the High Court of Justice of Wales, and

(c) the Crown Court of Wales,

35 each having the same functions in Wales as are exercisable by the corresponding court in England and Wales immediately before subsection (1) comes into force.

(3) The Senior Courts of England consist of—

- (a) the Court of Appeal of England,
- (b) the High Court of Justice of England, and
- (c) the Crown Court of England,

5 each having the same functions in England as are exercisable by the corresponding court in England and Wales immediately before subsection (1) comes into force.

(4) For the purposes of this Part—

- (a) Her Majesty's Court of Appeal in England is the court corresponding to the Court of Appeal of Wales and the Court of Appeal of England,
- 10 (b) Her Majesty's High Court of Justice in England is the court corresponding to the High Court of Justice of Wales and the High Court of Justice of England, and
- (c) the Crown Court constituted by section 4 of the Courts Act 1971 is the court corresponding to the Crown Court of Wales and the Crown Court of England.

(5) Subject to section 84—

- 15 (a) references in enactments, instruments and other documents to the Senior Courts of England and Wales (however expressed) have effect (as the context requires) as references to the Senior Courts of Wales or the Senior Courts of England, or both; and
- 20 (b) references in enactments, instruments and other documents to Her Majesty's Court of Appeal in England, Her Majesty's High Court of Justice in England or the Crown Court constituted by section 4 of the Courts Act 1971 (however expressed) have effect (as the context requires) as references to either or both of the courts to which they correspond.

## 80 County court and family court

25 (1) The county court and the family court cease to exist (except for the purposes of sections 83(3) and (4)) and there are established in place of them—

- (a) the county court of Wales and the family court of Wales with the same functions in Wales as are exercisable by the county court and the family court (respectively) immediately before this subsection comes into force, and
- 30 (b) the county court of England and the family court of England with the same functions in England as are exercisable by the county court and the family court (respectively) immediately before this subsection comes into force.

(2) For the purposes of this Part—

- 35 (a) the county court is the court corresponding to the county court of Wales and the county court of England, and
- (b) the family court is the court corresponding to the family court of Wales and the family court of England.

(3) Subject to section 84 references in enactments, instruments and other documents to the county court or the family court (however expressed) have effect (as the context requires) as references to either or both of the courts to which they correspond.

40

**81 Judiciary etc.**

- (1) All of the judges, judicial office-holders and other officers of Her Majesty's Court of Appeal in England or Her Majesty's High Court of Justice in England become judges, judicial office-holders or officers of both of the courts to which that court corresponds.
- (2) All of the persons by whom the jurisdiction of the Crown Court constituted by section 4 of the Courts Act 1971 is exercisable become the persons by whom the functions of both of the courts to which that court corresponds are exercisable except that (despite section 8(2) of the Senior Courts Act 1981) –
- (a) a justice of the peace assigned to a local justice area in England may not by virtue of this subsection exercise functions of the Crown Court of Wales, and
  - (b) a justice of the peace assigned to a local justice area in Wales may not by virtue of this subsection exercise functions of the Crown Court of England.
- (3) All of the judges, judicial office-holders and other officers of the county court become judges, judicial office-holders or officers of the county court of Wales and the county court of England.
- (4) All of the judges, judicial office-holders and other officers of the family court become judges, judicial office-holders or officers of the family court of Wales and the family court of England except that (despite section 31C(1)(y) of the Matrimonial and Family Proceedings Act 1984) –
- (a) a justice of the peace assigned to a local justice area in England is not a judge of the family court of Wales, and
  - (b) a justice of the peace assigned to a local justice area in Wales is not a judge of the family court of England.

**82 Legal professions**

- (1) Every legal practitioner who would (but for this Part) at any time after the coming into force of this Act be entitled to carry on a reserved legal activity for the purposes of the law of England and Wales, in proceedings in England and Wales or before the courts of England and Wales, has at that time the same entitlement for the purposes of the law of England and the law of Wales, in proceedings in England and proceedings in Wales and before the courts of England and the courts of Wales.
- (2) In this section –
- a “legal practitioner” means every solicitor, barrister, notary, legal executive, licensed conveyancer, patent attorney, trade mark attorney, law costs draftsman, accountant or other person who, in accordance with the Legal Services Act 2007 (c. 29), is entitled to carry on a reserved legal activity;
  - a “reserved legal activity” has the same meaning as in the Legal Services Act 2007.

**83 Division of business between courts of Wales and courts of England**

- (1) The Senior Courts of Wales, the county court of Wales, the family court of Wales and the justices for local justice areas in Wales are to apply the law extending to Wales (including the rules of private international law relating to the application of foreign law).

- (2) The Senior Courts of England, the county court of England, the family court of England and the justices for local justice areas in England are to apply the law extending to England (including the rules of private international law relating to the application of foreign law).
- 5 (3) All proceedings, whether civil or criminal, pending in any of the Senior Courts of England and Wales, the county court or the family court (including proceedings in which a judgment or order has been given or made but not enforced) must be transferred by that court to whichever of the courts to which that court corresponds appears appropriate.
- 10 (4) The transferred proceedings are to continue as if the case had originated in, and the previous proceedings had been taken in, that other court.

*Supplementary*

**84 Power to make further provision**

- 15 (1) Her Majesty may by Order in Council make provision (including provision amending or otherwise modifying any enactment or instrument, including this Act) that appears appropriate in consequence of, or otherwise in connection with, the provision made by this Part.
- (2) The provision that may be made under subsection (1) includes in particular provision relating to—
- 20 (a) courts,
- (b) tribunals,
- (c) the judges, judicial officers and other members and officers of courts and tribunals,
- (d) the Counsel General or other law officers,
- 25 (e) the legal professions,
- (f) the law relating to the jurisdiction of courts and tribunals, and
- (g) other aspects of private international law (including, in particular, choice of law, domicile and the recognition and enforcement of judgments and awards).
- (3) No Order may be made under subsection (1) unless a draft of the Order has been laid
- 30 before, and approved by resolution of—
- (a) each House of the United Kingdom Parliament, and
- (b) the Welsh Parliament.

**PART 6****FINANCE***Welsh Consolidated Fund***85 Welsh Consolidated Fund**

- 5 (1) There is to continue to be a Welsh Consolidated Fund, held with the Paymaster General.
- (2) The Secretary of State must from time to time make payments into the Welsh Consolidated Fund out of money provided by the United Kingdom Parliament of such amounts as the Secretary of State may determine.
- 10 (3) Any sum received by or on behalf of an office-holder in the Welsh Administration is to be paid into the Welsh Consolidated Fund, unless it is paid out of that Fund; and this subsection applies in spite of provision contained in any other enactment unless the enactment provides expressly that any such sum is not to be paid into the Welsh Consolidated Fund.
- 15 (4) The Treasury may, after consulting the Welsh Ministers, by regulations designate receipts of any description specified in the regulations which are payable into the Fund (or would be but for any provision made by or under an enactment).
- (5) The Welsh Ministers must make payments to the Secretary of State at times and by methods determined by the Treasury of sums equal to the total amount outstanding in respect of receipts designated under subsection (4).
- 20 (6) Sums required for the making of payments under subsection (5) are to be charged on the Welsh Consolidated Fund.
- (7) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of the House of Commons.

**86 Payments out of Welsh Consolidated Fund**

- 25 (1) A sum may only be paid out of the Welsh Consolidated Fund if –
- (a) it has been charged on that Fund by any enactment,
  - (b) it is payable out of the Fund without further approval by virtue of this Act, or
  - (c) it is paid out for or in connection with any of the purposes mentioned in subsection (2) in accordance with rules made by or under a Welsh Act.
- 30 (2) Those purposes are –
- (a) meeting expenditure of the Welsh Administration;
  - (b) meeting expenditure payable out of the Fund under any enactment.
- (3) Any enactment which –
- 35 (a) charges the payment of sums on the Consolidated Fund or requires or authorises the payment of any sum from the Consolidated Fund, or
  - (b) requires or authorises the payment of sums out of money provided by Parliament,

does not have effect if the sums are payable by any office-holder in the Welsh Administration.

*Borrowing and lending*

**87 Borrowing by Welsh Ministers**

- 5 (1) The Welsh Ministers may borrow from the Secretary of State –
- (a) any amounts it appears to them are required by them for the purpose of meeting a temporary excess of sums paid out of the Welsh Consolidated Fund over sums paid into that Fund,
  - 10 (b) any amounts it appears to them are required by them for the purpose of providing a working balance in the Welsh Consolidated Fund, and
  - (c) any amounts which in accordance with rules determined by the Treasury are required by the Welsh Ministers to meet current expenditure because of a shortfall in receipts from devolved taxes, or from income tax charged by virtue of a Welsh rate resolution, against forecast receipts.
- 15 (2) The Welsh Ministers may, with the approval of the Treasury, borrow by way of loan or by the issue of bonds (but not bonds transferable by delivery) any amounts it appears to them are required by them for the purpose of meeting capital expenditure.
- (3) An amount is required for the purpose of meeting capital expenditure if the expenditure would be capital expenditure for the purposes of accounts under section 91.
- 20 (4) Amounts borrowed under this section from the Secretary of State must be repaid to the Secretary of State at such times and by such methods, and interest on such sums must be paid to the Secretary of State at such rates and at such times, as the Treasury may from time to time determine.
- (5) Sums required for the repayment of, or the payment of interest on, amounts borrowed under this section are to be charged on the Welsh Consolidated Fund.
- 25 (6) The Secretary of State may by regulations made with the consent of the Treasury amend subsection (2) so as to vary the means by which the Welsh Ministers may borrow money.
- (7) No regulations may be made under subsection (6) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- 30

**88 Lending by Secretary of State**

- (1) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as the Secretary of State needs for making loans under section 87.
- 35 (2) The aggregate outstanding in respect of the principal of sums borrowed under 87(1) must not exceed £500 million.
- (3) The Secretary of State may by regulations made with the consent of the Treasury substitute for the amount for the time being specified in subsection (2) such amount as is specified in the regulations.
- 40 (4) An amount substituted under subsection (3) may be more or less than the amount for which it is substituted but may not be less than £500 million.

- (5) No regulations may be made under subsection (3) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- (6) Sums received by the Secretary of State under section 87(4) must be paid into the National Loans Fund.

## 89 Lending for capital expenditure

- (1) The aggregate at any time outstanding in respect of the principal of amounts borrowed under section 87(2) must not exceed £500 million.
- (2) The Secretary of State may by regulations made with the consent of the Treasury substitute for the amount for the time being specified in subsection (1) such amount as may be specified in the regulations.
- (3) An amount substituted under subsection (2) may be more or less than the amount for which it is substituted but may not be less than £500 million.
- (4) No regulations may be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- (5) A person lending money to a member of the Welsh Government –
- (a) is not bound to enquire whether the member of the Welsh Government has power to borrow the money, and
  - (b) is not to be prejudiced by the absence of any such power.
- (6) The Welsh Ministers may not mortgage or charge any of their property as security for money which they have borrowed under section 87(2).  
This is subject to section 87(5).
- (7) Security given in breach of subsection (6) is unenforceable.

### *Financial control, accounts and audit*

## 90 Auditor General for Wales

- (1) Welsh legislation must continue to provide for an Auditor General for Wales or Archwilydd Cyffredinol Cymru.
- (2) Welsh legislation must continue to provide for the Auditor General for Wales to be appointed by Her Majesty on the nomination of the Welsh Parliament.
- (3) Welsh legislation must continue to provide that a recommendation for the removal from office of the Auditor General for Wales is not to be made to Her Majesty unless –
- (a) the Welsh Parliament has resolved that the recommendation should be made, and
  - (b) the resolution is passed on a vote in which the number of members of the Welsh Parliament voting in favour is not less than two-thirds of the total number of seats for members of the Parliament.

- (4) Welsh legislation must continue to provide that the Auditor General for Wales is not, in the exercise of any functions, to be subject to the direction or control of any member of the Welsh Government or of the Welsh Parliament.
- (5) Subsection (4) does not apply in relation to any function of preparing accounts.
- 5 (6) In this Part, “Welsh legislation” means provision made by or under a Welsh Act or, for the purposes of this section, provision made by the Public Audit (Wales) Act 2013 (anaw 4).

## 91 Welsh legislation to provide for financial control, accounts and audit

### (1) Welsh legislation must provide –

- 10 (a) for proper accounts to be prepared by the Welsh Ministers, by the Counsel General and by other persons to whom sums are paid out of the Welsh Consolidated Fund, of their expenditure and receipts,
- (b) for the Welsh Ministers to prepare an account of payments into and out of the Fund,
- 15 (c) for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2),
- (d) for access by persons exercising those functions to such documents as they may reasonably require,
- (e) for members of the staff of the Welsh Administration designated for the purpose to be answerable to the Welsh Parliament in respect of the expenditure and receipts of each part of the Welsh Administration, and
- 20 (f) for the publication of parliamentary accounts and of reports on such accounts and for the laying of such accounts and reports before the Welsh Parliament.

### (2) The functions referred to in subsection (1)(c) are –

- 25 (a) granting approvals to draw sums out of the Fund,
- (b) examining parliamentary accounts (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 86), and certifying and reporting on them,
- 30 (c) carrying out examinations into the economy, efficiency and effectiveness with which the Welsh Ministers and the Counsel General have used their resources in discharging their functions, and
- (d) carrying out examinations into the economy, efficiency and effectiveness with which other persons determined under Welsh legislation to whom sums are paid out of the Fund have used those sums in discharging their functions.

### (3) Standing orders must provide for the consideration by the Welsh Parliament of accounts and reports laid before it in pursuance of subsection (1)(f).

### (4) Welsh legislation may make further provision for the purpose of ensuring that persons who receive sums derived from the Fund are accountable including, in particular, provision for any person to whom subsection (1)(a) does not apply to be accountable for expenditure and receipts in respect of functions for which the person receives sums derived from the Fund.

(5) A person (other than the Auditor General for Wales) charged with the exercise of any function mentioned in subsection (2) or other like function conferred by Welsh legislation is not, in the exercise of that or any ancillary function, to be subject to the direction or control of any member of the Welsh Government or of the Welsh Parliament.

5 (6) Welsh legislation may not require any cross-border public authority to prepare accounts if any other legislation requires –

(a) the authority to prepare accounts of its expenditure and receipts, and

10 (b) the accounts to be examined, certified and reported on by the Auditor General for Wales, the Comptroller and Auditor General or a person appointed by either of them.

(7) Subsection (2)(b) does not apply to accounts prepared by the Auditor General for Wales.

(8) This section does not require Welsh legislation to impose any requirement which is imposed by any other legislation.

(9) In this section –

15 “parliamentary accounts” means –

(a) any accounts prepared in pursuance of subsection (1)(a) or (b), and

(b) any accounts referred to in subsection (6) which are required to be examined, certified and reported on by the Auditor General for Wales or any person appointed by him or her;

20 “other legislation” means provision made by an enactment other than a Welsh Act.

## 92 Accounts relating to loans

(1) The Secretary of State must for each financial year prepare accounts in such form and manner as the Treasury may direct of sums paid and received by the Secretary of State under section 87 and 88.

(2) The Secretary of State must send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.

(3) The Comptroller and Auditor General must –

30 (a) examine, certify and report on accounts sent under subsection (2), and

(b) lay copies of the accounts, together with the report prepared under paragraph (a), before each House of the United Kingdom Parliament.

**PART 7****TAXATION***Introductory***93 Overview of Part**

5 This Part makes provision –

- (a) for and in connection with conferring on the Welsh Parliament power to set rates of income tax to be paid by Welsh taxpayers, and
- (b) specifying particular taxes as devolved taxes about which the Welsh Parliament may make provision in the exercise of the power conferred by section 36 and making provision for and in connection with those devolved taxes.

*Income tax***94 Consent of the Welsh Parliament to income tax powers**

No regulations may be made under section 139 bringing section 95 into force (to any extent) unless –

- (a) the Welsh Parliament has resolved, on a motion proposed by one of the Welsh Ministers, that section 95 should come into force, and
- (b) the resolution is passed on a vote in which the number of members of the Welsh Parliament voting in favour of it is not less than two-thirds of the total number of Welsh Parliament seats.

**95 Power to set Welsh rates for Welsh taxpayers**

- (1) The Parliament may by resolution (a “Welsh rate resolution”) set one or more of the following –
  - (a) a Welsh rate for the purpose of calculating the Welsh basic rate;
  - (b) a Welsh rate for the purpose of calculating the Welsh higher rate;
  - (c) a Welsh rate for the purpose of calculating the Welsh additional rate.
- (2) See section 6B of the Income Tax Act 2007 (c. 3) for provision about the calculation of the Welsh basic, higher and additional rates and section 11B of that Act for provision about the income of Welsh taxpayers charged at those rates.
- (3) A Welsh rate resolution applies –
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) Any Welsh rate specified must be a whole number or half a whole number.
- (5) A Welsh rate resolution –
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and

- (c) must not be made more than 12 months before the start of that year.
- (6) If a Welsh rate resolution is cancelled before the start of the tax year for which it is to apply –
- (a) the Income Tax Acts have effect for that year as if the resolution had never been made, and
- (b) the resolution may be replaced by another Welsh rate resolution.
- (7) The standing orders must provide that only the First Minister or a Welsh Minister appointed under section 56 may move a motion for a Welsh rate resolution.
- (8) Part 1 of Schedule 10 makes provision supplementing this section.

*Devolved taxes*

**96 Tax on transactions involving interests in land**

- (1) A tax which is charged on a Welsh land transaction is a devolved tax.
- (2) A “Welsh land transaction” means an acquisition of –
- (a) an estate, interest, right or power in or over land in Wales;
- (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.

**97 Tax on disposals to landfill**

- (1) A tax which is charged on disposals to landfill made in Wales is a devolved tax.
- (2) A disposal is a disposal to landfill if –
- (a) it is a disposal of material as waste, and
- (b) it is made by way of landfill.

**98 Tax on carriage of passengers by air**

A tax which is charged on the carriage of passengers by air from airports in Wales is a devolved tax.

**99 Tax on commercial exploitation of aggregate**

A tax which is charged on aggregate when it is subjected to commercial exploitation in Wales is a devolved tax.

**100 Power to add new devolved taxes**

- (1) Her Majesty may by Order in Council amend this Part so as to –
- (a) specify, as an additional devolved tax, a tax of any description, or
- (b) make any other modifications of the provisions relating to devolved taxes which Her Majesty considers appropriate.
- (2) An Order in Council under this section may make such modifications of –
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or

(b) any other instrument or document,  
as Her Majesty considers appropriate in connection with the provision made by the Order.

5 (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament and the Welsh Parliament.

10 (4) The amendment of this Part by an Order in Council under this section does not affect –  
(a) the validity of an Act of the Welsh Parliament passed before the amendment comes into force, or  
(b) the previous or continuing operation of such an Act of the Welsh Parliament.

### 101 Further provision about devolved taxes

Part 2 of Schedule 10 make further provision about devolved taxes.

**PART 8****LAW REFORM****102 Welsh Law Commission**

- 5 (1) There is to be a body of Commissioners to be known as the Welsh Law Commission (but referred to in this Part as the “Commission”).
- (2) The Commission is to be a body corporate consisting of –
- (a) a Commissioner who is to chair it, and
  - (b) four other Commissioners,
- appointed by the Welsh Ministers.
- 10 (3) The Commissioner who is to chair the Commission is to be a person who holds the office of judge of the High Court of Justice of Wales or Court of Appeal of Wales.
- (4) Of the other Commissioners –
- (a) at least one is to be a person appearing to the Welsh Ministers to be suitably qualified to be a Commissioner by experience as a barrister;
  - 15 (b) at least one is to be a person appearing to the Welsh Ministers to be suitably qualified to be a Commissioner by experience as a solicitor;
  - (c) at least one is to be a person appearing to the Welsh Ministers to be suitably qualified to be a Commissioner by experience as a teacher of law in a university, and
  - 20 (d) one may be a person who does not hold (and has never held) judicial office and is not (and has never been) a barrister, solicitor or teacher of law in a university.
- (5) Schedule 11 makes further provision about the Commission.

**103 Functions of Commission**

- 25 (1) The Commission must keep the law of Wales under review with a view to its systematic development and reform, including in particular by –
- (a) codification and consolidation,
  - (b) the elimination of anomalies,
  - (c) the repeal of legislation which is obsolete or unnecessary or otherwise no longer of practical utility, and
  - 30 (d) the reduction of the number of separate enactments,
- and generally by simplifying and modernising it.
- (2) In exercising its duty the Commission must –
- (a) consider any proposals for the reform of the law of Wales which may be made or referred to it;

(b) prepare and submit to the Welsh Ministers from time to time programmes for the examination of different branches of the law of Wales with a view to reform (including recommendations as to the agency (whether the Commission or another body)) by which any such examination should be carried out;

(c) undertake, subject to any such recommendations approved by the Welsh Ministers, the examination of particular branches of the law of Wales and the formulation, by means of draft Bills or otherwise, of proposals for their reform;

(d) prepare, at the request of the Welsh Ministers, comprehensive programmes of codification, consolidation and statute law revision, and undertake the preparation of draft Bills pursuant to any such programme approved by the Welsh Ministers;

(e) provide advice and information to the Welsh Ministers or to other public authorities concerned at the instance of the Welsh Ministers with proposals for the reform or amendment of any branch of the law;

(f) obtain such information about the legal systems of other countries as appears to the Commission likely to facilitate the performance of any of its functions.

(3) The Welsh Ministers must lay before the Welsh Parliament any programmes prepared by the Commission and approved by the Welsh Ministers and any proposals for reform formulated by the Commission pursuant to such programmes.

(4) The Commission must make an annual report to the Welsh Ministers on its proceedings and the Welsh Ministers must lay the report before the Welsh Parliament with such comments (if any) as the Welsh Ministers think fit.

(5) In exercising its functions, the Commission must act in consultation with the English Law Commission, the Scottish Law Commission and the Northern Ireland Law Commission.

#### **104 Reports on implementation of Commission proposals**

(1) As soon as practicable after the end of each reporting year the Welsh Ministers must prepare a report on—

(a) the Commission proposals implemented (in whole or in part) during the year;

(b) the Commission proposals that have not been implemented (in whole or in part) as at the end of the year.

(2) The report required under subsection (1)(b) must include—

(a) plans for dealing with any of the unimplemented proposals;

(b) any decision not to implement any of those proposals taken during the year;

(c) the reasons for any such decision.

(3) The Welsh Ministers must lay the report before the Welsh Parliament.

(4) The first reporting year is the year starting with the day on which this section comes into force, the second reporting year is the year after that and so on.

#### **105 Protocol about Commission's work**

(1) The Welsh Ministers and the Commission may agree a protocol about the Commission's work.

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- (2) The protocol may include (among other things) –
    - (a) the principles and methods to be applied in deciding the work to be carried out by the Commission and in the carrying out of that work;
    - (b) the assistance and information that the Welsh Ministers and the Commission are to give each other;
    - (c) the way in which the Welsh Ministers are to deal with Commission proposals.
  - (3) The Welsh Ministers and the Commission must from time to time review the protocol and may agree to revise it.
  - (4) The Welsh Ministers must lay the protocol (and any revision of it) before the Welsh Parliament.
  - (5) The Welsh Ministers and the Commission must have regard to the protocol.

**PART 9****MISCELLANEOUS AND SUPPLEMENTARY***Publication of legislation and Crown copyright***106 Queen's Printer for Wales**

- 5 (1) There is to be a Queen's Printer for Wales.
- (2) The functions of the Queen's Printer for Wales are—
- (a) to exercise the Queen's Printer functions in relation to Acts of the Welsh Parliament, Acts and Measures of the National Assembly for Wales and subordinate legislation to which this section applies, and
- 10 (b) exercise any other functions conferred on him or her by this Act or any other enactment.
- (3) In subsection (2) "the Queen's Printer functions" means the printing functions in relation to Acts of the United Kingdom Parliament and subordinate legislation of the Queen's Printer of Acts of Parliament.
- 15 (4) The Queen's Printer for Wales is also on behalf of Her Majesty to exercise Her rights and privileges in connection with—
- (a) Crown copyright in Acts of the Welsh Parliament and Acts and Measures of the National Assembly for Wales;
- (b) Crown copyright in subordinate legislation to which this section applies;
- 20 (c) Crown copyright in any existing or future works (other than subordinate legislation) made in the exercise of a function which is exercisable by any office-holder in, or member of the staff of, the Welsh Administration (or would be so exercisable if the function had not ceased to exist);
- (d) the copyright assigned to Her Majesty in works made in connection with the exercise of functions by any such office-holder or member.
- 25 (5) This section applies to subordinate legislation made, confirmed or approved—
- (a) by a member of the Welsh Government,
- (b) by a Welsh public authority with mixed functions or no reserved functions, or
- (c) within devolved competence by a person other than a Minister of the Crown or
- 30 such a member or authority.
- (6) If, following an alteration such as is mentioned in section 39(7)—
- (a) subordinate legislation is made, confirmed or approved under a provision which continues to have effect by virtue of section 39(8), and
- (b) the making, confirmation or approval would be within devolved competence but
- 35 for the alteration,
- the subordinate legislation is to be regarded for the purposes of this section as being made, confirmed or approved within devolved competence.

- (7) The Queen's Printer of Acts of Parliament is to hold the office of Queen's Printer for Wales.
- (8) The Queen's Printer for Wales must, in respect of each financial year, publish a report on the exercise of his or her functions and lay a copy of the report before the Welsh Parliament.
- (9) References in this Act to a Welsh public authority include the Queen's Printer for Wales.

*Agency arrangements*

**107 Agency arrangements**

- (1) Arrangements may be made between the Welsh Ministers and any relevant authority for –
- (a) any functions of one of them to be exercised by the other,
  - (b) any functions of the Welsh Ministers to be exercised by members of staff of the relevant authority,
  - (c) any functions of the relevant authority to be exercised by members of the staff of the Welsh Administration, or
  - (d) the provision of administrative, professional, technical or other services by one of them for the other.
- (2) Any arrangements under paragraph (a), (b) or (c) of subsection (1) for the exercise of functions of the Welsh Ministers do not affect the responsibility of the Welsh Ministers; and such arrangements for the exercise of any functions of a relevant authority do not affect the responsibility of the relevant authority.
- (3) The references in subsections (1) and (2) to functions do not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.
- (4) In this section "relevant authority" means any Minister of the Crown or government department, any public authority (including any local authority) or the holder of any public office.
- (5) This section applies to the First Minister and the Counsel General as to the Welsh Ministers.

*Cross-border public authorities*

**108 Cross-border public authorities: initial status**

- (1) Sections 64 and 65 and 128 to 132 do not apply in relation to any function which is specifically exercisable in relation to a cross-border public authority; and section 128 does not apply in relation to any function of such an authority.
- (2) A Minister of the Crown must consult the Welsh Ministers before exercising, in relation to a cross-border public authority, any specific function –
- (a) which relates to any appointment or removal of the cross-border public authority concerned or of any members or office-holders of the cross-border public authority concerned, or

(b) whose exercise might affect Wales otherwise than wholly in relation to reserved matters.

5 (3) Any cross-border public authority or other person which is required by a pre-commencement enactment or a prerogative instrument to lay any report relating to a cross-border public authority before the United Kingdom Parliament or either House of the United Kingdom Parliament must also lay the report before the Welsh Parliament.

(4) Subsections (1) to (3) are subject to any Order in Council made under section 109.

10 (5) In this Act “cross-border public authority” means any body, government department, office or office-holder specified in an Order in Council made by Her Majesty under this section.

(6) Such an Order may only specify a body, government department, office or office-holder which (at the time when the Order is made) has, in addition to other functions, functions which are exercisable in relation to Wales and do not relate to reserved matters.

(7) In this section –

15 “office-holder” includes employee or other post-holder,

“report” includes accounts and any statement.

#### 109 Power to adapt etc. cross-border public authorities

(1) Her Majesty may by Order in Council make such provision in relation to a cross-border public authority as She considers necessary or expedient in consequence of this Act.

20 (2) Such provision may, in particular, include provision –

(a) modifying any function of a cross-border public authority or of a Minister of the Crown in relation to such an authority;

(b) conferring any function on a cross-border public authority or on a Minister of the Crown or the Welsh Ministers in relation to such an authority;

25 (c) modifying the constitution of a cross-border public authority;

(d) modifying the application of section 70(4) or 108(1), (2) or (3);

(e) for any function to be exercisable by the Welsh Ministers instead of by a Minister of the Crown, or by the one concurrently with the other, or by both jointly or by either with the agreement of or after consultation with the other;

30 (f) apportioning any assets or liabilities;

(g) imposing, or enabling the imposition of, any limits or other restrictions in addition to or in substitution for existing limits or restrictions;

35 (h) providing for sums to be charged on or payable out of, or paid into, the Welsh Consolidated Fund (instead of or in addition to payments into or out of the Consolidated Fund or the National Loans Fund or out of money provided by the United Kingdom Parliament);

(i) requiring payments, with or without interest, to a Minister of the Crown or into the Consolidated Fund or National Loans Fund.

40 (3) No recommendation may be made to Her Majesty in Council to make an Order under this section unless the cross-border public authority concerned has been consulted.

**110 Power to transfer property of cross-border public authorities**

- (1) This section applies if a Welsh Act provides for any functions of a cross-border public authority to be no longer exercisable in relation to Wales.
- (2) Her Majesty may by Order in Council provide –
- 5 (a) for the transfer of any property to which this section applies, or
- (b) for any person to have such rights or interests in relation to any property to which this section applies as Her Majesty considers appropriate (whether in connection with a transfer or otherwise).
- (3) This section applies to property belonging to the cross-border public authority concerned
- 10 which appears to Her Majesty –
- (a) to be held or used wholly or partly for or in connection with the exercise of any of the functions concerned, or
- (b) not to be within paragraph (a) but, when last held or used for or in connection with the exercise of any function, to have been so held or used for or in connection
- 15 with the exercise of any of the functions concerned.
- (4) Her Majesty may by Order in Council provide for the transfer of any liabilities (including criminal liabilities) –
- (a) to which the cross-border public authority concerned is subject, and
- (b) which appear to Her Majesty to have been incurred wholly or partly for or in
- 20 connection with the exercise of any of the functions concerned.
- (5) No recommendation may be made to Her Majesty in Council to make an Order under this section unless the cross-border public authority concerned has been consulted.

**111 Procedure for Orders in Council about cross-border bodies**

- (1) No recommendation is to be made to Her Majesty in Council to make an Order in
- 25 Council under section 108 unless a draft of the statutory instrument containing the Order in Council –
- (a) has been laid before, and approved by resolution of, the Welsh Parliament, and
- (b) has been laid before, and approved by resolution of, both Houses of the United Kingdom Parliament.
- (2) A statutory instrument containing an Order in Council under section 109 or 110 is (unless
- 30 a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

*Legislative***112 Interpretation of legislation**

- (1) This section applies to –
- (a) any provision of a Welsh Act, or a Bill for such an Act, which could be read in such a way as to be outside devolved competence or in such a way as to be within devolved competence,
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(b) any provision of subordinate legislation made, or purporting to be made, under a Welsh Act which could be read in such a way as to be outside the powers under which it was, or purported to be, made or in such a way as to be within those powers.

5 (2) The provision is to be read in such a way as to make it within competence or within the powers and is to have effect accordingly.

(3) In subsection (1) –

“made” includes confirmed or approved;

“Welsh Act” includes an Act or Measure of the National Assembly for Wales.

### 10 **113 Welsh and English language texts of legislation**

The Welsh language and English language texts of –

(a) any provision of a Welsh Act, or Measure or Act of the National Assembly for Wales or of an Act of the United Kingdom Parliament which is in both English and Welsh when it is enacted, or

15 (b) any provision of subordinate legislation which is in both Welsh and English when it is made,

are to be treated for all purposes as being of equal standing.

### **114 Welsh language texts of Acts of the UK Parliament and subordinate legislation**

20 (1) Her Majesty may by Order in Council provide a Welsh language text of any provision of an Act of the United Kingdom Parliament (a “UK Act”) or any subordinate legislation.

(2) The Welsh language text of a provision in a UK Act made under this section is to be treated for all purposes as being of equal standing to the text in English, unless the provision is subsequently modified in English only.

25 (3) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of the United Kingdom Parliament.

(4) Any power to modify a UK Act includes a power to modify an Order in Council under this section.

### *Juridicial*

### 30 **115 Resolution of devolution issues**

For provision about the resolution of devolution issues see Schedule 12.

### **116 Rights and liabilities of the Crown in different capacities**

35 (1) Rights and liabilities may arise between the Crown in right of Her Majesty’s Government in the United Kingdom and the Crown in right of the Welsh Administration by virtue of a contract, by operation of law or by virtue of an enactment as they may arise between subjects.

(2) Property, rights and liabilities may be transferred between the Crown in one of those capacities and the Crown in the other capacity as they may be transferred between subjects; and they may together create, vary or extinguish any property, rights or liabilities as subjects may.

5 (3) Proceedings in respect of –

(a) any property, rights or liabilities to which the Crown in one of those capacities is entitled or subject under subsection (1) or (2), or

(b) the exercise of, or failure to exercise, any function exercisable by an office-holder of the Crown in one of those capacities,

10 may be instituted by the Crown in either capacity; and the Crown in the other capacity may be a separate party in the proceedings.

(4) This section –

(a) applies to a unilateral obligation as it applies to a contract, and

15 (b) applies to the Crown in right of a devolved administration (other than the Welsh Administration) as it applies to the Crown in right of Her Majesty's Government in the United Kingdom.

(5) In this section –

20 “office-holder”, in relation to the Crown in right of Her Majesty's Government in the United Kingdom, means any Minister of the Crown or other office-holder under the Crown in that capacity and, in relation to the Crown in right of the Welsh Administration, means any office-holder in the Welsh Administration;

“subject” means a person not acting on behalf of the Crown.

## 117 Human rights

(1) This Act does not enable a person –

25 (a) to bring any proceedings in a court or tribunal on the ground that an act (or failure to act) is incompatible with the Convention rights, or

(b) to rely on any of the Convention rights in any such proceedings,

30 unless the person would be a victim for the purposes of Article 34 of the Convention (within the meaning of the Human Rights Act 1998 (c. 42)) if proceedings in respect of the act were brought in the European Court of Human Rights.

(2) Subsection (1) does not apply to the Counsel General, the Attorney General, the Lord Advocate, the Advocate General for Scotland, the Attorney General for Northern Ireland or the Advocate General for Northern Ireland.

35 (3) This Act does not enable a court or tribunal to award any damages in respect of an act which is incompatible with any of the Convention rights which it could not award if section 8(3) and (4) of the Human Rights Act 1998 applied.

40 (4) Proceedings brought by virtue of this Act against the Welsh Ministers, the First Minister or the Counsel General in a court or tribunal on the ground that an act of the Welsh Ministers, the First Minister or the Counsel General is incompatible with the Convention rights must be brought before the end of –

- (a) the period of one year beginning with the date on which the act complained of took place, or
- (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances,

5 but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.

- (5) Subsection (4) does not apply to proceedings brought by the Counsel General, the Attorney General, the Lord Advocate, the Advocate General for Scotland, the Attorney General for Northern Ireland or the Advocate General for Northern Ireland.

- 10 (6) In subsection (4) –

“act” –

- (a) does not include the making of any legislation, but
- (b) does include any other act (or failure to act, including a failure to make legislation);

15 “rule” has the same meaning as it has in section 7(5) of the Human Rights Act 1998.

## 118 Powers of courts and tribunals to vary retrospective decisions

- (1) This section applies where any court or tribunal decides –

- 20 (a) that a Welsh Act or a Measure or Act of the National Assembly for Wales, or any provision of such legislation, was outside the legislative competence of the Welsh Parliament (or the National Assembly for Wales) when enacted,
- (b) that any provision of subordinate legislation made, or purporting to be made, under a Welsh Act or a Measure or Act of the National Assembly for Wales is outside the powers under which it was, or was purported to be, made,
- 25 (c) that any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General is outside the powers under which it was, or was purported to be, made, or
- (d) that any other purported exercise of a function by the Welsh Ministers, the First Minister or the Counsel General was outside the powers under which it was
- 30 purported to be made.

- (2) The court or tribunal may make an order –

- (a) removing or limiting any retrospective effect of the decision, or
- (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.

- 35 (3) In deciding whether to make an order under this section, the court or tribunal must (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected by the decision.

- 40 (4) Where a court or tribunal is considering whether to make an order under this section, it must order notice (or intimation) of that fact to be given to the Counsel General and the appropriate law officer specified in subsection (5) (unless a party to the proceedings).

- (5) The appropriate law officers mentioned in subsection (4) are –
- (a) in relation to proceedings in Wales or England, the Attorney General,
  - (b) in relation to proceedings in Scotland, the Advocate General for Scotland, and
  - (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland.
- (6) The Counsel General and the appropriate law officer to whom notice (or intimation) is given in pursuance of subsection (4) may take part as a party in the proceedings, so far as they relate to the making of the order.
- (7) In deciding any question as to costs or expenses, the court or tribunal may –
- (a) take account of any additional expense which it considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of subsection (6), and
  - (b) award the whole or part of the additional expense as costs or expenses to the party who incurred it (whether or not it makes an order under this section and whatever the terms of any such order it does make).
- (8) Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this section including, in particular, provision for determining the manner in which and the time within which any notice (or intimation) is to be given.
- (9) In subsection (1) “made” includes confirmed or approved.

*Supplementary powers*

**119 Power to make provision consequential on legislation of, or scrutinised by, the Welsh Parliament**

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate in consequence of –
- (a) any provision made by a Welsh Act or an Act or Measure of the National Assembly for Wales,
  - (b) any provision of subordinate legislation made, or purporting to be made, under a Welsh Act or an Act or Measure of the National Assembly for Wales,
  - (c) any provision of subordinate legislation made, or purporting to be made, by the Welsh Ministers, the First Minister or the Counsel General, or
  - (d) any provision of subordinate legislation made, or purporting to be made, by any other person (not being a Minister of the Crown) in the exercise of a function conferred or imposed by Act of the United Kingdom Parliament where the statutory instrument (or a draft of the statutory instrument) containing the subordinate legislation is required to be laid before the Welsh Parliament.
- (2) Regulations under this section may make such modifications of –
- (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
  - (b) any other instrument or document,

as the Secretary of State considers appropriate.

(3) Regulations under this section –

(a) may not make provision with respect to matters within the legislative competence of the Scottish Parliament without the consent of the Scottish Ministers, and

(b) may not make provision with respect to matters within the legislative competence of the Northern Ireland Assembly without the consent of Northern Ireland Ministers.

(4) Regulations under this section may make provision having retrospective effect.

(5) No regulations under this section which contain provisions in the form of amendments or repeals of enactments contained in an Act of the United Kingdom Parliament may be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament.

(6) A statutory instrument containing regulations under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.

(7) In this section “made” includes confirmed or approved.

**120 Power to make provision consequential on this Act**

(1) The Secretary of State may by regulations make such modifications of –

(a) any enactment contained in an Act of the United Kingdom Parliament passed before or in the same session of Parliament as this Act, or

(b) any instrument made before the passing of this Act or in the same session of Parliament as that in which this Act is passed,

as the Secretary of State considers appropriate in consequence of this Act.

(2) Regulations under subsection (1) may not make provision with respect to matters within the legislative competence of the Welsh Parliament without the consent of the Welsh Ministers.

(3) The Welsh Ministers may by regulations make –

(a) such modifications of any enactment contained in an Act of the United Kingdom Parliament passed before or in the same session of Parliament as this Act with respect to matters within the legislative competence of the Welsh Parliament,

(b) such modifications of any Act or Measure of the National Assembly for Wales passed before or in the same session of Parliament as this Act, or

(c) such modifications of any instrument made before the passing of this Act or in the same session of Parliament as that in which this Act is passed with respect to matters within the legislative competence of the Welsh Parliament,

as the Welsh Ministers consider appropriate in consequence of this Act.

(4) Regulations under subsection (1) –

(a) may not make provision with respect to matters within the legislative competence of the Scottish Parliament without the consent of the Scottish Ministers, and

(b) may not make provision with respect to matters within the legislative competence of the Northern Ireland Assembly without the consent of Northern Ireland Ministers.

5 (5) No regulations containing provision under subsection (1)(a) may be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament.

10 (6) A statutory instrument containing regulations under subsection (1) is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.

(7) No regulations containing provision under subsection (3)(a) may be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Welsh Parliament.

15 (8) A statutory instrument containing regulations under subsection (3) is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of the Welsh Parliament.

## 121 Power to adapt functions

20 (1) Her Majesty may by Order in Council make such provision (including, in particular, provision modifying a function exercisable by a Minister of the Crown) as She considers appropriate for the purpose of enabling or otherwise facilitating the transfer of a function to the Welsh Ministers by virtue of section 64, 65 or 66.

(2) An Order in Council under subsection (1) may, in particular, provide for any function which—

25 (a) is not exercisable separately in relation to Wales to be so exercisable, or

(b) is not otherwise exercisable separately within devolved competence to be so exercisable.

30 (3) The reference in subsection (1) to the transfer of a function to the Welsh Ministers is to be read as including the sharing of a function with the Welsh Ministers or its other adaptation.

(4) No recommendation may be made to Her Majesty in Council to make an Order under this section which modifies a function of observing or implementing an obligation mentioned in subsection (5) unless the Welsh Ministers have been consulted about the modification.

35 (5) The obligation is an international obligation, or an obligation under EU law, to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), where the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Wales or the Welsh zone).

- 5 (6) If an Order under this section modifies a function of observing or implementing such an international obligation so that the function to be transferred to the Welsh Ministers relates only to achieving so much of the result to be achieved under the obligation as is specified in the legislation, references in section 72 (power to prevent or require action) to the international obligation are to be read as references to the requirement to achieve that much of the result.
- 10 (7) If an Order under this section modifies a function of observing or implementing such an obligation under EU law so that the function to be transferred to the Welsh Ministers relates only to achieving so much of the result to be achieved under the obligation as is specified in the legislation, references in sections 37(1)(c) (legislative competence) and 71(2) (duty of members of Welsh Government to act compatibly with EU law and Convention rights) and paragraph 1 of Schedule 12 (devolution issues) to EU law are to be read as including references to the requirement to achieve that much of the result.

## 122 Legislative power to remedy ultra vires acts

- 15 (1) Her Majesty may by Order in Council make such provision as Her Majesty considers appropriate in consequence of—
- 20 (a) a Welsh Act or any provision of a Welsh Act which was not, or may not have been, within the legislative competence of the Welsh Parliament when it was enacted, or
- (b) any purported exercise by the Welsh Ministers, the First Minister or the Counsel General of a function which was not, or may not have been, an exercise or a proper exercise of the functions.
- (2) An Order in Council under this section may make such modifications of—
- 25 (a) any enactment (including any enactment comprised in or made under this Act) or prerogative instrument, or
- (b) any other instrument or document,
- as Her Majesty considers appropriate.
- (3) An Order in Council under this section may make provision having retrospective effect.
- 30 (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section which contains provisions in the form of amendments or repeals of enactments contained in an Act of the United Kingdom Parliament unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of the Parliament.
- 35 (5) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.
- (6) In this section “Welsh Act” includes an Act or Measure of the National Assembly for Wales.

## 123 Agreed redistribution of functions exercisable by Welsh Ministers etc.

- 40 (1) Her Majesty may by Order in Council provide for any functions exercisable by the Welsh Ministers, the First Minister or the Counsel General to be exercisable—

- (a) instead by a Minister of the Crown or government department,
  - (b) concurrently by a Minister of the Crown or government department, or
  - (c) only with the agreement of, or after consultation with, a Minister of the Crown or government department.
- 5 (2) Where an Order in Council is made under subsection (1)(a) or (b) in relation to a function of the Welsh Ministers, the First Minister or the Counsel General which is exercisable only with the agreement of, or after consultation with, any other of those persons, the function, unless the Order in Council provides otherwise, is to be exercisable by the Minister of the Crown or government department free from any such requirement.
- 10 (3) An Order in Council under this section may, in particular, provide for any function exercisable by a Minister of the Crown or government department by virtue of an Order in Council under subsection (1)(a) or (b) to be exercisable subject to a requirement for the function to be exercised with the agreement of, or after consultation with, another person.
- 15 (4) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of –
- (a) each House of the United Kingdom Parliament, and
  - (b) the Welsh Parliament.

#### 124 Agreed re-distribution of property and liabilities

- 20 (1) Her Majesty may by Order in Council provide –
- (a) for the transfer to a Minister of the Crown or government department of any property belonging to the Welsh Ministers, the First Minister or the Counsel General, or
  - (b) for a Minister of the Crown or government department to have such rights or
- 25 interests in relation to any property belonging to the Welsh Ministers, the First Minister or the Counsel General as Her Majesty considers appropriate (whether in connection with a transfer or otherwise).
- (2) Her Majesty may by Order in Council provide for the transfer to a Minister of the Crown or government department of any liabilities to which the Welsh Ministers, the First
- 30 Minister or the Counsel General are subject.
- (3) An Order in Council under this section may only be made in connection with any transfer or sharing of functions of the Welsh Ministers, the First Minister or the Counsel General by virtue of section 123 or in any other circumstances in which Her Majesty considers it appropriate to do so for the purposes of this Act.
- 35 (4) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of –
- (a) either House of the United Kingdom Parliament, or
  - (b) the Welsh Parliament.

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**125 Welsh taxpayers for social security or child support purposes**

(1) The Secretary of State may by regulations provide for individuals of any specified description to be treated as if they were, or were not, Welsh taxpayers for all or specified purposes of—

(a) social security, or

(b) child support.

(2) The Secretary of State may by regulations provide in relation to any year of assessment that the Welsh basic rate, Welsh higher rate or Welsh additional rate in relation to the income of Welsh taxpayers is to be treated as being a specified rate for all or specified purposes of—

(a) social security, or

(b) child support.

(3) Regulations under subsection (1) or (2) may apply in respect of any individuals whether or not they have a close connection with Wales.

(4) Regulations under subsection (1) or (2) may make such modifications of any enactment, or any other instrument or document, as the Secretary of State considers appropriate in connection with the provision made by the regulations.

(5) No regulations may be made under subsection (1) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament.

(6) No regulations under subsection (2) which contain a provision making modifications of an enactment contained in an Act may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of the United Kingdom Parliament.

(7) A statutory instrument containing regulations under subsection (2) is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.

(8) In this section—

“specified” means specified in the regulations;

“Welsh basic rate”, “Welsh higher rate” and “Welsh additional rate” have the same meaning as in the Income Tax Acts;

“Welsh taxpayer” has the same meaning as in Part 1 of Schedule 10 to this Act.

*Subordinate legislation***126 Regulations, Orders in Council and directions**

(1) Any power make an Order in Council and any power to make regulations is exercisable by statutory instrument.

(2) Any such power—

(a) may be exercised so as to make different provision for different cases or classes of case or different purposes,

(b) may be exercised so as to make provision which applies generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case, and

(c) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.

(3) Any power conferred by this Act to give a direction includes power to vary or revoke the direction.

*General modifications of enactments*

**127 References to Ministers of the Crown etc.**

So far as may be necessary for the purpose or in consequence of the exercise of a function of a member of the Welsh Government, any pre-commencement enactment or prerogative instrument, and any other instrument or document, is to be read as if references to a Minister of the Crown (however described) were or included references to the member of the Welsh Government by whom the function is exercisable.

**128 Subordinate instruments**

(1) Subsection (2) applies in relation to the exercise by a member of the Welsh Government within devolved competence of a function to make, confirm or approve subordinate legislation.

(2) If a pre-commencement enactment makes provision—

(a) for any instrument or the draft of any instrument made in the exercise of such a function to be laid before the United Kingdom Parliament or either House of the Parliament,

(b) for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either or both Houses of the Parliament, or

(c) prohibiting the making of such an instrument without that approval,

the provision has effect, so far as it relates to the exercise of the function by a member of the Welsh Government within devolved competence, as if any reference in it to the United Kingdom Parliament or either House of the Parliament were a reference to the Welsh Parliament.

(3) Where—

(a) a function of making, confirming or approving subordinate legislation conferred by a pre-commencement enactment is exercisable by a Welsh public authority with mixed functions or no reserved functions, and

(b) a pre-commencement enactment makes such provision in relation to the exercise of the function as is mentioned in subsection (2),

the provision has effect, so far as it relates to the exercise of the function by that authority, as if any reference in it to the United Kingdom Parliament or either House of the Parliament were a reference to the Welsh Parliament.

(4) Where—

(a) a function of making, confirming or approving subordinate legislation conferred by a pre-commencement enactment is exercisable within devolved competence by a person other than a Minister of the Crown, a member of the Welsh Government or a Welsh public authority with mixed functions or no reserved functions, and

(b) a pre-commencement enactment makes such provision in relation to the exercise of the function as is mentioned in subsection (2),

the provision has effect, so far as it relates to the exercise of the function by that person within devolved competence, as if any reference in it to the United Kingdom Parliament or either House of the Parliament were a reference to the Welsh Parliament.

(5) If a pre-commencement enactment applies the Statutory Instruments Act 1946 as if a function of the kind mentioned in subsection (3) or (4) were exercisable by a Minister of the Crown, that Act applies, so far as the function is exercisable as mentioned in paragraph (a) of subsection (3) or (as the case may be) (4), as if the function were exercisable by the Welsh Ministers.

### **129 Consolidated Fund etc.**

(1) In this section “Welsh functions” means –

(a) functions of the Welsh Ministers, the First Minister or the Counsel General which are exercisable within devolved competence,

(b) functions of any Welsh public authority with mixed functions or no reserved functions.

(2) Subject to subsections (3) and (5), a provision of a pre-commencement enactment which –

(a) requires or authorises the payment of any sum out of the Consolidated Fund or money provided by the United Kingdom Parliament, or

(b) requires or authorises the payment of any sum into the Consolidated Fund,

ceases to have effect in relation to any Welsh functions.

(3) A provision of a pre-commencement enactment which –

(a) charges any sum on the Consolidated Fund,

(b) requires the payment of any sum out of the Consolidated Fund without further appropriation, or

(c) requires or authorises the payment of any sum into the Consolidated Fund by a person other than a Minister of the Crown,

has effect in relation to any Welsh functions as if it provided for the sum to be charged on the Welsh Consolidated Fund or required it to be paid out of that Fund without further approval or required or authorised it to be paid into that Fund (as the case may be).

(4) Subsections (2) and (3) do not apply to the words from the beginning of section 2(3) of the European Communities Act 1972 (general implementation of Treaties) to “such Community obligation”.

- 5 (5) A provision of a pre-commencement enactment which authorises any sums to be applied as money provided by the United Kingdom Parliament instead of being paid into the Consolidated Fund has effect in relation to any Welsh functions as if it authorised those sums to be applied as if they had been paid out of the Welsh Consolidated Fund in accordance with rules under section 86(1)(c) instead of being paid into that Fund.
- 10 (6) Where a power to lend money under a pre-commencement enactment is exercisable by the Welsh Ministers, subsection (7) applies to any sums which, for the purpose or as the result of the exercise of the power, would be required (apart from that subsection) –
- (a) to be issued by the Treasury out of the National Loans Fund, or
  - (b) to be paid into that Fund.
- (7) Those sums are instead to be paid –
- (a) out of the Welsh Consolidated Fund without further approval, or
  - (b) into that Fund,
- (as the case may be).

15 **130 Accounts and audit**

A provision of a pre-commencement enactment which –

- (a) requires any account to be examined, certified and reported on by, or to be open to the inspection of, the Comptroller and Auditor General, or
- (b) requires him to have access to any other document for carrying out any such examination,

20 has effect in relation to any Welsh functions (within the meaning of section 129) as if the references to the Comptroller and Auditor General were to the Auditor General for Wales.

25 **131 Requirements to lay reports before the Welsh Parliament etc.**

- (1) This section applies where –
- (a) a pre-commencement enactment makes provision for any report to be laid before the United Kingdom Parliament or either House of the Parliament, and
  - (b) the report concerns Welsh functions.
- (2) If the report only concerns Welsh functions, it must be laid instead before the Welsh Parliament.
- (3) In any other case, it must be laid before the Welsh Parliament as well as before the United Kingdom Parliament or (as the case may be) either House of the Parliament.
- (4) In this section –
- “report” includes accounts and any statement,
  - “Welsh functions” has the same meaning as in section 129.

35 **132 Crown land**

- (1) In any provision about the application of any pre-commencement enactment to Crown land –

(a) references to a Minister of the Crown or government department are to be read as including the Welsh Ministers, the First Minister and the Counsel General, and

(b) references to a Minister of the Crown or government department having the management of the land are to be read as including any member of the Welsh Government having the management of the land.

(2) In this section, “Crown land” has the meaning given by section 293 of the Town and Country Planning Act 1990 (c. 8).

### 133 Modification of sections 127 to 132

(1) Her Majesty may by Order in Council provide for any provision of sections 127 to 132 not to apply, or to apply with modifications, in such cases as She considers appropriate.

(2) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.

#### *Amendments and repeals*

### 134 Amendments and repeals

Schedule 13 (amendments and repeals) has effect.

#### *General*

### 135 Interpretation

(1) In this Act –

“Convention rights” has the meaning given by the Human Rights Act 1998;

“deferred matter” means a deferred matter in Part 2 of Schedule 7;

“deferred transfer date” means 1 March 2026, subject to provision made by Order in Council under subsection (2);

“enactment” means a provision contained in any of the following –

(a) an Act of the United Kingdom Parliament;

(b) a Measure or Act of the National Assembly for Wales;

(c) a Welsh Act;

(d) subordinate legislation made under legislation falling within paragraphs (a), (b) or (c);

“financial year” means the period of twelve months ending with 31 March;

“function” means power or duty;

“the Human Rights Convention” means –

(a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and

(b) the protocols to the Convention,

as they have effect for the time being in relation to the United Kingdom.

“Minister of the Crown” includes the Treasury;

“modify” includes “amend”, “repeal” and “revoke”; and “modification” is to be interpreted accordingly;

5 “registered political party” means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41);

“reserved matter” means a reserved matter in Part 1 of Schedule 7; but the reference to reserved matters in section 2(5)(a) includes deferred matters until the deferred transfer date;

10 “Wales” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales;

“Welsh public authority” means any public body (except the Welsh Parliament Commission), public office or holder of such an office whose functions (in each case) are exercisable wholly or mainly in relation to Wales;

15 “Welsh zone” means the sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976) which is adjacent to Wales.

(2) Her Majesty may by Order in Council appoint a later date than 1 March 2026 to be the deferred transfer date for the purposes of this Act.

20 (3) No recommendation is to be made to Her Majesty to make an Order in Council under subsection (2) unless a draft of the statutory instrument has been approved by a resolution of—

(a) each House of the United Kingdom Parliament, and

(b) the Welsh Parliament.

25 (4) Her Majesty may by Order in Council determine, or make provision for determining, for the purposes of this Act any boundary between waters which are to be treated as internal waters or territorial sea of the United Kingdom, or sea within British fishery limits, adjacent to Wales and those which are not.

30 (5) A statutory instrument containing an Order in Council under this section is (unless a draft of the statutory instrument has been approved by a resolution of each House of the United Kingdom Parliament) subject to annulment in pursuance of a resolution of either House of the Parliament.

35 (6) For the purposes of this Act the question whether any function of a body, government department, office or office-holder relates to reserved matters is to be determined by reference to the purpose for which the function is exercisable, having regard (among other things) to the likely effects in all the circumstances of any exercise of the function.

(7) References in this Act and in any other enactment to the Welsh Administration are to the office-holders in the Welsh Administration and the members of the staff of the Welsh Administration.

(8) For the purposes of this Act—

40 (a) references to office-holders in the Welsh Administration are to—

(i) members of the Welsh Government, and

(ii) the holders of offices in the Welsh Administration which are not ministerial offices, and

(b) references to members of the staff of the Welsh Administration are to the staff of the persons referred to in paragraph (a).

(9) For the purposes of this Act, the offices in the Welsh Administration which are not ministerial offices are any office of a description specified in an Order in Council made by Her Majesty under this subsection.

(10) In this Act –

(a) all those rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the EU Treaties, and

(b) all those remedies and procedures from time to time provided for by or under the EU Treaties,

are referred to as “EU law”.

(11) In this Act, “international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement EU law or the Convention rights.

(12) In this Act, “by virtue of” includes “by” and “under”.

### 136 Index of defined expressions

In this Act, the expressions listed in the left-hand column of the table below have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

Expression	Provision of this Act
ancillary	section 37
Convention rights	section 135(1)
the Board	section 15(6)
by virtue of	section 135(12)
the Clerk	section 21(2)
deferred matter	section 135(1)
deferred transfer date	section 135(1)
the Deputy Presiding Officer	section 20(3)
enactment	section 135(1)
financial year	section 135(1)
function	section 135(1)
the Human Rights Convention	section 135(1)
modify	section 135(1)
members of the Welsh Government	section 53(1)
Minister of the Crown	section 135(1)
pre-commencement enactment	section 65(5)
pre-commencement prerogative instrument	section 65(5)
the Presiding Officer	section 20(3)
private law	Defined in section 38(6) for the purpose of that section and paragraph 145 of Part 2 of Schedule

	7	
	registered political parties	section 135(1)
	reserved matter	section 135(1)
	standing orders	section 24(1)
	Wales	section 135(1)
5	the Welsh Administration	section 135(7)
	the Welsh Ministers	section 53(3)
	the Welsh Parliament Commission	section 22(1)
	Welsh public authority	section 135(1)
	Welsh public authority with mixed functions	paragraph 166(4) of Schedule 7
10	Welsh public authority with no reserved functions	paragraph 167 of Schedule 7
	Welsh zone	section 135(1)

### 137 *Financial provisions*

- 15 (1) *There is to be paid out of money provided by the United Kingdom Parliament –*
- (a) *any expenditure incurred by a Minister of the Crown or government department by virtue of this Act, and*
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money provided by the Parliament.*
- 20 (2) *There are to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act (other than any required to be paid into the National Loans Fund).*

### 138 *Transitional provisions etc.*

- (1) Schedule 12 makes transitional provision.
- 25 (2) The Secretary of State may by regulations make any other transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, this Act.
- (3) Regulations under subsection (1) may, in particular, include any savings from the effect of any amendment or repeal or revocation made by this Act.
- 30 (4) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of the United Kingdom Parliament.

### 139 *Coming into force*

- (1) This section and sections 140 and 141 come into force on the day this Act receives Royal Assent.
- 35 (2) The provisions of Part 8 come into force on a day appointed by the Welsh Ministers in regulations.
- (3) The remaining provisions of this Act come into force on a day appointed by the Secretary of State in regulations, subject to section 94.
- (4) Regulations under subsections (2) or (3) may –

- (a) appoint different days for different purposes;
- (b) make such transitory, transitional or saving provision as the Secretary of State considers necessary or expedient.

**140 Extent**

- 5
- (1) Section 31 extends only to Wales.
  - (2) The amendments, and repeals and revocations, made by this Act have the same extent as the enactments amended or repealed or revoked.

**141 Short title**

This Act may be cited as the Government and Laws in Wales Act 2017.

SCHEDULE 1  
(introduced by section 4)

WELSH PARLIAMENT: SEATS

*Welsh Parliament seats*

- 5 1 (1) The Welsh Parliament is to consist of –
- (a) one member for each Welsh Parliament constituency (referred to in this Act as “constituency members”), and
  - (b) four members for each Welsh Parliament electoral region (referred to in this Act as “regional members”).
- 10 (2) Members of the Welsh Parliament are to be returned in accordance with the provision made by and under this Schedule for –
- (a) the holding of general elections of members of the Welsh Parliament (for the return of the entire Welsh Parliament), and
  - (b) the filling of vacancies in Welsh Parliament seats.
- 15 (3) The validity of any proceedings of the Welsh Parliament is not affected by any vacancy in its membership.
- (4) In this Act “proceedings of the Welsh Parliament” means any proceedings of –
- (a) the Welsh Parliament,
  - (b) committees of the Welsh Parliament, or
  - 20 (c) sub-committees of such committees.

*Welsh Parliament constituencies and electoral regions*

- 2 (1) The Welsh Parliament constituencies are the constituencies specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (S.I. 2006/1041) as amended by –
- 25 (a) the Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2008 (S.I. 2008/1791), and
  - (b) any Order in Council under the Parliamentary Constituencies Act 1986 (c. 56) giving effect (with or without modifications) to a report falling within section 13(3) or (4) of the Parliamentary Voting System and Constituencies Act 2011 (c. 1).
- 30 (2) There are five Welsh Parliament electoral regions.
- (3) The Welsh Parliament electoral regions are as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006.

*Voting at general elections*

- 3 (1) Each person entitled to vote at a general election in a Welsh Parliament constituency has  
35 two votes.
- (2) One (referred to in this Act as a “constituency vote”) is a vote which may be given for a candidate to be the constituency member for the Welsh Parliament constituency.

- (3) The other (referred to in this Act as an “electoral region vote”) is a vote which may be given for –
- (a) a registered political party which has submitted a list of candidates to be regional members for the Welsh Parliament electoral region in which the Welsh Parliament constituency is included, or
  - (b) an individual who is a candidate to be a regional member for that Welsh Parliament electoral region.
- (4) But a person is not entitled as an elector –
- (a) to cast more than one constituency vote, or more than one electoral region vote, in the same constituency at any general election, or
  - (b) to vote in more than one constituency at any general election.
- (5) The constituency member for the Welsh Parliament constituency is to be returned under the simple majority system.
- (6) The regional members for the Welsh Parliament electoral region are to be returned under the additional member system of proportional representation provided for in this Schedule.

#### *Candidates at general elections*

- 4 (1) At a general election a person may not be a candidate to be the constituency member for more than one Welsh Parliament constituency.
- 20 (2) A registered political party may submit a list of candidates for return as regional members for a particular Welsh Parliament electoral region at a general election.
- (3) The list must be submitted to the regional returning officer.
- (4) The list must not include more than twelve persons (but may include only one).
- (5) The list must not include a person –
- 25 (a) who is included on any other list submitted for the Welsh Parliament electoral region or any list submitted for another Welsh Parliament electoral region,
  - (b) who is an individual candidate to be a regional member for the Welsh Parliament electoral region or another Welsh Parliament electoral region,
  - 30 (c) who is a candidate to be the constituency member for a Welsh Parliament constituency which is not included in the Welsh Parliament electoral region, or
  - (d) who is a candidate to be the constituency member for a Welsh Parliament constituency included in the Welsh Parliament electoral region but is not a candidate of the party.
- (6) A person may not be an individual candidate to be a regional member for a Welsh Parliament electoral region if that person is –
- 35 (a) included on a list submitted by a registered political party for the Welsh Parliament electoral region or another Welsh Parliament electoral region,
  - (b) an individual candidate to be a regional member for another Welsh Parliament electoral region,

(c) a candidate to be the constituency member for a Welsh Parliament constituency which is not included in the Welsh Parliament electoral region, or

(d) a candidate of any registered political party to be the constituency member for a Welsh Parliament constituency included in the Welsh Parliament electoral region.

5 (7) In this Act “regional returning officer”, in relation to a Welsh Parliament electoral region, means the person designated as the regional returning officer for the Welsh Parliament electoral region in accordance with regulations under section 12.

#### *Calculation of electoral region totals*

5 10 (1) This paragraph and paragraph 6 are about the return of regional members for a Welsh Parliament region at a general election.

(2) The person who is to be returned as the constituency member for each Welsh Parliament constituency in the Welsh Parliament electoral region is to be determined before it is determined who are to be returned as the regional members for the Welsh Parliament electoral region.

15 (3) For each registered political party by which a list of candidates has been submitted for the Welsh Parliament electoral region –

(a) there is to be added together the number of electoral region votes given for the party in the Welsh Parliament constituencies included in the Welsh Parliament electoral region, and

20 (b) the number arrived at under paragraph (a) is then to be divided by the aggregate of one plus the number of candidates of the party returned as constituency members for any of those Welsh Parliament constituencies.

(4) For each individual candidate to be a regional member for the Welsh Parliament electoral region there is to be added together the number of electoral region votes given for the candidate in the constituencies included in the Welsh Parliament electoral region.

25 (5) The number arrived at –

(a) in the case of a registered political party, under sub-paragraph (3)(b), or

(b) in the case of an individual candidate, under sub-paragraph (4),

30 is referred to in this Schedule as the electoral region figure for that party or individual candidate.

#### *Allocation of seats to electoral region members*

6 (1) The first seat for the Welsh Parliament electoral region is to be allocated to the party or individual candidate with the highest electoral region total.

35 (2) The second and subsequent seats for the Welsh Parliament electoral region are to be allocated to the party or individual candidate with the highest electoral region total after any recalculation required by sub-paragraph (3) has been carried out.

(3) This sub-paragraph requires a recalculation under paragraph (b) of paragraph 5(3) in relation to a party –

40 (a) for the first allocation of a seat under sub-paragraph (2), if the application of sub-paragraph (1) resulted in the allocation of a Welsh Parliament seat to the party, or

(b) for all subsequent allocations of seats under sub-paragraph (2), if the previous application of that subsection did so,

and a recalculation is to be carried out by increasing (or further increasing) by one the aggregate mentioned in that paragraph.

- 5 (4) An individual candidate already returned as a constituency member or regional member is to be disregarded.
- (5) Seats for the Welsh Parliament electoral region which are allocated to a party are to be filled by the persons on the party's list in the order in which they appear on the list (disregarding anyone already returned as a constituency member, including anyone  
10 whose return is void).
- (6) Once a party's list has been exhausted (by the return of persons included on it as constituency members or by the previous application of sub-paragraph (1) or (2)), the party is to be disregarded.
- 15 (7) If (on the application of sub-paragraph (1) or any application of sub-paragraph (2)) the highest electoral region total is the electoral region total of two or more parties or individual candidates, the sub-paragraph applies to each of them.
- (8) However, if sub-paragraph (7) would mean that more than the full number of seats for the Welsh Parliament electoral region were allocated, sub-paragraph (1) or (2) does not apply until –
- 20 (a) a recalculation has been carried out under paragraph 5(3)(b) after adding one to the number of votes given for each party with that electoral region total, and
- (b) one has been added to the number of votes given for each individual candidate with that electoral region total.
- 25 (9) If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the regional returning officer must decide between them by lots.

#### *Constituency vacancies*

- 7 (1) This paragraph applies if the seat of a constituency member returned for a Welsh Parliament constituency is vacant.
- 30 (2) An election must be held in the Welsh Parliament constituency to fill the vacancy; but this is subject to sub-paragraph (7).
- (3) At the election, each person entitled to vote only has a constituency vote; and the constituency member for the Welsh Parliament constituency is to be returned under the simple majority system.
- 35 (4) The date of the poll at the election must be fixed by the Presiding Officer.
- (5) The date must fall within the period of 3 months beginning with the occurrence of the vacancy.
- (6) But if the vacancy does not come to the Presiding Officer's notice within the period of one month beginning with its occurrence, the date must fall within the period of 3 months  
40 beginning when it does come to the Presiding Officer's notice.

(7) The election must not be held if it appears to the Presiding Officer that the latest date which may be fixed for the poll would fall within the period of 3 months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 9).

5 (8) The standing orders must make provision for determining the date on which a vacancy occurs for the purposes of this paragraph.

(9) A person may not be a candidate in an election to fill a vacancy if the person is –  
(a) a member of the Welsh Parliament, or  
(b) a candidate in another such election.

10 *Electoral region vacancies*

8 (1) This section applies if the seat of a regional member returned for a Welsh Parliament electoral region is vacant.

(2) If the regional member was returned (under paragraph 6 or this paragraph) from the list of a registered political party, the regional returning officer must notify to the Presiding Officer the name of the person who is to fill the vacancy.

15

(3) A person's name may only be so notified if the person –  
(a) is included on the list submitted by the registered political party for the last general election,  
(b) is willing to serve as a regional member for the Welsh Parliament electoral region, and  
(c) is not a person to whom sub-paragraph (4) applies.

20

(4) This sub-paragraph applies to a person if –  
(a) the person is not a member of the registered political party, and  
(b) the registered political party gives notice to the regional returning officer that the person's name is not to be notified to the Presiding Officer as the name of the person who is to fill the vacancy.

25

(5) But if there is more than one person who satisfies the conditions in sub-paragraph (3), the regional returning officer may only notify the name of whichever of them was the higher, or the highest, on that list.

30

(6) A person whose name is notified under sub-paragraph (2) is to be treated as having been declared to be returned as a regional member for the Welsh Parliament electoral region on the day on which notification of the person's name is received by the Presiding Officer.

(7) The seat remains vacant until the next general election –

35

(a) if the regional member was returned as an individual candidate, or  
(b) if the regional member was returned from the list of a registered political party but there is no-one who satisfies the conditions in sub-paragraph (3).

(8) For the purposes of this paragraph, a person included on the list submitted by a registered political party for the last general election who –

- (a) was returned as a member of the Welsh Parliament at that election (even if the return was void), or
- (b) has subsequently been returned under paragraph 7 or this paragraph (even if the return was void),

5 is treated on and after the return of the person as not having been included on the list.

*Roles and responsibilities of constituency and regional members*

9 The standing orders must include provision about (or for the making of a code or protocol about) the different roles and responsibilities of constituency members and regional members; and—

- 10 (a) constituency members must not describe themselves in a manner which suggests that they are regional members, and
- (b) regional members must not describe themselves in a manner which suggests that they are constituency members.

*Powers of Welsh Ministers*

15 10 (1) The Welsh Ministers may by regulations make provision—

- (a) for modifying the application of paragraphs 3 and 5(2) where the poll at an election for the return of a constituency member is abandoned (or notice of it is countermanded);
- 20 (b) for modifying paragraph 6(7) to ensure the allocation of the correct number of seats for a region;
- (c) for modifying paragraph 8(3) to (5).

(2) No regulations may be made under sub-paragraph (1) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Welsh Parliament.

SCHEDULE 2  
(introduced by section 7)

DISQUALIFICATION FROM MEMBERSHIP OF WELSH PARLIAMENT

*Disqualifying offices*

- 5 1 (1) A person is disqualified from being a member of the Welsh Parliament if the person—
- (a) is a member of the House of Commons (but see paragraphs 3 and 4),
  - (b) is disqualified from being a member of the House of Commons under paragraphs  
10 (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (c. 24)  
(judges, civil servants, members of the armed forces, members of police forces and  
members of foreign legislatures),
  - (c) holds any of the offices for the time being designated by Order in Council as  
offices disqualifying persons from being members of the Welsh Parliament,
  - (d) holds the office of Auditor General,
  - (e) holds the office of Public Services Ombudsman for Wales, or
  - 15 (f) is employed as a member of the staff of the Welsh Parliament.
- (2) A person is also disqualified from being a member of the Welsh Parliament if that person  
is disqualified otherwise than under the House of Commons Disqualification Act 1975 (c.  
24) either generally or in relation to a particular constituency) from being a member of  
the House of Commons or from sitting and voting in it.
- 20 (3) For the purposes of sub-paragraph (2) the references to the Republic of Ireland in section  
1 of the Representation of the People Act 1981 (c. 34) (disqualification of offenders  
detained in, or unlawfully at large from detention in, the British Islands or the Republic  
of Ireland) are to be treated as references to any member State (other than the United  
Kingdom).
- 25 (4) A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in  
Wales is disqualified from being a member of the Welsh Parliament for any constituency  
or electoral region wholly or partly included in that area.
- (5) An Order in Council under paragraph (c) of sub-paragraph (1)—
- (a) may designate particular offices or offices of any description, and
  - 30 (b) may designate an office by reference to any characteristic of a person holding it,  
and in that paragraph and this subsection “office” includes any post or employment.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in  
Council under sub-paragraph (1)(c) unless a draft of the statutory instrument containing  
the Order in Council has been laid before, and approved by a resolution of, the Welsh  
35 Parliament.

*Exceptions and relief from disqualification*

- 2 (1) A person is not disqualified from being a member of the Welsh Parliament merely  
because that person is—

- (a) a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
- (b) a Lord Spiritual.

5 (2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being a member of the Welsh Parliament merely because of section 3 of the Act of Settlement 1700 (c. 2) (disqualification of certain persons born outside United Kingdom).

10 (3) The Welsh Parliament may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being a member of the Welsh Parliament on a ground within paragraph 1(1) or (4) is to be disregarded if it appears to the Welsh Parliament –

- (a) that the ground has ceased, and
- (b) that it is appropriate to do so.

(4) A resolution under sub-paragraph (3) does not –

- 15 (a) affect any proceedings under Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under section 12, or
- (b) enable the Welsh Parliament to disregard any disqualification which has been established in such proceedings or in proceedings under paragraph 6.

*Exception from disqualification due to being MP: recently elected members*

3 (1) A person returned at an election as a member of the Welsh Parliament is not disqualified  
20 under paragraph 1(1)(a) at any time in the period of 8 days beginning with the day the person is so returned.

(2) Sub-paragraph (3) applies where a person –

- 25 (a) is returned at an election as a member of the Welsh Parliament,  
(b) on being so returned is a candidate for election to the House of Commons, and  
(c) is subsequently returned at that election as a member of that House.

(3) The person is not disqualified under paragraph 1(1)(a) at any time in the period of 8 days beginning with the day the person is returned as a member of the House of Commons.

30 (4) A person is a “candidate for election to the House of Commons” if the person’s nomination paper for election as a member of the House of Commons has been delivered to the returning officer under rule 6 of Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules).

*Exception from disqualification due to being MP: imminent Welsh general election*

4 (1) This paragraph applies if –

- 35 (a) a member of the Welsh Parliament is returned as a member of the House of Commons, and  
(b) the expected day of the next general election of members of the Welsh Parliament is within the period of 372 days beginning with the day the person is so returned (“the return day”).

- (2) The member is not disqualified under paragraph 1(1)(a) (disqualification by virtue of being an MP) at any time in the period –
- (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of members of the Welsh Parliament.
- (3) For the purposes of sub-paragraph (1)(b) the expected day of the next general election of members of the Welsh Parliament is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 10(2) or (3) applies –
- (a) if a proclamation under section 10(4) has been made, the expected day is the day on which the poll is required to be held in accordance with that proclamation
  - (b) if no proclamation under section 10(4) has been made but a day has been proposed under section 10(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in sub-paragraph (1)(b).
- (5) For the purpose of determining the expected day, no account is to be taken of the possibility of –
- (a) an order under section 9 (power to vary date of ordinary general election) being made after the relevant time, or
  - (b) section 10(2) or (3) (extraordinary general elections) first applying after that time.
- (6) References in this paragraph to the “day” of the election are to the day on which the poll at the election is held.

#### *Effect of disqualification*

- (1) If a person who is disqualified from being a member of the Welsh Parliament is returned as a member of the Welsh Parliament, the person’s return is void and the person’s seat is vacant.
- (2) If a person who is disqualified from being a member of the Welsh Parliament for a particular constituency or electoral region is returned as a member for that constituency or electoral region, the person’s return is void and the person’s seat is vacant.
- (3) If a person who is a member becomes disqualified –
- (a) from being a member of the Welsh Parliament, or
  - (b) from being a member of the Welsh Parliament for the constituency or electoral region for which the person is sitting,
- the person ceases to be a member of the Welsh Parliament (so that the person’s seat is vacant).
- (4) Sub-paragraphs (1) to (3) have effect subject to any resolution of the Welsh Parliament under paragraph 2(3).
- (5) In addition, sub-paragraph (3) has effect subject to section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).

- (6) If, in consequence of the provision mentioned in sub-paragraph (5), the seat of a person who is disqualified from being a member of the Welsh Parliament is not vacant, the person does not cease to be a member until the person's seat becomes vacant.
- (7) But for any period for which the person is disqualified but the person's seat is not vacant –
- (a) the person must not participate in any Welsh Parliament proceedings, and
  - (b) any of the person's other rights and privileges as a member of the Welsh Parliament may be withdrawn by the Welsh Parliament.
- (8) The validity of any Welsh Parliament proceedings is not affected by the disqualification of any person –
- (a) from being a member of the Welsh Parliament, or
  - (b) from being a member of the Welsh Parliament for the constituency or electoral region for which the person purports to sit.

*Judicial proceedings as to disqualification*

- 6 (1) Any person who claims that a person purporting to be a member of the Welsh Parliament is, or at any time since being returned as a member has been, disqualified from being –
- (a) a member of the Welsh Parliament, or
  - (b) a member of the Welsh Parliament for the constituency or electoral region for which the person purports to sit,
- may apply to the High Court of Wales for a declaration to that effect.
- (2) An application under sub-paragraph (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was returned or to have arisen subsequently.
- (3) No declaration may be made under this paragraph in respect of any person –
- (a) on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the person's disqualification on those grounds is or was in issue, or
  - (b) on any ground, if a resolution of the Welsh Parliament under paragraph 2(3) requires that any disqualification incurred by the person on that ground is to be disregarded.
- (4) On an application under this paragraph –
- (a) the person in respect of whom the application is made is to be the respondent, and
  - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (5) The amount of the security may not exceed £5,000 or such other sum as the Welsh Ministers may specify by regulations.
- (6) The decision of the court on an application under this section is final.
- (7) A statutory instrument containing regulations under sub-paragraph (5) is subject to annulment in pursuance of a resolution of the Welsh Parliament.

SCHEDULE 3  
(introduced by section 14)

FURTHER PROVISION ABOUT ELECTIONS

*Representation of the People Act 1983*

- 5 1 (1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 10ZC (registration of electors in Great Britain) –
- (a) after subsection (5) insert –
- 10 “(5A) The power to make regulations under this section, so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.
- (5B) The power of the Welsh Ministers to make regulations by virtue of subsection (5A) is exercisable in the same ways and subject to the same provisions as their power to make other regulations under this
- 15 section except that –
- (a) the power is not exercisable without the agreement of a Minister of the Crown, and
- (b) regulations made in exercise of the power are subject to annulment in pursuance of a resolution of the Welsh
- 20 Parliament.”;
- (b) in subsection (6), after the definition of “election in Scotland” insert –
- ““election in Wales” means –
- (a) an election for membership of the Welsh Parliament, or
- (b) a local government election in Wales;”.
- 25 (3) In section 10ZD (registration of electors in Great Britain: alterations) –
- (a) after subsection (5) insert –
- 30 “(5A) The power to make regulations under this section, so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.
- (5B) The power of the Welsh Ministers to make regulations by virtue of subsection (5A) is exercisable in the same ways and subject to the same provisions as their power to make other regulations under this
- 35 section except that –
- (a) the power is not exercisable without the agreement of a Minister of the Crown, and
- (b) regulations made in exercise of the power are subject to annulment in pursuance of a resolution of the Welsh Parliament.”;

(b) in subsection (6), after “Scotland” insert “, “election in Wales””.

(4) In section 37B (power to change date of local elections to date of European Parliamentary general election: Wales) –

(a) after subsection (1) insert –

“(1A) The Welsh Ministers may not make an order under this section if the date of the poll at the European Parliamentary general election is the same date as the poll at an ordinary general election of members of the Welsh Parliament.”;

(b) in subsection (4)(b), for “37(1)(b)” substitute “37A(1)(b)”.

(5) In section 53 (power to make regulations about registration etc.) –

(a) after subsection (10) insert –

“(10A) The power to make regulations under this section, so far as it is exercisable by a Minister of the Crown to make provision about a UK digital service in relation to elections in Wales, is exercisable by the Welsh Ministers concurrently with that Minister.

(10B) The power of the Welsh Ministers to make regulations by virtue of subsection (10A) is exercisable in the same ways and subject to the same provisions as their power to make other regulations under this section except that –

(a) the power is not exercisable without the agreement of a Minister of the Crown, and

(b) regulations made in exercise of the power are subject to annulment in pursuance of a resolution of the Welsh Parliament.”;

(b) in subsection (11) –

(i) for “subsection (9)” substitute “this section”;

(ii) after the definition of “election in Scotland” insert –

““election in Wales” means –

(a) an election for membership of the Welsh Parliament, or

(b) a local government election in Wales;”.

#### *Representation of the People Act 1985*

2 In section 15 of the Representation of the People Act 1985 (combination of polls), after subsection (5C) insert –

“(5D) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Wales, the Secretary of State must consult the Welsh Ministers.”

#### *Political Parties, Elections and Referendums Act 2000*

3 (1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.

(2) After section 72A insert –

**“72B Campaign expenditure: power of Welsh Ministers**

- 5 (1) The powers under the following provisions of Schedule 8 are exercisable by the Welsh Ministers instead of the Secretary of State, so far as they relate to polls for elections to membership of the Welsh Parliament –
- (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
- 10 (b) paragraph 3(7) (power to appoint day when code comes into force), and
- (c) paragraph 4(1) (power to amend Part 1 of Schedule 8).
- (2) For the purposes of the exercise by the Welsh Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8A apply –
- 15 (a) as if any reference to the Secretary of State were a reference to the Welsh Ministers,
- (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were to the Welsh Parliament,
- 20 (c) as if in paragraph 3(9) for the words from “means –” to the end there were substituted “means the period of 40 days beginning with the day on which the draft is paid before the Welsh Parliament.”
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Welsh Parliament and to the date of any other election.”
- 25

(3) After section 85A insert –

30 **“85B Controlled expenditure of third parties: power of Welsh Ministers**

- (1) The powers under the following provisions of Schedule 8A are exercisable by the Welsh Ministers instead of the Secretary of State, so far as they relate to polls for elections to membership of the Welsh Parliament –
- 35 (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
- (b) paragraph 3(7) (power to appoint day when code comes into force), and
- (c) paragraph 4(1) (power to amend Part 1 of Schedule 8A).
- 40 (2) For the purposes of the exercise by the Welsh Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8A

apply –

- (a) as if any reference to the Secretary of State were a reference to the Welsh Ministers,
- (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were to the Welsh Parliament,
- (c) as if in paragraph 3(9) for the words from “means–” to the end there were substituted “means the period of 40 days beginning with the day on which the draft is paid before the Welsh Parliament.”

- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Welsh Parliament and to the date of any other election.”

- (4) After section 95ZA insert –

**“95ZB Control of donation to recognised third parties: power of Welsh Ministers**

- (1) The powers under the following provisions of Schedule 11 are exercisable by the Welsh Ministers instead of the Secretary of State, so far as they relate to polls for elections to membership of the Welsh Parliament –
  - (a) paragraph 3(4) (power to change meaning of defined expenses and sponsorship),
  - (b) paragraph 6A(6) (power to make regulations about how the value of a benefit is calculated), and
  - (c) paragraph 6B(4) (power to make regulations about the retention of declarations).
- (2) For the purposes of the exercise by the Welsh Ministers of the powers mentioned in subsection (1), paragraphs 3, 6A and 6B of Schedule 11 apply as if any reference to the Secretary of State were a reference to the Welsh Ministers.
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Welsh Parliament and to the date of any other election.”

- (5) Section 95ZB inserted by sub-paragraph (4) has effect –

- (a) until the coming into force of paragraph 1(2) of Schedule 3 to the Political Parties and Elections Act 2009, with the omission of subsection (1)(b) and “6A” in subsection (2);

(b) until the coming into force of paragraph 4(2) of Schedule 4 to that Act, with the omission of subsection (1)(c) and “6B” in subsection (2).

(6) In section 155 (power to vary specified sums or percentages) –

(a) in subsection (1), after “(1A)” insert “or (1B)”;

(b) after subsection (1A) insert –

“(1B) The Welsh Ministers may by order vary any sum for the time being specified in Part 5 or 6 so far as that sum applies in relation to an election the conduct of which is within the legislative competence of the Welsh Parliament.”;

(c) in subsection (2), for “or (1A)” substitute “, (1A) or (1B)”;

(d) in subsection (4A), for “Subsection (4B) applies” substitute “Subsections (4B) and (4C) apply”;

(e) after subsection (4B) insert –

“(4C) In each session of the Welsh Parliament, other than a session that is dissolved less than two years after the date of its first sitting, the Welsh Ministers must either –

(a) make an order in pursuance of subsection (2)(a), or

(b) lay before the Welsh Parliament a statement setting out the Welsh Ministers’ reasons for not doing so.”

(7) In section 156 (orders and regulations) –

(a) after subsection (4D) insert –

“(4E) Subject to subsections (4F) and (4G), any order or regulations made under this Act by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the Welsh Parliament.

(4F) Subsection (4E) does not apply to an order falling within subsection (3).

(4G) Subsection (4E) does not apply to an order falling within subsection (4), and no such order is to be made unless a draft of the order has been laid before and approved by a resolution of the Welsh Parliament.”;

(b) in subsection (5), for “or the Scottish Ministers” (in both places) substitute “, the Scottish Ministers or the Welsh Ministers”.

SCHEDULE 4  
(introduced by section 15(8))

WELSH PARLIAMENT REMUNERATION BOARD

*The Board*

- 5 1 (1) The members of the Board are the Chair and 4 other members.
- (2) If there is a vacancy in the office of Chair, or the Chair is unable to act, the other members of the Board may appoint one of their number to be Acting Chair.
- (3) The quorum of the Board is three.
- 10 (4) The Board may not make any determination under section 15(7), 19(1) or 59(7) unless the proposal to do so has been approved by at least 3 members of the Board.
- (5) Subject to sub-paragraphs 3 and 4 and to paragraph 2(2), the Board is to regulate its own procedure.
- (6) The validity of the proceedings of the Board is not affected by –
- 15 (a) a vacancy among the members, or
- (b) a defect in the appointment of a member.

*Independence, openness and inclusiveness*

- 2 (1) The Board is not, in the exercise of its functions, to be subject to the direction or control of the Welsh Parliament or of the Welsh Parliament Commission.
- (2) The Board must –
- 20 (a) generally act in an open and transparent manner, and
- (b) publish on the Welsh Parliament's website such information as will enable the public to be kept informed as to its activities.
- (3) Sub-paragraph (2) does not prevent the Board from considering a matter in private and from maintaining the privacy of its consideration of that matter, if, in the opinion of the Board, the nature of that matter makes it appropriate to do so.
- 25 (4) The Board must, before exercising any of its functions, consult those of the following who are likely to be affected, unless the Board considers that there are circumstances that make it inappropriate to do so –
- (a) members of the Welsh Parliament,
- 30 (b) staff employed by members of the Welsh Parliament (or by groups of members of the Welsh Parliament),
- (c) relevant trade unions, and
- (d) such other persons as it considers appropriate.
- (5) The Board must, when consulting members of the Welsh Parliament, have regard to sub-paragraph (1).
- 35

*Functions*

- 3 (1) The Board must exercise its functions with a view to achieving the objectives of—
- (a) providing members of the Welsh Parliament with a level of remuneration which--
    - 5 (i) fairly reflects the complexity and importance of the functions which they are expected to discharge, and
    - (ii) does not, on financial grounds, deter persons with the necessary commitment and ability from seeking election to the Welsh Parliament,
  - (b) providing members of the Welsh Parliament with resources which are adequate to enable them to exercise their functions as members, and
  - 10 (c) ensuring probity, accountability, value for money and transparency with respect to the expenditure of public funds.
- (2) The Board must keep under review the extent to which, having regard to—
- (a) experience gained from the operation of the Board's determinations,
  - (b) changes in the functions of members of the Welsh Parliament, and
  - 15 (c) any other relevant changes in circumstances,
- those determinations appear to be achieving the objectives set out in sub-paragraph (1).
- (3) The Board may, from time to time, consider any other matter which is relevant to the discharge of its functions, either on its own initiative or at the written request of the Clerk.

20 *Disqualification from membership*

- 4 (1) The following persons are disqualified from being members of the Board—
- (a) a member of the Welsh Parliament;
  - (b) the Counsel General (if not a member of the Welsh Parliament);
  - (c) a candidate for election as a member of the Welsh Parliament;
  - 25 (d) a person whose name could, if the seat of a regional member became vacant, be required to be notified to the Presiding Officer under paragraph 8(2) of Schedule 1;
  - (e) a member of the European Parliament, House of Commons, Scottish Parliament or Northern Ireland Assembly;
  - (f) a member of the staff of the Welsh Parliament;
  - 30 (g) a member of the staff of the Welsh Government;
  - (h) a person employed by a member of the Welsh Parliament or by a group of members of the Welsh Parliament for the purpose of assisting that member or the members of that group to perform the functions of a member of the Welsh Parliament;
  - 35 (i) the Auditor General;
  - (j) the Welsh Parliament Commissioner for Standards;
  - (k) a member of the Welsh Parliament Commission Corporate Governance Committee;

(l) a person holding the appointment of Independent Adviser to the Welsh Parliament Commission;

(m) a person holding the appointment of Non-Executive Director of the Welsh Government.

5 (2) For the purposes of sub-paragraph (1)(c) a person becomes a candidate for election as a member of the Welsh Parliament –

(a) on the day on which that person is declared to be a candidate (whether by the person in question or by others), or

10 (b) on the day on which that person is nominated as a candidate at a Welsh Parliament election,

whichever is the earlier.

15 (3) When determining, for the purposes of sub-paragraph (1)(d), whether the name of a person could be required to be notified to the Presiding Officer under paragraph 8(2) of Schedule 1, the requirements of paragraphs (b) and (c) of sub-paragraph (3) of that paragraph are to be disregarded.

(4) If the Welsh Parliament resolves that sub-paragraph (1) be amended so as to –

(a) add an office or description of person set out in that sub-paragraph,

(b) remove such an office or description of person, or

(c) alter the description of such an office or person,

20 the Counsel General may, by order, amend sub-paragraph (1) so as to give effect to such a resolution.

(5) The power to make an order under sub-paragraph (4) is exercisable by statutory instrument.

25 (6) The Counsel General must, on being notified in writing by the Presiding Officer that the Welsh Parliament has passed a resolution under sub-paragraph (4), make an order under that sub-paragraph as soon as is reasonably practicable.

#### *Appointment of members of Board*

5 (1) The Chair and the other members of the Board –

(a) are to be appointed by the Welsh Parliament Commission, and

30 (b) are to hold office for a fixed term of 5 years from the date of their respective appointments.

(2) No person may be appointed to be a member of the Board if that person has already been appointed to be a member of the Board on two occasions.

35 (3) The Clerk must make arrangements for selecting candidates for appointment as Chair, and as other members of the Board.

(4) Those arrangements may –

(a) be revised from time to time, and

(b) make different provision for different appointments and for appointments made under different circumstances.

- (5) The Clerk must ensure that those arrangements –
- (a) do not involve participation by any person who appears to the Clerk to be likely to be affected by the exercise by the Board of any of its functions, or any person connected with such a person, and
  - (b) subject to paragraph (a), have due regard to the principle that there should be equality of opportunity for all people.
- (6) The Clerk must not give effect to the arrangements in relation to a particular appointment unless they have first been published on the Welsh Parliament’s website and continue to be so published whilst the process of selecting a person for that appointment is taking place.
- (7) The Welsh Parliament Commission must appoint as Chair, or as a member of the Board, as the case may be, any person selected, in accordance with such arrangements, for appointment to that office.
- (8) Sub-paragraph (5) does not apply if it appears to the Welsh Parliament Commission that the person in question is disqualified from membership of the Board under paragraph 4.

#### *Termination of membership of Board*

- 6 The Chair or any other member of the Board ceases to hold office –
- (a) on expiry of the term for which that person was appointed,
  - (b) if that person resigns by giving written notice to the Welsh Parliament Commission,
  - (c) if that person becomes disqualified from being a member of the Board, or
  - (d) if the Welsh Parliament so resolves on a motion proposed on behalf of the Welsh Parliament Commission by a member of the Commission, provided that, if the resolution is passed on a vote, the number of votes cast in favour of the resolution is not less than two thirds of the total number of votes cast.

#### *Terms and conditions*

- 7 (1) The Chair and the other members of the Board are to hold office in accordance with the terms and conditions of their appointment.
- (2) Those terms and conditions are to be determined by the Welsh Parliament Commission.
- 30 (3) The Welsh Parliament Commission must pay the Chair and other members of the Board such amounts as they are entitled to receive under those terms and conditions.

#### *Administrative support*

- 8 The Welsh Parliament Commission must provide the Board with such administrative support as the Board reasonably requires to enable it to discharge its functions.

#### *Meetings of Board*

- 9 (1) Subject to sub-paragraphs (2) and (3) and to paragraph 12(7), (8) and (9) it is for the Board to decide when it is to meet.

- (2) The Board must meet at least once in each calendar year.
- (3) The Board must, if the Clerk requests it to do so, meet to consider a particular matter or matters relevant to its functions.
- (4) A request under sub-paragraph (3) must be in writing and must specify the matter or matters in question.

#### *Annual report*

10 The Board must, as soon as possible after the end of each financial year, lay before the Welsh Parliament an annual report on its activities, including its use of resources, during that financial year.

#### *Determinations*

- 11 (1) Every determination made by the Board under section 15(7), 19(1) or 59(7) must be in writing.
- (2) The Board must communicate its determinations to the Welsh Parliament Commission.
- (3) The Welsh Parliament Commission must, as soon as is reasonably practicable after any determination is made by the Board –
- 15 (a) incorporate that determination, together with any other determinations which are to continue in force, into a single document, and
- (b) publish that document.

#### *Exercise of functions in relation to salaries*

- 20 12 (1) Subject to sub-paragraph (2), references in this paragraph to a term of the Welsh Parliament are to the period which begins on the day on which a poll at an ordinary general election is held and which ends on the day before the day on which a poll at the next ordinary general election is held.
- (2) If –
- 25 (a) an extraordinary election is held, and
- (b) section 10(5) applies,
- then, for the purposes of this paragraph, a term of the Welsh Parliament ends on the day before the day on which the poll at that extraordinary general election is held, and the next term of the Parliament begins on the day on which that poll is held.
- 30 (3) Subject to sub-paragraph (4) the Board may not make more than –
- (a) one determination which makes provision under section 15(1)), and
- (b) one determination which makes provision under section 59(1),
- which is to have effect during each term of the Welsh Parliament.
- (4) Sub-paragraph (3) does not apply if the Board is of the opinion that there are exceptional circumstances which make it just and reasonable that the restrictions imposed by that
- 35 sub-paragraph should not apply.

- (5) If the Board forms an opinion of the kind referred to in sub-paragraph (4) it must state in writing its reasons for having done so, and communicate that statement to the Welsh Parliament Commission at the same time as the determination to which it relates.
- (6) The Welsh Parliament Commission must lay before the Welsh Parliament any statement communicated to it under sub-paragraph (5) at the same time as it lays before the Parliament the determination to which it relates.
- (7) The Board must, in relation to each term of the Welsh Parliament, make a determination which makes provision under section 15(1) and which is to have effect, whenever made, from the beginning of that term.
- (8) The Board must, in relation to each term of the Welsh Parliament, make a determination which makes provision under section 59(1) and which is to have effect, whenever made, from the beginning of that term.
- (9) The Board must, so far as is reasonably practicable, make the determinations referred to in sub-paragraphs (7) and (8) before the end of the term of the Welsh Parliament which precedes that in relation to which they are to have effect but if it fails to do so the Welsh Parliament Commission must –
- (a) until such determinations are made, continue to make payments in accordance with the determinations which had effect in relation to that preceding term of the Welsh Parliament, and
  - (b) when such determinations have been made, adjust any subsequent payments so as to make good any under-payment or recover any over-payment.

*Exercise of functions in relation to reimbursement of costs incurred in employing staff*

- (1) This paragraph applies to any provision for the reimbursement of costs incurred by members of the Welsh Parliament (or by groups of members of the Welsh Parliament) in employing staff.
- (2) If the Board has made a determination which contains any provision to which this paragraph applies, the Board may not, by a subsequent determination, make any modification to that provision in relation to any period before the end of the financial year in relation to which (or to a part of which) that provision first takes effect.
- (3) Sub-paragraph (2) does not apply if the Board is of the opinion that there are exceptional circumstances which make it just and reasonable that the restrictions imposed by that sub-paragraph should not apply.
- (4) If the Board forms an opinion of the kind referred to in sub-paragraph (3) it must state in writing its reasons for having done so, and communicate that statement to the Welsh Parliament Commission at the same time as the determination to which it relates.
- (5) The Welsh Parliament Commission must lay before the Welsh Parliament any statement communicated to it under sub-paragraph (4) at the same time as it lays before the Welsh Parliament the determination to which it relates.

*Amendment of Freedom of Information Act 2000*

- 14 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices: general) –

- (a) omit the reference to the National Assembly for Wales Remuneration Board;
- (b) insert in the appropriate place—  
“The Welsh Parliament Remuneration Board.”.

SCHEDULE 5  
(introduced by section 22(8))

WELSH PARLIAMENT COMMISSION

*Membership*

- 5 1 (1) The Presiding Officer holds office as a member of the Welsh Parliament Commission (“the Commission”) until another person is elected to the office of Presiding Officer unless the Presiding Officer ceases to be a member of the Welsh Parliament otherwise than by reason of a dissolution.
- 10 (2) Any other member of the Commission holds office until another member is appointed as a replacement unless sub-paragraph (3) applies.
- (3) This sub-paragraph applies if the person –
- (a) resigns office as a member of the Commission,
  - (b) ceases to be a member of the Welsh Parliament otherwise than by reason of a dissolution, or
  - 15 (c) is removed from office as a member of the Commission by the Welsh Parliament.

*Property*

- 2 The Commission may acquire, hold and dispose of property.

*Staff*

- 3 (1) The Commission may appoint staff.
- 20 (2) The Clerk and the other persons appointed by the Commission are referred to in this Act as the members of the staff of the Welsh Parliament.
- (3) Employment as a member of the staff of the Welsh Parliament is not employment under the Crown (but see paragraph 13).
- (4) The Commission must ensure that –
- 25 (a) the procedures for the recruitment and selection of persons as members of the staff of the Welsh Parliament are broadly in line with those applying to the recruitment and selection of persons as members of the staff of the Welsh Government, and
  - (b) the terms and conditions of employment of the members of the staff of the Welsh Parliament are broadly in line with those of the members of the staff of the Welsh Government.
- 30 (5) The Commission is to pay the salaries and expenses of the members of the staff of the Welsh Parliament.
- (6) The Commission may make arrangements for the payment of pensions, gratuities or allowances to or in respect of anyone who has ceased to be a member of the staff of the Parliament.
- 35 (7) The Commission may, in particular, make contributions to, or payments towards the provision of, such pensions, gratuities or allowances.

(8) In Schedule 1 to the Superannuation Act 1972 (c. 11) (employments etc. to which section 1 of the Act applies), in the list of “Other Bodies”, for “Employment as a member of the staff of the National Assembly for Wales” substitute “Employment as a member of the staff of the Welsh Parliament”.

5 (9) The Commission must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of –

10 (a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 to or in respect of persons who are or have been members of the staff of the Welsh Parliament, and

(b) the expenses incurred in administering those pensions, allowances and gratuities.

#### *Powers*

4 (1) The Commission may do anything which appears to it necessary or appropriate for the purpose of, or in connection with, the discharge of its functions.

15 (2) That includes, in particular –

(a) entering into contracts,

(b) charging for goods or services,

(c) investing sums not immediately required for the discharge of its functions, and

(d) accepting gifts.

20 (3) Where (by will or otherwise) any property is (by whatever words used) expressed to be given to the Welsh Parliament, the gift takes effect as a gift to the Commission.

(4) The Commission may –

(a) sell goods or provide services to the public, or

(b) make arrangements for the sale of goods or the provision of services to the public.

25 (5) The Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet expenditure.

(6) The Commission –

(a) may not borrow money otherwise than under sub-paragraph (5), and

30 (b) may borrow under that sub-paragraph only in accordance with special or general directions given by the Welsh Parliament to the Commission under section 22(6).

(7) The Secretary of State may by regulations provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Commission but subject to any appropriate modifications.

35 (8) A statutory instrument containing regulations under sub-paragraph (7) is subject to annulment in pursuance of a resolution of either House of the United Kingdom Parliament.

*Promotion of awareness of election system and devolved government*

- 5 (1) The Commission may promote public awareness of –
- (a) the current or any pending system for the election of members of the Welsh Parliament, and
  - 5 (b) the current or any pending system of devolved government in Wales.
- (2) For the purposes of this paragraph and paragraph 6 a system is “pending” if arrangements for giving effect to it have been made by any enactment but the arrangements are not yet in force.
- (3) The Commission may exercise its power under sub-paragraph (1) in such manner as it
- 10 thinks fit but may, in particular, do so by –
- (a) carrying out programmes of education or information to promote public awareness, or
  - (b) making grants to other persons or bodies for the purpose of enabling them to carry out such programmes.
- 15 (4) Any grant under sub-paragraph (3)(b) may be made subject to such conditions as the Commission considers appropriate.
- 6 The Commission may provide financial assistance to the Electoral Commission for the purpose of enabling it to carry out its functions under section 13(1) of the Political Parties, Elections and Referendums Act 2000 (c. 41) so far as relating to the promotion of public
- 20 awareness of –
- (a) the current or any pending system for the election of members of the Welsh Parliament, and
  - (b) the current or any pending system of devolved government in Wales.

*Delegation*

- 25 7 The Commission may delegate any of its functions to –
- (a) the Presiding Officer, or
  - (b) the Clerk.

*Principles in accordance with which functions are to be exercised*

- 8 (1) The Commission must make appropriate arrangements with a view to securing that its
- 30 functions are exercised with due regard to the principle that there should be equality of opportunity for all people.
- (2) In the exercise of the functions of the Commission due regard must be had to the principle of promoting sustainable development.

*Treatment of the official languages on basis of equality*

- 35 9 (1) The Commission must, in the exercise of its functions –
- (a) treat the official languages of the Welsh Parliament on a basis of equality, and
  - (b) make arrangements for enabling effect to be given to section 23.

- (2) The Commission must –
- (a) adopt, and
  - (b) publish,
- a scheme, to be known as the Welsh Parliament Commission’s Official Languages Scheme (“the Scheme”), specifying the measures which it proposes to take in order to comply with its duties under sub-paragraph (1).
- (3) The Scheme must include (amongst other things) provision about –
- (a) simultaneous interpretation from one official language into the other –
    - (i) in all Welsh Parliament proceedings,
    - (ii) in public meetings conducted on behalf of the Commission, and
    - (iii) in such other meetings connected with the functions of the Welsh Parliament or the Commission as may be provided for in the Scheme,
  - (b) publication of documents in both official languages, subject to any exceptions identified in the Scheme,
  - (c) public engagement with –
    - (i) Welsh Parliament proceedings, and
    - (ii) other functions of the Welsh Parliament and of the Commission, through the medium of either of the official languages,
  - (d) practical measures to foster and continually improve freedom of choice of official language –
    - (i) on the part of those participating in Welsh Parliament proceedings, and
    - (ii) in relation to the functions of the Welsh Parliament or the Commission generally,
  - (e) the setting of targets and timescales relating to implementation of the Scheme,
  - (f) the allocation of responsibilities for implementing the Scheme,
  - (g) objective means of measuring progress in implementing the Scheme, and
  - (h) a strategy for ensuring that the members of the staff of the Welsh Parliament have, collectively, the language skills necessary to enable the Scheme to be implemented.
- (4) The Scheme must include provision relating to the receipt, investigation and consideration of complaints of failures to give effect to provisions of the Scheme.
- (5) The Scheme must identify those services provided or to be provided in the official languages and explain how those services are to be provided in accordance with sub-paragraph (3).
- (6) The Commission must, in respect of each financial year, lay before the Welsh Parliament a report setting out how the Commission has, during the year in question, given effect to the Scheme.
- (7) The report prepared by the Commission under sub-paragraph (6) must include –
- (a) whether and to what degree the services referred to in sub-paragraph (5) have been provided, and

(b) if applicable, the reasons why the Commission has not provided any of the services referred to in sub-paragraph (5) in both official languages.

(8) The Commission –

(a) must review the Scheme as soon as is reasonably practicable after each ordinary general election, or after an extraordinary general election to which section 10(5) applies, and

(b) may, at any time, adopt a new Scheme or an amendment to the existing Scheme.

(9) The Commission may not adopt a Scheme, or an amendment to a Scheme, unless (whether before or after the coming into force of this paragraph) –

(a) a draft of the Scheme (or of the amendment) has been –

(i) published, and

(ii) laid before the Welsh Parliament,

(b) the Commission has given –

(i) those persons whom the Commission considers it appropriate to consult in relation to the Scheme, and

(ii) the Welsh Parliament,

reasonable opportunity to make representations in relation to the draft,

(c) the Commission has considered any representations made about the draft Scheme (or draft amendment) by –

(i) the persons consulted under sub-paragraph (b)(i), and

(ii) the Welsh Parliament, and

(d) the Scheme (or the amendment) incorporating such modifications as the Commission may, having considered such representations, make has been laid before, and approved by resolution of, the Welsh Parliament.

(10) The Commission must give effect to the Scheme.

#### *Annual report*

After each financial year the Commission must –

(a) publish a report relating to the exercise of its functions during the financial year, and

(b) lay a copy of the report before the Welsh Parliament.

#### *Validity of acts*

The validity of any act of the Commission is not affected by –

(a) any vacancy in its membership,

(b) any defect in the appointment of any member, or

(c) any lack of qualification for membership of any member.

*Proceedings*

- 12 (1) The Commission may determine its own procedure.
- (2) The Presiding Officer is to preside at meetings of the Commission but the Commission may appoint another of its members to preside if –
- 5 (a) the office of Presiding Officer is vacant, or
- (b) the Presiding Officer is for any reason unable to act.

*Crown status*

- 13 (1) Her Majesty may by Order in Council provide for the Commission to be treated to any extent as a Crown body for the purposes of any enactment.
- 10 (2) In particular, the Order in Council may for the purposes of any enactment provide –
- (a) for employment as a member of the staff of the Welsh Parliament to be treated as employment by the Commission as a Crown body, or
- (b) for land held, used or managed by the Commission, or operations carried out by or on behalf of the Commission, to be treated as land held, used or managed by, or
- 15 operations carried out by or on behalf of, the Commission as a Crown body.
- (3) For the purposes of this paragraph “Crown body” means a body which is a servant or agent of the Crown, and includes a government department.
- (4) A statutory instrument containing an Order in Council under this paragraph is subject to annulment in pursuance of –
- 20 (a) a resolution of either House of the United Kingdom Parliament, or
- (b) a resolution of the Welsh Parliament.

SCHEDULE 6  
(introduced by section 28(2))

WELSH PARLIAMENT COMMISSIONER FOR STANDARDS

*The Commissioner*

- 5 1 (1) The Commissioner is to be appointed by the Welsh Parliament.
- (2) The principal aim of the Commissioner in the exercise of the functions of the office is to promote, encourage and safeguard high standards of conduct in the public office of member of the Welsh Parliament.
- 10 (3) The Commissioner is not, in the exercise of any functions, to be subject to the direction or control of the Welsh Parliament.

*Appointment and term of office*

- 2 (1) The Welsh Parliament must make arrangements for –
- (a) ensuring that any person to be appointed as Commissioner has been identified by fair and open competition, and
- 15 (b) settling the terms on which such appointment, when made, is to have effect.
- (2) The arrangements (but not the appointment of the person identified in accordance with them) may be delegated by the Welsh Parliament, in whole or in part, to the Commission, to the Committee on Standards of Conduct or to the staff of the Welsh Parliament and such arrangements may include the involvement of persons independent of the Welsh Parliament.
- 20 (3) A person is not eligible to be appointed as Commissioner if that person –
- (a) is a member of the Welsh Parliament,
- (b) has been a member of the Welsh Parliament at any time during the period of 2 years prior to the date when the appointment is to take effect,
- 25 (c) is a member of the staff of the Welsh Parliament,
- (d) has been a member of the staff of the Welsh Parliament at any time during the period of 2 years prior to the date when the appointment is to take effect,
- (e) is a member of the staff of the Welsh Government, or
- 30 (f) has been a member of the staff of the Welsh Government at any time during the period of 2 years prior to the date when the appointment is to take effect.
- (4) The Commissioner is to be appointed for a term of 6 years.
- (5) A person who has held office as the Commissioner may not be appointed for a further term (whether consecutive or not).
- (6) A person who has been appointed as the Commissioner may at any time –
- 35 (a) resign by notice given to the Welsh Parliament, or
- (b) be removed from office by the Welsh Parliament.

- (7) A person may not be removed from office as the Commissioner under sub-paragraph (6) (b) unless—
- (a) the Welsh Parliament so resolves, and
  - (b) if the resolution is passed on a vote, the number of votes cast in favour of the resolution is not less than two thirds of the total number of votes cast.
- (8) The appointment of a person as Commissioner ceases if that person—
- (a) becomes a candidate to be a member of the Welsh Parliament for a constituency or electoral region,
  - (b) is appointed as, or designated to exercise the functions of, the Counsel General under section 57, or
  - (c) is appointed to be a member of the staff of the Welsh Parliament or of the Welsh Government.

#### *Corporation sole*

- 3 The person for the time being holding office as Commissioner is to be, by the name of  
15 that office, a corporation sole.

#### *Remuneration*

- 4 (1) The Commission must—
- (a) pay the Commissioner such salary and any such allowances, and
  - (b) make any such payments towards the provision of superannuation benefits for or  
20 in respect of the Commissioner,
- as may be provided for by or under the terms of the Commissioner's appointment.
- (2) The Commission must pay to or in respect of a person who has ceased to hold office as Commissioner such amounts (if any) by way of—
- (a) pension or gratuities, or
  - (b) provision for those benefits  
25
- as may have been provided for by or under the terms of the Commissioner's appointment.
- (3) Sums required for the making of payments under sub-paragraphs (1) and (2) are to be charged on the Welsh Consolidated Fund.

#### *Appointment of acting Commissioner*

- 5 (1) When the office of the Commissioner is vacant or the Commissioner is, for any reason, unable to act, the Welsh Parliament may appoint a person to discharge the functions of that office either generally or in relation to such case or class of cases, and until such time, as may be specified by the terms and conditions of such appointment; and a person so  
35 appointed is referred to in this paragraph as the "acting Commissioner".
- (2) The Commissioner and the acting Commissioner may each discharge the functions of the office of the Commissioner at the same time but in relation to different cases.

- (3) A person who is not eligible to be appointed as the Commissioner is not eligible to be appointed as the acting Commissioner.
- (4) A person appointed as the acting Commissioner –
- (a) may at any time resign by notice given to the Welsh Parliament,
  - 5 (b) may at any time be removed from office by the Welsh Parliament,
  - (c) ceases to hold office in the circumstances specified in paragraph 2(8)(a), (b) and (c),
  - (d) in other respects, holds office on such terms and conditions as the Welsh Parliament may determine, and
  - 10 (e) while holding that appointment is to be treated for all purposes (except those of paragraph 1) as the Commissioner.

#### *Functions of Commissioner*

- 6 (1) The functions of the Commissioner are –
- 15 (a) to receive any complaint that the conduct of a member of the Welsh Parliament has, at a relevant time, failed to comply with a requirement of a relevant provision,
  - (b) to investigate any such complaint in accordance with this Schedule,
  - (c) to report to the Welsh Parliament the outcome of any such investigation,
  - 20 (d) to advise members of the Welsh Parliament and members of the public about the procedures for making and investigating complaints to which paragraph (a) applies, and
  - (e) the further functions conferred by paragraph 7.
- (2) A “relevant time” means a time when the requirement in question was in force.
- (3) A “relevant provision” means –
- 25 (a) any provision of the standing orders relating to –
    - (i) the registration or declaration of financial or other interests,
    - (ii) the notification by members of the Welsh Parliament of their membership of societies,
    - 30 (iii) the registration or notification of any other information relating to members of the Welsh Parliament or to persons connected to them,
  - (b) any resolution of the Welsh Parliament relating to the financial or other interests of members of the Welsh Parliament,
  - (c) any code of conduct approved by the Welsh Parliament relating to standards of conduct of members of the Welsh Parliament,
  - 35 (d) any resolution of the Welsh Parliament relating to standards of conduct of members of the Welsh Parliament, and
  - (e) any provision included in the standing orders (or in any code or protocol made under them) in accordance with section 27(6).

*Further functions of Commissioner*

7 The Commissioner may (and if requested by the Welsh Parliament to do so must) give advice to the Welsh Parliament –

- 5
- (a) on any matter of general principle relating to relevant provisions or to standards of conduct of members of the Welsh Parliament generally,
  - (b) on procedures for investigating complaints that members of the Welsh Parliament have failed to comply with the requirements of relevant provisions,
  - (c) on any other matter relating to promoting, encouraging and safeguarding high standards of conduct in the public office of member of the Welsh Parliament.

10 *Ministerial Code*

8 (1) Nothing in this Schedule authorises the Commissioner to express any view on –

- 15
- (a) any provision relating to standards of conduct which is contained in a Welsh Ministerial Code,
  - (b) any provision relating to standards of conduct which could be contained in a Welsh Ministerial Code,
  - (c) any allegation that the conduct of any person was in breach of a provision relating to standards of conduct contained in a Welsh Ministerial Code, or
  - (d) the effectiveness of any provision contained in a Welsh Ministerial Code whether in relation to any specific conduct or generally.

20 (2) For the purposes of this section –

- (a) a “Welsh Ministerial Code” means any document (however that document is described) containing provisions relating to standards of conduct –
  - (i) which has been promulgated by or under the authority of the First Minister,
  - 25 (ii) which applies to the First Minister, Welsh Ministers, Deputy Ministers and Counsel General or to any of them,
  - (iii) which relates to standards of conduct in those offices, and
  - (iv) which seeks to apply standards of conduct different from or additional to those which apply to members of the Welsh Parliament generally, and
- 30 (b) a provision relating to standards of conduct is one which could be contained in a Welsh Ministerial Code if that provision satisfies the requirements of paragraph (a)(ii), (iii) and (iv).

*Duty of Clerk to refer matter to Commissioner*

9 If the Clerk has reasonable grounds for suspecting –

- 35
- (a) that the conduct of a member of the Welsh Parliament has, at a relevant time, failed to comply with a requirement of a relevant provision, and
  - (b) that the conduct in question is relevant to the Clerk’s functions as an accounting officer for the Welsh Parliament Commission,

the Clerk must communicate those grounds in writing to the Commissioner and the Commissioner must treat the communication as a complaint to which paragraph 6(1)(a) applies.

*Investigation of complaints by Commissioner*

- 5 10 (1) The Commissioner must investigate complaints and must report to the Welsh Parliament on the outcome of investigations, in accordance with—
- (a) the provisions of the standing orders, and
  - (b) any rules relating to the consideration of complaints against members of the Welsh Parliament which have been adopted by the Welsh Parliament under the
- 10 standing orders.
- (2) Subject to that, it is for the Commissioner to decide when and how to carry out an investigation and to report on its outcome.
- (3) The Commissioner may, in such circumstances as may be prescribed by rules referred to in sub-paragraph (1)(b), dismiss a complaint summarily without reporting on it to the
- 15 Welsh Parliament but must instead notify in writing the member of the Welsh Parliament in question and the person who made the complaint, giving reasons for the dismissal.
- (4) A report by the Commissioner to the Welsh Parliament on the outcome of an investigation may not include any recommendation as to what sanction, if any, should be imposed on the member of the Welsh Parliament in question.
- 20 (5) If, in the course of carrying out an investigation, the Commissioner becomes aware of any circumstances which—
- (a) give rise to issues of principle or of general practice relevant to the Clerk's functions as an accounting officer for the Welsh Parliament Commission, or
  - (b) could, upon further consideration by the Clerk, give rise to a duty on the Clerk
- 25 under paragraph 9,
- the Commissioner must communicate those circumstances in writing to the Clerk.

*Power to call for witnesses and documents*

- 11 (1) The Commissioner may, in accordance with paragraph 12, require any person—
- (a) to attend before the Commissioner for the purpose of giving evidence, or
  - (b) to produce to the Commissioner documents in the possession or under the control
- 30 of that person,
- concerning any matter relevant to an investigation which the Commissioner is carrying out under this Schedule.
- (2) For the purposes of this paragraph—
- (a) a person will be taken to comply with a requirement to produce a document if that
- 35 person produces a copy of the document or an extract of the relevant part of the document,
- (b) "document" means anything in which information is recorded in any form, and

(c) references to producing a document are to producing the information recorded in it in a visible and legible form.

- 5 (3) The Commissioner may pay such reasonable allowances and expenses to persons giving evidence before the Commissioner, or producing documents to the Commissioner, as the Commissioner may determine.

*Witnesses and documents: notice*

12 (1) A requirement under paragraph 11 may only be imposed on a person by the Commissioner giving the person in question notice in writing specifying –

10 (a) the time and place at which the person is to attend and the particular subjects concerning which the person is required to give evidence,

(b) the documents, or types of documents, which the person is to produce, the date by which and the person to whom they are to be produced and the particular subjects concerning which they are required.

(2) Notice under sub-paragraph (1) is to be given –

15 (a) in the case of an individual, by sending it in accordance with sub-paragraph (3) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address, or

(b) in any other case, by so sending it addressed to the person at the person's registered or principal office,

20 but may only be given if the address in question is in Wales or in England.

(3) A notice is sent in accordance with this subsection if it is sent –

(a) by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)), or

(b) by postal service which provides for its delivery by post to be recorded.

25 *Oaths and affirmations*

13 The Commissioner may –

(a) administer an oath or affirmation to any person giving evidence to the Commissioner, and

(b) require that person to take an oath or make an affirmation.

30 *Privilege and public interest immunity*

14 (1) A person is not obliged by any requirement imposed under paragraph 11(1) to answer any question or to produce any document which that person would be entitled to refuse to answer or produce in proceedings in a court in Wales.

- 5 (2) A person acting as prosecutor in criminal proceedings is not obliged under paragraph 11(1) to answer any question or to produce any document concerning the operation of the system of criminal prosecution in any particular case if that person (or, if sub-paragraph (3) applies, the Counsel General) considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest.
- (3) This sub-paragraph applies if the proceedings were instituted by or on behalf of the Welsh Ministers, the First Minister or the Counsel General.

### Offences

- 10 15 (1) A person to whom a notice has been given under paragraph 12(1) commits an offence if that person—
- (a) refuses or fails without reasonable excuse to attend before the Commissioner as required by the notice,
  - 15 (b) refuses or fails without reasonable excuse, when attending before the Commissioner as required by the notice, to answer any question concerning the subjects specified in the notice,
  - (c) refuses or fails without reasonable excuse to produce any document required to be produced by the notice, or
  - (d) intentionally alters, suppresses, conceals or destroys any such document.
- 20 (2) Sub-paragraph (1) is subject to paragraph 14.
- (3) Any person who, without reasonable excuse, refuses to take an oath or make an affirmation when required to do so under paragraph 13 commits an offence.
- (4) If a person charged with an offence under sub-paragraph (1)(a), (b) or (c) or (3) adduces evidence of a reasonable excuse for the refusal or failure, it is for the prosecution to prove that the person did not have such an excuse.
- 25 (5) A person guilty of an offence under this section is liable on summary conviction—
- (a) to a fine,
  - (b) to imprisonment for a period not exceeding 6 months, or
  - (c) to both.
- 30 (6) Where an offence under this paragraph which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
- 35 that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
- (7) In sub-paragraph (6) “director”, in the case of a body corporate whose affairs are managed by its members, means a member of the body corporate.

*Restriction on disclosure of information*

- 16 (1) The Commissioner or the staff of, or any other person appointed by, the Commissioner  
must not disclose any information contained in the complaint or any information which  
is furnished to or obtained by them in the course of, or for the purposes of, an  
5 investigation into that complaint.
- (2) But such information may be disclosed for the purpose of—
- (a) enabling or assisting the Commissioner to discharge any functions imposed or  
conferred on the Commissioner by virtue of this Schedule,
  - 10 (b) enabling the Commissioner to comply with any duty imposed on the  
Commissioner by or under any other enactment, or
  - (c) the investigation or prosecution of any offence or suspected offence.

*Protection from defamation actions*

- 17 (1) For the purposes of the law of defamation, any statement made in pursuance of the  
purposes of this Schedule by or to the Commissioner is absolutely privileged.
- 15 (2) In sub-paragraph (1) “statement” has the same meaning as in the Defamation Act 1996 (c.  
31).

*Documents*

- 18 (1) The application of the seal of the Commissioner is to be authenticated by the signature  
of —
- 20 (a) the Commissioner, or
  - (b) any person authorised by the Commissioner for that purpose.
- (2) A document purporting to be duly executed under the seal of the Commissioner or to be  
signed on the Commissioner’s behalf may be received in evidence and, unless the  
contrary is proved, is to be taken to be so executed or signed.

*Annual report*

- 25 19 (1) The Commissioner must, as soon as possible after the end of each financial year, lay  
before the Welsh Parliament an annual report on the performance of the functions of the  
Commissioner throughout the financial year.
- (2) The report must contain a concise statement of information relating to the financial affairs  
30 and transactions of the Commissioner in the performance of those functions during that  
year.
- (3) The Commissioner must comply with any requirement imposed by the Welsh Parliament  
as to the form of the annual report and as to any specific information or class of  
information which it must contain.
- 35 (4) The Commissioner must comply with any requirement imposed by the Committee on  
Standards of Conduct—
- (a) to attend before the committee,

(b) to provide the committee with such information as it may reasonably require in relation to any matter contained in a report which has been laid before the Welsh Parliament under sub-paragraph (1) or which was required to be contained in such a report.

- 5 (5) The Commissioner need not comply with a requirement under sub-paragraph (4) –
- (a) if it is not reasonably practicable to do so, and
  - (b) except in the case of a requirement under sub-paragraph (4)(b) which is made orally to the Commissioner at a meeting of the committee, unless the requirement is in writing.

10 *Staff, goods and services*

- 20 (1) The Commissioner may, on such terms as the Commissioner may determine, appoint such staff or secure the provision of such goods or services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.
- (2) The Commissioner may enter into arrangements with any public body or office holder, upon such terms as the Commissioner and such body or office holder may agree, for the provision by that body or office holder of such services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.
- 15 (3) The Commission must discharge such reasonable liabilities as the Commissioner has lawfully incurred –
- 20 (a) in employing staff,
  - (b) in securing the provision of goods or services, and
  - (c) in relation to the allowances and expenses of persons giving evidence or producing documents.
- (4) The Commissioner must, when exercising powers under sub-paragraphs (1) and (2) or under paragraph 11(3), have regard to the responsibilities of the Clerk, as principal accounting officer for the Commission, under section .
- 25 (5) The Commissioner must, in relation to any liability which the Commission may be required to discharge under sub-paragraph (3), consult the Clerk and must do so--
- (a) if reasonably practicable to do so, before incurring the liability in question,
  - 30 (b) if not, as soon afterwards as is reasonably practicable.
- (6) The Commissioner must have regard to any representations which the Clerk may make when consulted under sub-paragraph (5).
- (7) The Commissioner's duty to consult the Clerk under sub-paragraph (5) may be discharged in relation to a particular liability either –
- 35 (a) by providing the Clerk with particulars of the liability in question, or
  - (b) by notifying the Clerk that liabilities of a specified description up to a specified total amount may be incurred,
- provided that, where paragraph (b) applies, the particular liability in question falls within the description notified and does not, when taken together with any other liabilities to which that notification relates, exceed the total amount notified.
- 40

- 5 (8) The Commissioner must provide the Commission with such information about the Commissioner's financial affairs and transactions as the Commission may reasonably require for the purpose of enabling it to comply with any requirement imposed on the Commission by a direction given to the Commission in relation to the Commissioner under section and .

*Interpretation*

- 10 21 (1) In this Schedule "the Committee on Standards of Conduct" ("y Pwyllgor Safonau Ymddygiad") means any committee or subcommittee of the Welsh Parliament to which there have been delegated, by or under the standing orders, functions relating to complaints that members of the Welsh Parliament have failed to comply with the requirements of a relevant provision.
- (2) Any reference in this Schedule to the Welsh Parliament (apart from those in paragraphs 1(1), 2, 5 and 6(3)(b), (c) and (d)) includes a reference to the Committee on Standards of Conduct.

SCHEDULE 7  
(introduced by sections 37 and 38)

RESERVED AND DEFERRED MATTERS

PART 1

RESERVED MATTERS

*Preliminary*

- 1 The matters specified in the Sections of this Part are reserved matters.  
 2 The reserved matters are subject to any exceptions specified the Sections and are to be  
 interpreted in accordance with any interpretation provisions in the Sections.  
 10 3 Any exceptions or interpretation provisions in a Section relate only to that Section (so that  
 an entry under the heading “exceptions” does not affect any other Section).

*Section 1 - The Crown and the United Kingdom*

- 4 The Crown, including succession to the Crown and a regency.  
 5 The union of the nations of Wales and England.  
 15 6 The United Kingdom Parliament.  
 7 The Supreme Court of the United Kingdom.

*Exceptions*

- (a) Her Majesty’s prerogative and executive functions.  
 (b) Functions exercisable by any person (except the Supreme Court) acting on behalf  
 20 of the Crown.  
 (c) Use of the Welsh Seal.  
 But paragraphs (a) and (b) do not affect the reservation of –  
 (a) the management (in accordance with any enactment regulating the use of land) of  
 the Crown Estate;  
 25 (b) the functions of the Security Service, the Secret Intelligence Service and the  
 Government Communications Headquarters.

*Section 2 - Foreign affairs etc.*

- 8 International relations, including relations with territories outside the United Kingdom;  
 the European Union (and its institutions) and other international organisations;  
 30 regulation of international trade; international development assistance and co-operation.

*Exceptions*

Observing and implementing international obligations, obligations under the Human Rights Convention and obligations under EU law.

Assisting Ministers of the Crown in relation to any matter.

### ***Section 3 - Defence***

9 The defence of the realm; the naval, military and air forces of the Crown, including  
reserve forces; visiting forces; international headquarters and defence organisations;  
5 trading with the enemy and enemy property.

#### *Exceptions*

The conferral of enforcement powers in relation to sea fishing.

### ***Section 4 - Weapons of mass destruction***

10 Control of nuclear, biological and chemical weapons and other weapons of mass  
10 destruction.

### ***Section 5 - Treason***

11 Treason (including constructive treason), treason felony and misprision of treason.

### ***Section 6 - National security***

12 National security, interception of communications, official secrets and terrorism.

### ***Section 7 - Nationality and migration***

13 Nationality.

14 Immigration, including asylum and the status and capacity of persons in the United  
Kingdom who are not British citizens.

15 Free movement of persons within the European Economic Area.

20 16 Travel documents.

### ***Section 8 - Extradition***

17 Extradition.

### ***Section 9 - Fiscal, economic and monetary policy***

18 Fiscal, economic and monetary policy, including the issue and circulation of money, taxes  
25 and excise duties, government borrowing and lending, control over United Kingdom  
public expenditure and the exchange rate.

#### *Exceptions*

Local taxes to fund local authority expenditure (for example, council tax and non-  
domestic rates).

30 Devolved taxes, including the collection and management of such taxes.

**Section 10 - Currency and money**

- 19 Coinage, legal tender and bank notes.  
20 Money laundering.  
21 Distribution of money from dormant bank and building society accounts.

**Section 11 - Financial services and markets**

- 22 Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.  
23 Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

**10 Exception**

Bank holidays.

**Section 12 - Public service**

- 24 The Civil Service of the State.

**Section 13 - Judicial remuneration**

- 15 25 Determination of the remuneration of –  
(a) judges of the High Court of Wales, Court of Appeal of Wales and Crown Court of Wales;  
(b) judges of the county court of Wales, family court of Wales and magistrates' court in Wales.

**Section 14 - Elections**

- 20  
26 Elections for membership of the House of Commons and the European Parliament.  
27 The combination of polls at elections or referendums that are outside the legislative competence of the Welsh Parliament with polls at elections and referendums that are within the legislative competence of the Welsh Parliament.  
25 28 Any digital service provided by a Minister of the Crown for the registration of electors.

**Section 15 - Political parties and election funding**

- 29 Registration of political parties.  
30 Funding of political parties and of their members and officers.  
31 Expenditure on election campaigns by political parties and others in relation to –  
30 (a) elections or referendums that are outside the legislative competence of the Welsh Parliament,  
(b) elections or referendums falling within paragraph (a) that are combined with elections or referendums within the legislative competence of the Welsh Parliament.

32 Accounting requirements for political parties in relation to expenditure falling within paragraph 31.

*Exception*

5 Making payments to any political party for the purpose of assisting members of the Welsh Parliament who are connected with the party to perform their duties.

**Section 16 - Equal opportunities**

33 Prevention, elimination and regulation of discrimination (including prevention and elimination of harassment and victimisation) on grounds of sex, gender reassignment, marriage or civil partnership, pregnancy or maternity, race or nationality, disability, age, 10 sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

*Exceptions*

Encouragement of equal opportunities otherwise than by prohibition or regulation.

15 Prevention, elimination and regulation of discrimination (including prevention and elimination of harassment and victimisation) on grounds relating to the Welsh language.

Equal opportunities in relation to—

(a) Welsh public authorities with mixed functions or no reserved functions (including the exercise of functions relating to reserved matters by such authorities), and

(b) the exercise of Welsh functions by cross-border public authorities.

20 Imposing duties on any public authority with a view to securing that its functions (including functions relating to reserved matters) are carried out with due regard to the need to—

(a) eliminate unlawful discrimination, and

(b) encourage equal opportunities.

25 Selection arrangements of registered political parties for candidates in elections that are within the legislative competence of the Welsh Parliament and information about such candidates.

*Interpretation*

“Equal opportunities” means the subject-matter of paragraph 33.

30 “Welsh functions” means functions which are exercisable in relation to Wales and which do not relate to reserved matters.

The exception for selection arrangements of registered political parties for candidates in elections that are within the legislative competence of the Welsh Parliament does not include any modification of the law to authorise short-listing only such persons as have a 35 particular protected characteristic, other than sex, that is protected by law relating to equal opportunities.

**Section 17 - Personal data and access to information**

- 34 Protection of personal data.
- 35 Public access to information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown), except information held by—
- 5 (a) the Welsh Parliament,
- (b) the Welsh Ministers or the Welsh Administration,
- (c) the Welsh Parliament Commission, or
- (d) any Welsh public authority with mixed functions or no reserved functions,
- 10 unless supplied by a Minister of the Crown or government department and held in confidence.

**Section 18 - Business associations and insolvency**

- 36 The creation, operation, regulation and dissolution of types of business association.
- 37 Insolvency.
- 15 38 Winding up insolvent business associations.

*Exception*

The creation, operation, regulation and dissolution of particular public bodies, or public bodies of a particular type, established by or under any enactment or prerogative instrument.

*20 Interpretation*

- “Business association” means any entity, whether or not a legal person, that is not an individual (including a body corporate, partnership or other unincorporated association) which is established for the purpose of carrying on any kind of business, whether or not for profit; and for this purpose “business” includes the provision of benefits to the members of the association.
- 25

**Section 19 - Competition**

- 39 Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

**Section 20 - Intellectual property**

- 30 40 Intellectual property.

*Exception*

Plant varieties and seeds.

**Section 21 - Import and export control**

41 Prohibition and regulation of imports and exports.

*Exceptions*

5 Prohibition and regulation which relates to food, animals, animal products, plants and plant products, and which is for the purpose of—

- (a) protecting human, animal or plant health, animal welfare or the environment, or
- (b) observing or implementing obligations under the Common Agricultural Policy.

10 Prohibition and regulation which relates to animal feeding stuffs, fertilisers or pesticides (including anything that may reasonably be treated as if it were a pesticide) for the purposes of protecting human, animal or plant health or the environment.

But prohibition and regulation for the purposes of protecting endangered species of plants and animals is not excepted.

*Interpretation*

15 “Food” has the same meaning as in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

20 “Animals” includes animal parts and derivatives and goods appearing to contain animal parts or derivatives (and the reference to endangered species of animals includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

25 “Plants” includes plant parts and derivatives and goods appearing to contain plant parts or derivatives (and the reference to endangered species of plants includes a reference to parts and derivatives of such species, and to goods appearing to contain parts or derivatives of such species).

**Section 22 - Consumer protection**

42 Regulation of—

- (a) the sale and supply of goods and services to consumers;
- (b) guarantees in relation to such goods and services;
- 30 (c) hire purchase and other consumer credit;
- (d) trade descriptions;
- (e) misleading and comparative advertising;
- (f) price indications;
- (g) auctions and mock auctions of goods and services;
- 35 (h) hallmarking and gun barrel proofing.

43 Safety of, and liability for, services supplied to consumers.

44 The regulation of estate agents.

- 45 The regulation of time-shares, package travel and package holidays.  
46 The regulation of –  
    (a) unsolicited goods and services, and  
    (b) trading schemes other than environmental trading schemes.  
5 47 Enforcement of domestic infringements and community infringements.

#### *Exceptions*

- Food (including packaging and other materials which come into contact with food), food products and food contact materials.  
Agricultural and horticultural products.  
10 Fish and fish products.  
Animals and animal products.  
Seeds, fertilisers and pesticides (and anything that may reasonably be treated as if it were a pesticide).  
Tobacco and tobacco products.  
15 Devices for inhaling vapour containing nicotine and related products.  
Regulation of lettings agents and property management agents.  
Regulation of health services (including cosmetic procedures) and social care services.

#### *Interpretation*

- 20 “Community infringement” has the meaning given by section 212 of the Enterprise Act 2002.  
“Domestic infringement” has the meaning given by section 211 of the Enterprise Act 2002.  
“Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.  
25 “Food contact materials” means materials and articles to which Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC applies.  
30 “Food products” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

#### *Section 23 - Product standards, safety and liability*

- 48 Technical standards and requirements in relation to products in pursuance of an  
35 obligation under EU law.

49 The national accreditation body and the accreditation of bodies which certify or assess conformity to technical standards in relation to products or environmental management systems.

50 Product safety and liability.

5 *Exceptions*

Food (including packaging and other materials which come into contact with food), food products and food contact materials.

Fish and fish products.

Agricultural and horticultural products.

10 Animals and animal products.

Seeds, fertilisers and pesticides (and anything that may reasonably be treated as if it were a pesticide).

*Interpretation*

15 “Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

20 “Food contact materials” means materials and articles to which Regulation (EC) No. 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC applies.

“Food products” means residues, contaminants and anything used in the process of producing food which does not remain in the food.

***Section 24 - Weights and measures***

25 51 Units and standards of weight and measurement.

52 Regulation of trade so far as involving weighing, measuring and quantities.

***Section 25 - Telecommunications and wireless telegraphy***

53 Telecommunications and wireless telegraphy (including electromagnetic disturbance).

54 Internet services.

30 55 Electronic encryption.

***Section 26 - Postal services***

56 Postal services, post offices, the original holding company and any Post Office company.

*Exceptions*

35 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.

*Interpretation*

“The original holding company” and “Post Office company” have the meanings given by Part 1 of the Postal Services Act 2011.

*Section 27 - Electricity*

5 57 The existence and regulation of the market in electricity in relation to its generation, transmission, distribution and supply (including health and safety requirements).

*Exceptions*

10 Authorisation of activity relating to the generation, transmission, distribution and supply of electricity through the exercise of functions which also authorise the same activity for planning or environmental purposes (or both purposes); but this exception does not apply to construction, extension and operation of nuclear powered generating stations.

Authorisation of –

- 15 (a) the construction, extension and operation of generating stations (other than nuclear powered generating stations),
- (b) the installation of electric lines for the distribution of electricity.

*Section 28 - Energy security*

58 Coercive powers to secure the supply of electricity and gas to through United Kingdom wide transmission networks.

*Section 29 - Oil and gas*

20 59 Oil and natural gas, including –

- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas;
- (b) offshore installations and pipelines;
- 25 (c) restrictions on navigation, fishing and other activities to ensure safe operation of offshore oil and gas activities;
- (d) the existence and regulation of the market in gas which is shipped, transported and supplied through pipes;
- (e) health and safety requirements.

*Exceptions*

30 Regulation to protect or improve the environment.

Prohibition and authorisation of the exploration for and exploitation of deposits of oil and natural gas within the Welsh onshore area, including –

- (a) any consideration payable for authorisation, and
- (b) access to land for purposes pursuant to the authorisation.

35 The manufacture of gas.

The conveyance, shipping and supply of gas other than through pipes.

Authorisation of oil and gas activities through the exercise of functions which also authorise the same activities for planning or environmental purposes (or both purposes).

### *Interpretation*

5 “Offshore” means seaward of the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

“Oil and gas activities” means activities relating to –

- (a) exploration for, and exploitation of, oil and natural gas;
- (b) construction, extension and operation of oil and gas installations and pipelines;
- (c) shipping, transporting and supplying gas through pipes.

“Welsh onshore area” means the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

### *Section 30 - Coal*

60 Coal, including –

- (a) the ownership and exploitation of coal;
- (b) deep and opencast coal mining;
- (c) coal mining subsidence.

### *20 Exceptions*

Powers and duties of Welsh public authorities with mixed functions or no reserved functions to prevent or control pollution.

Environmental duties in connection with planning.

Land restoration.

### *Section 31 - Nuclear energy*

61 Nuclear energy and nuclear installations, including –

- (a) nuclear safety, security and safeguards, and
- (b) liability for nuclear occurrences.

### *30 Exceptions*

Powers and duties of Welsh public authorities with mixed functions or no reserved functions to prevent or control pollution.

Prohibition and regulation of the use of radioactive material, other than –

- (a) the use of radioactive material at nuclear sites,

- (b) prohibition and authorisation of the use of sites for purposes requiring a nuclear site licence,
- (c) the treatment of irradiated matter involving the extraction of plutonium or uranium, and
- 5 (d) the treatment of uranium to increase the proportion of the isotope 235 contained in the uranium.

Prohibition and regulation of the disposal and storage of radioactive waste, other than—

- (a) the storage of radioactive waste at nuclear sites, and
- 10 (b) prohibition and authorisation of the use of sites for purposes requiring a nuclear site licence.

### *Interpretation*

“Nuclear site” means—

- (a) a site in respect of which a nuclear site licence is in force, or
- (b) a site in respect of which a period of responsibility has not ended.

15 “Nuclear site licence” has the meaning given by section 1 of the Nuclear Installations Act 1965.

“Period of responsibility”, in relation to a site, means the period of responsibility (within the meaning given by section 5 of the Nuclear Installations Act 1965 (revocation and surrender of licences)) in respect of a nuclear site licence granted at any time in respect of the site;

### ***Section 32 - Road transport***

62 Regulation of the construction, equipment and use of motor vehicles and trailers.

63 Creating, modifying or abolishing road traffic offences and penalties for road traffic offences.

25 64 Enforcement of road traffic offences.

65 Mode of trial and sentencing of road traffic offences.

66 Rules of evidence special to road traffic offences.

67 The Highway Code.

68 Traffic regulation on special roads other than regulation relating to trunk road charging schemes, speed limits, traffic signs or pedestrian crossings.

69 Exemption of emergency vehicles from speed limits so far as relating to vehicles used in connection with a reserved matter under any other Sections in this Part or to the training of drivers of vehicles.

70 Driver licensing.

35 71 Regulation of the instruction of drivers of motor vehicles.

72 Vehicle excise duty and vehicle registration.

73 Public service vehicle operator licensing.

- 74 Goods vehicle operator licensing.
- 75 The conditions under which international road transport services for passengers or goods may be undertaken.
- 5 76 Regulation of proper hours or periods of work by persons engaged in the carriage of passengers or goods by road.
- 77 Documents relating to vehicles and drivers for the purposes of travel abroad and vehicles brought temporarily into Wales by persons resident outside the United Kingdom.

### *Exceptions*

- 10 Creating, modifying or abolishing road traffic offences and penalties connected with traffic management regulation (other than traffic management regulation on special roads), speed limits, traffic signs or pedestrian crossings.
- Civil enforcement of traffic management regulation within the legislative competence of the Welsh Parliament.
- Taxi and private hire vehicle driver licensing.
- 15 Private hire vehicle operator licensing.
- Taxi and private hire vehicle licensing.

### *Interpretation*

- 20 "Public service vehicle" has the meaning given by section 1 of the Public Passenger Vehicles Act 1981.
- "Goods vehicle" has the meaning given by section 58 of the Goods Vehicle (Licensing of Operators) Act 1995.
- "Road traffic offence" means an offence under the Road Traffic Act 1988, the Road Traffic (Consequential Provisions) Act 1988, the Road Traffic Offenders Act 1988 or the Road Traffic Regulations Act 1984.
- 25 "Special road" means a highway, or a proposed highway, which is a special road by virtue of section 16 of the Highways Act 1980 or an order granting development consent under the Planning Act 2008.
- The reference to regulation of the use of motor vehicles and trailers on roads does not include –
- 30 (a) regulation of traffic (including, in particular, speed limits, traffic signs, pedestrian crossings);
- (b) regulation of transport facilities or services;
- (c) regulation of carriage of animals for the purpose of protecting human, animal or plant health, animal welfare or the environment.

The reference to regulation of the construction or equipment of motor vehicles and trailers does not include regulation of the description, by reference to their construction and equipment, of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training, but not the setting of technical standards for construction or equipment of motor vehicles or trailers which differ from the standards that would or might otherwise apply to them.

### ***Section 33 - Rail transport***

78 Provision and regulation of railway services.

#### *Exception*

10 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 Regulation (EC) No. 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road.

15 Strategies by Welsh public authorities with mixed or no reserved functions about provision of rail services.

The promotion and construction of railways which start, end and remain in Wales.

#### *Interpretation*

20 “Railway” has the meaning given by section 67(1) of the Transport and Works Act 1992.

“Railway services” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “railway” given by section 81(2) of that Act.

### ***Section 34 - Air transport***

79 Aviation, air transport, airports and aerodromes.

#### *Exceptions*

25 Financial assistance to providers or proposed providers of air transport services or airport facilities or services.

Strategies by Welsh public authorities with mixed or no reserved functions about provision of air services.

30 Regulation of carriage of animals for the purposes of protecting human, animal or plant health, animal welfare or the environment.

### ***Section 35 - Marine transport***

80 Shipping, including—

- (a) designation of a ship as a British ship and related regulation;
- (b) registration of ships in the United Kingdom;

- (c) regulation the purposes of health, safety and welfare on ships;
- (d) prevention of oil pollution from ships and liability of shipowners and others for oil pollution from ships;
- 5 (e) provision giving effect to international agreements ratified by the United Kingdom relating to pollution from ships;
- (f) regulation of the transfer of cargo, stores, bunker fuel or ballast between ships;
- (g) provision at harbours of facilities for the reception of waste from ships and the use of such facilities;
- (h) lighthouses;
- 10 (i) provision giving effect to the Convention Relating to the Carriage of Passengers and their Luggage;
- (j) provision giving effect to the Convention on Limitation of Liability for Maritime Claims 1976;
- (k) salvage and wreck, protection of wrecks and dangerous wrecks;
- 15 (l) regulation relating to dangerous vessels;
- (m) regulation of the carriage of goods by sea;
- (n) protection of United Kingdom trading interests;
- (o) accident investigations and inquiries;
- (p) enforcement of the law relating to matters reserved by this paragraph.
- 20 81 Navigational rights and freedoms.
- 82 Coastguard services.

### *Exceptions*

Financial assistance for shipping services to, from or within Wales.

Regulation of works which may obstruct or endanger navigation.

25 Ports, harbours, docks, piers and boatslips, except regulation of shipping so far as such regulation relates to dangerous vessels or wrecks, lighthouses and provision at harbours of facilities for the reception of waste from ships and the use of such facilities.

Regulation of the carriage of animals for the purposes of protecting human, animal or plant health, animal welfare or the environment.

### 30 *Interpretation*

“Ship” includes every description of vessel used in navigation.

### *Section 36 - Transport security*

83 Transport security.

*Exception*

Regulation relating to the carriage of adults who supervise persons travelling to and from the places where they receive education or training.

*Section 37 - Other transport matters*

- 5 84 Hovercraft.  
 85 Carriage of dangerous goods (including transport of radioactive material).  
 86 Technical specifications for fuel for use in internal combustion engines.

*Section 38 - Sea fishing*

- 87 Regulation of sea fishing outside the Welsh zone.

10 *Exception*

Regulation of sea fishing in relation to fishing boats treated as belonging to a port in Wales for the purpose of the registration of vessels.

*Section 39 - Social security*

- 88 Social security schemes supported from public funds.  
 15 89 Requiring persons to –  
 (a) establish and administer social security schemes,  
 (b) keep records and supply information in connection with social security schemes,  
 or  
 (c) make payments to or in respect of social security schemes.

20 *Exceptions*

The provision by a public authority of financial assistance to or in respect of an individual in respect of costs of meeting his or her needs for care or support that the authority would otherwise meet in some other way (for example, by providing accommodation, facilities or services).

- 25 Financial assistance to an individual in relation to liabilities for local taxes.  
 Financial assistance to parents to meet specific childcare costs.

*Interpretation*

30 “Social security schemes” means schemes providing financial assistance for social security purposes to or in respect of individuals, including, in particular, providing such assistance to or in respect of individuals –

- (a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,  
 (b) who qualify by reason of low income, or  
 (c) in relation to their housing costs.

“Payments to or in respect of social security schemes” includes national insurance contributions.

#### *Section 40 - Child support*

90 Child support maintenance.

5 91 Collection and enforcement of—

(a) periodical payments, other than child support maintenance, which are payable for the benefit of a child (“other maintenance”), and

(b) periodical payments, other than child support maintenance or other maintenance, which are—

10 (i) payable to or for the benefit of any person, and

(ii) collected or enforced where child support maintenance or other maintenance is also collected.

92 Child trust funds.

#### *Exception*

15 Subscriptions to child trust funds by—

(a) a county council or county borough council in Wales, or

(b) the Welsh Ministers.

#### *Section 41 - Occupational and personal pensions*

93 Occupational and personal pensions.

#### *Exception*

Occupational and personal pension schemes for or in respect of—

(a) members of the Welsh Parliament, the First Minister, Ministers appointed under section 56, the Counsel General and Deputy Ministers, and

(b) members of local authorities,

25 but pensions regulation in relation to such schemes is not excepted.

#### *Interpretation*

“Occupational and personal pensions” includes pension protection.

“Pension” includes gratuities and allowances.

30 “Pensions regulation” means the regulation of occupational and personal pensions, including in respect of members, employers, trustees or managers.

#### *Section 42 - Armed forces and war compensation*

94 Schemes for the payment of compensation for or in respect of persons who have been injured, fallen ill or died in consequence of service as members of the naval, military or air forces of the Crown, including reserve forces.

- 95 Schemes for the payment of compensation for or in respect of any persons in connection with the Second World War.

*Interpretation*

“Compensation” includes pensions, grants, allowances, supplements and gratuities.

5 **Section 43 - Architects**

- 96 Regulation of the profession of architect.

**Section 44 - Health professions**

- 97 Regulation of the following professions –
- 10 (a) medical practitioners (including surgeons);
- (b) dentists and dental assistants;
- (c) nurses, midwives and health visitors;
- (d) pharmacists;
- (e) optometrists and dispensing opticians;
- 15 (f) osteopaths;
- (g) chiropractors;
- (h) dieticians;
- (i) arts therapists;
- (j) biomedical scientists;
- 20 (k) chiropodists and podiatrists;
- (l) clinical scientists;
- (m) hearing aid dispensers;
- (n) occupational therapists;
- (o) operating department practitioners;
- 25 (p) orthoptists;
- (q) paramedics;
- (r) physiotherapists;
- (s) practitioner psychologists;
- (t) prosthetists and orthotists;
- 30 (u) radiographers;
- (v) speech and language therapists.

*Exceptions*

Requirements for suitable experience or vocational training for persons providing services as part of the National Health Service.

Disciplinary proceedings in relation to persons providing services as part of the National Health Service.

*Section 45 - Auditors*

98 Regulation of the profession of auditor.

*Section 46- Veterinary surgeons*

99 Regulation of the profession of veterinary surgeon.

*Section 47 - Employment and industrial relations*

100 Employment rights and duties, including—

- (a) rights of employees to information about their employment;
- (b) rights of employees in relation to working time and leave entitlement;
- (c) the National Minimum Wage;
- (d) duties of employers to insure against liability for personal injury to employees;
- (e) regulation of employment agencies and businesses;
- (f) rights and duties on transfer of undertakings;
- (g) rights and duties on termination or suspension of employment, including dispute resolution, conciliation, dismissal and redundancy;
- (h) employment tribunals and the Employment Appeals Tribunal;
- (i) compensation for illnesses, diseases or injuries suffered in connection with employment.

101 Industrial relations, including—

- (a) trade unions and associations of employers.
- (b) European Works Councils or equivalent procedures.

*Exceptions*

Terms and conditions of employment in Welsh public authorities with mixed functions or no reserved functions and services contracted out by such authorities.

Agricultural wages.

*Section 48 - Health*

102 Abortion.

103 Xenotransplantation.

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

105 Schemes established by regulations under section 13 of the Social Security Act 1988 (benefits under schemes for improving nutrition: pregnant women, mothers and children).

***Section 49 - Medicines, medical supplies and biological substances***

5 106 Medicinal products, including manufacture, authorisations for use and regulation of prices.

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

108 Veterinary medicinal products, including manufacture, authorisations for use and  
10 regulation of prices.

109 Specified feed additives.

110 Animal feeding stuffs, in relation to –

(a) the incorporation in them of veterinary medicinal products or specified feed additives;

15 (b) matters arising in consequence of such incorporation.

111 Vaccine damage payments.

***Section 50 - Misuse of drugs***

112 Misuse of, dealing in and trafficking drugs.

***Section 51 - Culture and media***

20 113 Classification of films and video recordings (including video games).

114 Regulating broadcasting content.

115 Public lending right.

*Exception*

25 Party political broadcasts in relation to elections and referendums within the legislative competence of the Welsh Parliament.

Referendum campaign broadcasts in relation to referendums within the legislative competence of the Welsh Parliament.

***Section 52 - Betting, gaming and lotteries***

116 Betting, gaming and lotteries.

30 *Exception*

The number of gaming machines authorised by a betting premises licence under the Gambling Act 2005 (other than one in respect of a track) for which the maximum charge for use is more than £10.

Whether such machines are authorised.

**Section 53 - Dangerous items**

117 Prohibition and regulation of firearms, imitation firearms, air weapons, ammunition, and explosives.

118 Prohibition and regulation of the sale and supply of poisons.

**5 Exception**

Prohibition and regulation of the killing, harming or taking of animals or fish.

**Interpretation**

“Poisons” has the meaning given by the Poisons Act 1972.

**Section 54 - Procedures on animals**

10 119 Prohibition and regulation of scientific and other experimental procedures on live animals.

**Section 55 - Lieutenancies**

120 Lieutenancies of counties.

**Section 56- Ordnance survey**

15 121 The ordnance survey.

**Section 57 - Time**

122 Timescales; time zones; summer time; the calendar; units of time; the date of Easter.

**Exceptions**

Computation of periods of time.

20 Bank holidays.

**Section 58 - Antarctica**

123 Regulation of activities in Antarctica.

**Interpretation**

“Antarctica” has the meaning given by section 1 of the Antarctic Act 1994.

**25 Section 59 - Outer space**

124 Regulation of activities in outer space.

## PART 2

## DEFERRED MATTERS

*Preliminary*

125 The matters specified in the Sections of this Part are deferred matters.

5 126 The deferred matters are subject to any exceptions specified in the Sections and are to be interpreted in accordance with any interpretation provisions in the Sections.

127 Any exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading “exceptions” does not affect any other Section).

128 This Part ceases to have effect on the deferred transfer date.

10 *Section 60 - Courts and tribunals*

129 Courts and tribunals, including –

(a) their jurisdiction and powers;

(b) judicial decision making (including judicial precedent);

15 (c) the judiciary of courts and tribunals and members of tribunals (including their appointment and remuneration).

130 Civil proceedings (including family and other non-criminal proceedings), including –

(a) disclosure;

(b) evidence;

(c) procedure;

20 (d) remedies;

(e) enforcement of orders of courts or tribunals;

(f) costs;

(g) limitation of actions.

131 Criminal proceedings, including –

25 (a) bail;

(b) custody pending trial;

(c) disclosure;

(d) evidence;

(e) procedure;

30 (f) prosecutors;

(g) sentencing.

132 The use of the Welsh language in courts.

*Exceptions*

35 Tribunals (including their establishment, abolition, judiciary and members) that wholly or mainly make determinations on matters that do not relate to reserved matters.

The jurisdiction and powers of courts and tribunals in relation to disability discrimination in the education and training sector.

Welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families and Welsh family proceedings officers.

*Section 61 - Criminal law*

- 133 Capacity to commit crime and immunity from prosecution.
- 134 Creating, modifying or abolishing offences against the person and penalties for such offences, including—
- 10 (a) homicide and conduct related to homicide.
- (b) suicide and conduct related to suicide.
- (c) assault or battery (including assault or battery with aggravating features).
- 135 Creating, modifying or abolishing sexual offences and penalties for such offences.
- 136 Creating, modifying or abolishing offences against property or property and persons, and penalties for such offences including—
- 15 (a) criminal damage;
- (b) theft, robbery or burglary;
- (c) handling stolen goods;
- (d) taking property without consent;
- 20 (e) making off without payment;
- (f) blackmail, forgery, fraud or deception;
- (g) piracy.
- 137 Creating, modifying or abolishing offences relating to child cruelty, child neglect, child abduction, child destruction, concealment of birth and penalties for such offences.
- 25 138 Creating, modifying or abolishing offences against public order or public security and penalties for such offences, including—
- (a) riot, violent disorder or affray;
- (b) incitement to hatred;
- (c) offences relating to public meetings, processions and assemblies.
- 30 139 Creating, modifying or abolishing offences against privacy, decency or morality and penalties for such offences, including—
- (a) disclosing private sexual images;
- (b) public nudity;
- (c) obscene communications, performances, publications or displays.
- 35 140 Creating, modifying or abolishing offences against religion and penalties for such offences.
- 141 Creating, modifying or abolishing offences against the administration of justice and penalties for such offences, including—
- (a) perjury;

- (b) contempt of court;
- (c) obstructing the course of justice;
- (d) escape from lawful custody.

- 5 142 Creating, modifying or abolishing offences relating to bribery and penalties for such offences.
- 143 Creating, modifying or abolishing offences relating to offensive weapons and penalties for such offences.
- 144 Creating, modifying or abolishing inchoate offences and penalties for such offences, including –
- 10 (a) encouraging or assisting crime;
- (b) conspiracy;
- (c) attempt.

#### *Interpretation*

- 15 “Offensive weapon” means any article made or adapted for use for causing injury to the person, or intended by the person having it with him or her for such use by that person or another person.

#### *Section 62 - Private law*

- 145 Private law.
- 146 Private international law.

#### *Section 63 - Family law*

- 20 147 Family law.

#### *Exception*

Adoption agencies and their functions.

#### *Section 64 - Policing*

- 25 148 The provision, supervision and regulation of police forces.
- 149 The prevention, investigation and detection of crime by the police.
- 150 The maintenance of public order by the police.

#### *Exception*

- 30 Collaboration arrangements involving the police and Welsh public authorities with mixed functions or no reserved functions.

**Section 65 - Prisons and other places of detention**

151 Provision and regulation of facilities for the detention of persons under arrest, persons on remand and offenders (including the appointment, management and functions of officers in the facilities).

**5 Exception**

Secure accommodation for children and young people provided by local authorities.

**Section 66 - Offender management**

152 Probation.

10 153 Arrangements for the escort of detained offenders and persons under arrest or on remand.

**Section 67 - Legal Professions, legal services and claims management**

154 Regulation of the legal profession, legal services and claims management.

**Section 68 - Legal aid**

155 Legal aid.

**15 Section 69 - Arbitration**

156 Commercial arbitration.

**Section 70 - Criminal records**

157 Criminal records.

**Exception**

20 Disclosure and barring to safeguard vulnerable groups.

**Section 71 - Compensation for persons affected by crime and miscarriages of justice**

158 Compensation for persons affected by crime.

159 Compensation for miscarriages of justice.

**Section 72 - Civil registrations**

25 160 Registration of births, adoptions, marriages, civil partnerships and deaths.

161 Registration of places of worship.

**Section 73 - Registration of interests in land**

162 Registration of interests in land.

*Section 74 - Grant and registration of probate*

163 Grant and registration of probate.

*Section 75 - Charities*

164 Registration and regulation of charities.

5 *Exception*

The charitable status of schools and institutions in the further or higher education sectors.

*Section 76 - Anti-social behaviour*

165 Anti-social behaviour injunctions under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014.

10

## PART 3

## GENERAL PROVISIONS

*Welsh public authorities*

166 (1) This Schedule does not reserve a Welsh public authority if some of its functions relate to reserved matters and some do not.

15

(2) Sub-paragraph (1) has effect as regards—

(a) the constitution of the authority, including its establishment and dissolution, its assets and liabilities and its funding and receipts,

(b) conferring, imposing, modifying or removing any functions specifically exercisable in relation to the authority.

20

(3) Sub-paragraph (2)(b) does not apply to any function which is specifically exercisable in relation to a particular function of the authority if the particular function relates to reserved matters.

(4) An authority to which this paragraph applies is referred to in this Act as a Welsh public authority with mixed functions.

25

167 Paragraph 1 of Part 1 of this Schedule does not reserve any Welsh public authority with functions none of which relate to reserved matters (referred to in this Act as a Welsh public authority with no reserved functions).

168 Until the deferred transfer date, the references to “reserved matters” in paragraphs 166 and 167 include deferred matters.

30

*Financial assistance*

169 (1) This Schedule does not reserve giving financial assistance to commercial activities for the purpose of promoting or sustaining economic development or employment.

(2) Sub-paragraph (1)—

(a) does not apply to giving financial assistance to any activities in pursuance of a power exercisable only in relation to activities which are reserved matters,

35

- (b) is without prejudice to the exceptions from the reservations relating to financial assistance in Part 1 of this Schedule.
- (3) Sub-paragraph (1) does not affect the question whether something other than financial assistance to which that sub-paragraph applies relates to a reserved matter.

SCHEDULE 8  
(introduced by section 37)

RESTRICTIONS

PART 1

PROTECTED PROVISIONS OF ENACTMENTS

5

*Particular enactments*

- 1 (1) A Welsh Act cannot modify, or confer power by subordinate legislation to modify, any of  
the following provisions.
- 10 (2) The provisions are –
- (a) the following provisions of the European Communities Act 1972 –  
Section 1 and Schedule 1,  
Section 2, other than subsection (2), the words following “such EU obligation” in  
subsection (3) and the words “subject to Schedule 2 to this Act” in subsection (4),  
15 Section 3(1) and (2),  
Section 11(2);
  - (b) paragraphs 5(3)(b) and 15(4)(b) of Schedule 32 to the Local Government, Planning  
and Land Act 1980 (designation of enterprise zones);
  - (c) the Human Rights Act 1998;
  - 20 (d) Part 1 of the Health and Safety at Work etc. Act 1974 and subordinate legislation  
made under that Part;
  - (e) Part 1 of the Civil Contingencies Act 2004.

*This Act*

- 2 (1) A Welsh Act cannot modify, or confer power by subordinate legislation to modify, this  
25 Act.
- (2) This paragraph does not apply to modifying the following provisions of Part 2 –
- (a) section 4 and Schedule 1;
  - (b) section 7 and Schedule 2;
  - (c) sections 8 to 12;
  - 30 (d) section 15 and Schedule 4;
  - (e) section 17;
  - (f) section 18(2), (6) and (7);
  - (g) section 19;
  - (h) section 20(1)(b) and (2) to (15);
  - 35 (i) section 21(2) to (4);

- (j) section 22(2) to (4), (6) and (7) and paragraphs 1, 2, 3(1), (2) and (4) to (7), 4 and 7 to 12 of Schedule 5;
- (k) section 23;
- (l) section 25;
- 5 (m) section 26(2) and (3);
- (n) section 27;
- (o) section 28;
- (p) Schedule 6 and sections 30 to 35.
- 10 (3) This paragraph does not apply to modifying any provision of this Act (other than sections 85(6), 87(5), and 129) which—
- (a) charges any sum on the Welsh Consolidated Fund,
- (b) requires any sum to be paid out of that Fund without further approval,
- (c) requires any sum to be payable out of that Fund, or
- (d) requires or authorises the payment of any sum into that Fund.
- 15 (4) This paragraph does not apply to any modifications of Part 6 which are necessary or expedient for the purpose of, or in consequence of the establishment of, a new fund, in addition to the Welsh Consolidated Fund, out of which loans may be made by the Welsh Ministers.
- (5) This paragraph does not apply to modifying the following further provisions of this Act
- 20 —
- (a) section 62;
- (b) section 82;
- (c) section 107.
- (6) This paragraph does not apply to—
- 25 (a) modifying so much of any enactment as is modified by this Act,
- (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any enactment comprised in or made under a Welsh Act.

*The law on reserved matters*

- 30 3 (1) A Welsh Act cannot modify, or confer power by subordinate legislation to modify, the law on reserved matters.
- (2) In this paragraph, “the law on reserved matters” means—
- (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of the United Kingdom Parliament or subordinate legislation
- 35 under an Act of the United Kingdom Parliament, and
- (b) any rule of law which is not contained in an enactment and the subject-matter of which is a reserved matter,

and in this sub-paragraph “Act of the United Kingdom Parliament” does not include this Act.

(3) Sub-paragraph (1) does not apply to a modification which—

(a) is ancillary to provision made (whether by virtue of the Act in question or another enactment) which does not relate to reserved matters, and

(b) does not have a greater effect on reserved matters than is necessary to give effect to the purpose of the provision.

(4) In determining for the purposes of sub-paragraph (3)(b) what is necessary to give effect to the purpose of a provision, any power to make laws other than the power of the Welsh Parliament is to be disregarded.

#### *Judicial salaries*

4 A Welsh Act cannot modify, or confer power by subordinate legislation to modify, the effect of section 129(3) in relation to any provision of an Act of the United Kingdom Parliament relating to judicial salaries.

#### *Minister of the Crown functions: Orders in Council under section 70*

5 (1) This paragraph applies to a function of a Minister of the Crown if—

(a) the function is exercisable by virtue of an Order in Council under section 70, and

(b) the Order in Council provides for this paragraph to apply to the function.

(2) A provision of a Welsh Act cannot remove or modify, or confer power by subordinate legislation to remove or modify, the function so far as exercisable by a Minister of the Crown.

#### *Minister of the Crown functions: deferred matters*

6 (1) This paragraph—

(a) applies to functions of Ministers of the Crown relating to deferred matters, and

(b) ceases to have effect on the deferred transfer date.

(2) A provision of a Welsh Act cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown.

#### *Reserved authorities*

7 (1) A provision of a Welsh Act cannot modify the constitution of a reserved authority, including its establishment and dissolution, its assets and liabilities and its funding and receipts.

(2) A provision of a Welsh Act cannot—

(a) confer or impose (or give power to confer or impose) a function on a reserved authority;

(b) modify or remove (or give power to modify or remove) a function of a reserved authority;

(c) confer, impose, modify or remove (or give power to confer, impose, modify or remove) a function specifically exercisable in relation to a reserved authority.

(3) For the purpose of this Act, the reserved authorities are—

(a) the Bank of England;

(b) the Financial Services Authority;

(c) the Office for Budget Responsibility;

(d) the National Audit Office;

(e) the Comptroller and Auditor General;

(f) the Electoral Commission (except for the purpose of its functions relating to elections and referendums within the legislative competence of the Welsh Parliament);

(g) the Boundary Commission for Wales;

(h) the Research Councils (within the meaning of the Science and Technology Act 1965 and Part 1 of the Higher Education Act 2004);

(a) the Export Credit Guarantee Department;

(b) the Office for Nuclear Regulation;

(c) the Health and Safety Executive;

(d) the Employment Medical Advisory Service;

(e) the Industrial Development Advisory Board;

(f) the Traffic Commissioners;

(g) the Civil Aviation Authority.

## PART 2

### GENERAL EXCEPTIONS

*Restatement, etc.*

8 (1) Part 1 of this Schedule does not prevent a Welsh Act—

(a) restating the law (or restating it with such modifications as are not prevented by that Part), or

(b) repealing any spent enactment,

or conferring power by subordinate legislation to do so.

(2) Sub-paragraph (1) does not apply to paragraph 1.

(3) For the purposes of paragraph 3(1), the law on reserved matters includes any restatement in a Welsh Act, or subordinate legislation under a Welsh Act, of the law on reserved matters if the subject-matter of the restatement is a reserved matter.

*Effect of Interpretation Act 1978*

9 Part 1 of this Schedule does not prevent the operation of any provision of the Interpretation Act 1978.

*Accounts and audit*

10 Part 1 of this Schedule does not prevent a Welsh Act modifying, or conferring power by subordinate legislation to modify, any enactment for or in connection with the purposes of section 91.

5 *Subordinate legislation*

11 (1) Part 1 of this Schedule does not prevent a Welsh Act modifying, or conferring power by subordinate legislation to modify, any enactment for or in connection with any of the following purposes.

(2) Those purposes are –

10 (a) making different provision in respect of the document by which a power to make subordinate legislation within sub-paragraph (3) is to be exercised,

(b) making different provision (or no provision) for the procedure, in relation to the Welsh Parliament, 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,

15 (c) applying any enactment comprised in or made under a Welsh Act relating to the documents by which such powers may be exercised.

(3) The power to make the subordinate legislation, or a power to confirm or approve the legislation, must be exercisable by –

(a) a member of the Welsh Government,

20 (b) any Welsh public authority with mixed functions or no reserved functions,

(c) any other person (not being a Minister of the Crown) within devolved competence.

25 (4) For the purposes of sub-paragraph (3)(c), the function of Her Majesty of making an Order in Council under paragraph 1(1)(c) of Schedule 2 (power to specify persons disqualified from membership of the Parliament) is to be regarded as being exercisable within devolved competence.

*Minister of the Crown functions*

30 12 (1) Part 1 does not prevent a provision of a Welsh Act removing or modifying, or conferring power by subordinate legislation to remove or modify, any 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 Welsh Act.

35 (2) Part 1 does not prevent a provision of a Welsh Act 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.

*Functions of reserved authorities*

- 13 (1) Part 1 does not prevent a provision of a Welsh Act removing or modifying, or conferring  
power by subordinate legislation to remove or modify, any function of a reserved  
authority if—
- 5 (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 Welsh Act.
- (2) Part 1 does not prevent a provision of a Welsh Act conferring or imposing, or conferring  
power by subordinate legislation to confer or impose, any function on a reserved  
10 authority if the Secretary of State consents to the provision.

SCHEDULE 9  
(Introduced by section 73)

SPECIFIC NEW FUNCTIONS OF THE WELSH MINISTERS

*BBC and Sianel Pedwar Cymru or S4C*

- 5 1 (1) A Minister of the Crown must not exercise without the agreement of the Welsh Ministers functions relating to selection for a particular appointment by which—
- (a) a person is to become a member of the BBC Trust and hold a Welsh post, or
- (b) an existing member of the Trust is to hold a Welsh post.
- 10 (2) “Welsh post” means a position, held as a member of the Trust, with specific reference to Wales.
- 2 In section 56 of the Broadcasting Act 1990 (Welsh Authority to continue as S4C), after subsection (2) insert—
- “(2A) The Secretary of State must not appoint a person under subsection (2) without the agreement of the Welsh Ministers.”

15 *Gambling*

- 3 (1) The Gambling Act 2005 is amended as follows.
- (2) In section 172(12) (gaming machines), after paragraph (a) insert—
- “(ab) the Welsh Ministers, so far as, in the case of a betting premises licence in respect of premises in Wales and not in respect of a track, the order varies—
- (i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or
- (ii) whether such machines are authorised;”.
- (3) In section 355 (regulations, orders and rules)—
- 25 (a) in subsection (1) after “the Secretary of State” insert “, the Welsh Ministers”;
- (b) after subsection (8) insert—
- “(8A) Regulations made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the Welsh Parliament.”
- 30 (4) The amendments made by this paragraph do not apply in relation to a betting premises licence issued before this paragraph comes into force.

*Equal opportunities*

- 4 (1) The Equality Act 2010 is amended as follows.
- (2) In section 1(2A) (public sector duty) after paragraph (b) insert—
- “(b) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers;”
- 35

- (3) In section 2 (power to amend section 1), omit subsections (7), (9) and (10).
- (4) In section 105(2) (time-limited provision) after the words “Minister of the Crown” insert “or, in relation to elections to the Welsh Parliament and local government elections in Wales, the Welsh Ministers”.
- 5 (5) In section 106 (information about diversity in range of candidates, etc.) after subsection (12) insert –
- “(12) The Welsh Ministers may by regulations prescribe matters under this section in respect of elections to the Welsh Parliament.
- 10 (6) In section 152(2) (power to specify public authorities: consultation and consent), for the words after “must” substitute “consult the Commission, and after making such an order they must inform a Minister of the Crown.”
- (7) In the table in section 154(3) (power to impose specific duties: cross-border authorities) in the second column for the words “The Welsh Ministers must consult a Minister of the Crown before” in both places substitute “The Welsh Ministers must inform a Minister of the Crown after”.
- 15 (8) In section 216 of that Act (commencement) –
- (a) at the beginning of subsection (3) for “subsection (4)” substitute “subsections (4) and (5)”;
- (b) after subsection (4) insert –
- 20 “(5) The following provisions come into force on such day as the Welsh Ministers may by order appoint –
- (a) section 1, so far as it applies to a relevant authority as defined by section 2(5);
- (b) section 2, so far as it confers a power on the Welsh Ministers;
- 25 (c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a);
- (d) section 106, so far as it applies in respect of elections to the Welsh Parliament.”

SCHEDULE 10  
(introduced by sections 95(8) and 101)

TAXATION: FURTHER PROVISION

PART 1

INCOME TAX

5

*Welsh taxpayers*

- 1 (1) For any tax year, a Welsh taxpayer is an individual (T) –
- (a) who is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013 (c. 29)), and
- 10 (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Wales (see paragraph 3).
- (3) T meets condition B if –
- (a) T does not have a close connection with England, Scotland or Northern Ireland (see paragraph 3), and
- 15 (b) T spends more days of that year in Wales than in any other part of the UK (see paragraph 4).
- (4) T meets condition C if, for the whole or any part of the year, T is –
- (a) a member of the United Kingdom Parliament for a constituency in Wales,
- (b) a member of the European Parliament for Wales, or
- 20 (c) a member of the Welsh Parliament.
- (5) Sub-paragraph (1) does not apply if T is a Scottish parliamentarian for the whole or any part of the year (see paragraph 2).
- (6) For the purposes of sub-paragraph (5) and paragraph 2, T is a Scottish parliamentarian if T is a member as described in any of paragraphs (a) to (c) of section 80D(4) of the
- 25 Scotland Act 1998 (definition of a Scottish taxpayer).
- (7) “The UK” means the United Kingdom.

*Welsh taxpayers: Scottish parliamentarians*

- 2 (1) An individual (T) who is a Scottish parliamentarian for the whole or any part of a tax year is a Welsh taxpayer for that tax year if –
- 30 (a) T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
- (b) T meets condition C in paragraph 1 for that year, and
- (c) T meets either of the following conditions for that year.
- (2) T meets the first condition if the number of days in that year on which T is a member as described in any of paragraphs (a) to (c) of paragraph 1(4) exceeds the number of days in
- 35 that year on which T is a Scottish parliamentarian.

- (3) T meets the second condition if –
- (a) the number of days in that year mentioned in sub-paragraph (2) are the same, and
  - (b) T meets condition A or B in paragraph 1 for that year.

*Close connection with Wales or another part of the UK*

- 5 3 (1) To find whether, for any year, T has a close connection with any part of the UK see –
- (a) sub-paragraph (2) (where T has only one place of residence in the UK), or
  - (b) sub-paragraph (3) (where T has 2 or more places of residence in the UK).
- (2) T has a close connection with a part of the UK if in that year –
- (a) T has only one place of residence in the UK,
  - 10 (b) that place of residence is in that part of the UK, and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year –
- (a) T has 2 or more places of residence in the UK,
  - 15 (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
  - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) more of the year than the times when T's main place of residence is in each other part of the UK (considered separately), and
  - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- 20 (4) In this section “place” includes a place on board a vessel or other means of transport.

*Days spent in Wales or another part of the UK*

- 4 (1) T spends more days of a year in Wales than in any other part of the UK if (and only if) the number of days in the year on which T is in Wales at the end of the day exceeds each of the following –
- 25 (a) the number of days in the year on which T is in England at the end of the day;
  - (b) the number of days in the year on which T is in Scotland at the end of the day;
  - (c) the number of days in the year on which T is in Northern Ireland at the end of the day.
- (2) T is treated as not being in the UK at the end of a day if –
- 30 (a) on that day T arrives in the UK as a passenger,
  - (b) T departs from the UK on the next day, and
  - (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

*Supplemental powers to modify enactments*

- 5 (1) The Treasury may by regulations modify section 11B of the Income Tax Act 2007 (c. 3) (income charged at the Welsh basic, higher and additional rates) for the purpose of altering—
- 5 (a) the definition of the income which is charged to income tax at the rates provided for under the section, or
- (b) the application of the section in relation to a particular class of income which is so charged.
- 10 (2) The Treasury may by regulations modify any enactment not contained in Chapter 2 of Part 2 of the Income Tax Act 2007 (rates at which income tax is charged) so that it makes provision, in relation to a Welsh taxpayer, by reference to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate, instead of the basic rate, the higher rate or the additional rate.
- 15 (3) If the Treasury consider it necessary or expedient to do so, they may by regulations provide that—
- (a) a Welsh rate set by the Welsh Parliament for a tax year for the purpose of calculating the Welsh basic rate, Welsh higher rate or Welsh additional rate, or
- (b) the fact that a Welsh rate has not been set by the Welsh Parliament for a tax year for any one or more of those purposes,
- 20 does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the regulations.
- (4) The Treasury may by regulations make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection with regulations under sub-paragraph (1), (2) or (3).
- 25 (5) Regulations under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the regulations are made.
- (6) No regulations may be made under sub-paragraph (1), (2) or (4) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- 30 (7) A statutory instrument containing regulations under sub-paragraph (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) The power under sub-paragraph (1) does not include power to provide that any income which is—
- 35 (a) savings income, or
- (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,
- 40 is income which is charged to income tax at a rate provided for under section 11B of that Act.

*Reimbursement of expenses*

6 The Welsh Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of section 127 or this Part of this Schedule at any time by the Minister or department.

*5 Report by the Comptroller and Auditor General*

7 (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in sub-paragraph (2).

(2) Those matters are –

10 (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Welsh rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,

(b) whether the rules and procedures described in paragraph (a) are being complied with,

15 (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Welsh rate resolution, and

(d) the accuracy and fairness of the amounts which are reimbursed to HMRC under paragraph 6 (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).

(3) "The Welsh rate provisions" are –

20 (a) any provision made by or under this Part of this Act in relation to income tax, and

(b) any provision made by or under the Income Tax Acts relating to the Welsh basic rate, the Welsh higher rate or the Welsh additional rate.

(4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.

(5) "Relevant functions" are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under paragraph 6 (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in sub-paragraph (2)(a)).

30 (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this paragraph.

(7) A report prepared under this paragraph must be laid before the Welsh Parliament not later than 31 January of the financial year following that to which the report relates.

35 (8) In this paragraph "HMRC" means Her Majesty's Revenue and Customs.

## PART 2

## DEVOLVED TAXES

*Scope of devolved tax charged on Welsh land transaction*

- 5 8 A devolved tax on a Welsh land transaction may be made chargeable –
- (a) whether or not there is any instrument effecting the transaction,
  - (b) if there is such an instrument, regardless of where it is executed, and
  - (c) regardless of where any party to the transaction is or is resident.

*Exemptions from devolved tax charged on Welsh land transactions*

10 9 A devolved tax on Welsh land transactions may not be imposed on so much of a Welsh land transaction as relates to land below mean low water mark.

10 10 The following persons are not to be liable to pay a devolved tax on Welsh land transactions –

*Government*

- 15 A Minister of the Crown  
The Welsh Ministers, the First Minister and the Counsel General  
The Scottish Ministers  
A Northern Ireland department

*Parliament etc.*

- 20 The Corporate Officer of the House of Lords  
The Corporate Officer of the House of Commons  
The Welsh Parliament Commission  
The Scottish Parliamentary Corporate Body  
The Northern Ireland Assembly Commission

*Duty to disclose information about Welsh land transactions to HMRC*

- 25 11 (1) A person who is a member of the Welsh Government must provide to HMRC such of the information falling within sub-paragraph (2) as HMRC may require.
- (2) Information falls within this sub-paragraph if it –
- (a) is relevant information in relation to a Welsh land transaction, and
  - (b) is in the possession or under the control of the person.
- 30 (3) “Relevant information”, in relation to a Welsh land transaction, means information which –
- (a) corresponds to any of the particulars which would be required under Schedule 2 to the Finance Act 1931 (c. 28), but for section 28(3)(c) of that Act, or

(b) uniquely identifies, or assists in uniquely identifying, any person who gives consideration for, or is a party to, the transaction.

(4) Information is to be provided under sub-paragraph (1) in such form as HMRC may reasonably specify.

5 (5) Information acquired by HMRC under this paragraph is to be treated, for the purposes of the Commissioners for Revenue and Customs Act 2005, as acquired in connection with a function of theirs.

(6) In this section “HMRC” means Her Majesty’s Revenue and Customs.

*Disapplication of air passenger duty to carriage of persons from airports in Wales*

10 12 (1) Chapter 4 of Part 1 of the Finance Act 1994 (air passenger duty) is amended as follows.

(2) In section 28(4) (a chargeable passenger is a passenger whose journey begins at an airport in the United Kingdom), omit “, Wales”.

(3) In section 31(4B) (exception for passengers departing from airports in designated region of the United Kingdom), omit “, Wales”.

15 *Commencement of devolved tax on carriage of persons by air from airports in Wales*

13 Section 98 and the amendments made by paragraph 12 have effect in relation to persons carried on flights beginning on or after a date appointed by regulations made by the Treasury.

*Exemption from devolved tax on aggregate subjected to commercial exploitation in Wales*

20 14 (1) A devolved tax on aggregate subjected to commercial exploitation in Wales must not be made chargeable when aggregate is subjected to commercial exploitation for fuel.

(2) Aggregate is subjected to commercial exploitation for fuel –

(a) when the aggregate is used as fuel;

25 (b) when the aggregate is subjected to commercial exploitation for the purpose of extracting or producing anything capable of being used as fuel;

(c) when the aggregate becomes subject to an agreement to use it as mentioned in paragraph (a) or to subject it to commercial exploitation as mentioned in paragraph (b).

*Disapplication of aggregates levy from aggregates subjected to commercial exploitation in Wales*

30 15 (1) The Finance Act 2001 (c. 9) is amended as follows.

(2) In section 16(2) (aggregates levy), omit “, Wales”.

(3) In section 17(5) (meanings of “aggregate” and “taxable aggregate”), omit “, Wales”.

(4) In section 19(5) and (7)(a) (commercial exploitation), omit “, Wales”.

(5) In section 20(1)(a) (originating sites) omit “, Wales”.

35 (6) In section 24(3) and (6)(e), in both places, (levy register), omit “, Wales”.

(7) In section 26(3) (offence of failing to provide security for levy) omit “, Wales”.

(8) In section 30 (credit for aggregates levy) –

(a) in subsection (1) (cases where provision for credit may be made) –

(i) in paragraph (a) (export of aggregate) omit “, Wales” , and

(ii) after paragraph (aa) insert –

“(ab) any of that aggregate is moved to Wales, or to the sea adjacent to Wales, in the form of aggregate;”;

(b) after subsection (6) insert –

“(7) In subsection (1)(ab) the reference to the sea adjacent to Wales is to so much of the territorial sea adjacent to the United Kingdom as is to be treated as adjacent to Wales for the purposes of the Government and Laws in Wales Act 2017 (see section 135 of that Act).”

(9) In section 44(a) (destination of receipts collected or received in Great Britain) omit “and Wales”.

(10) In section 48(1) (interpretation of Part 2) in the definition of “United Kingdom waters”, in paragraph (a), after “Act”, insert “ or so much of that territorial sea as is to be treated as adjacent to Wales for the purposes of the Government and Laws in Wales Act 2017 (see section 135 of that Act)”.

(11) In Schedule 4 (registration), in paragraph 8(2) (interpretation of references to taxable activity), omit “, Wales”.

(12) In Schedule 6 (evasion etc.), in paragraph 4(1)(a) (preparations for evasion), omit “, Wales”.

(13) In Schedule 7 (information and evidence etc.), in –

(a) paragraph 11(1) (power to take samples), and

(b) paragraph 15 (interpretation), in the definition of “connected activities”,

omit “, Wales”.

In Schedule 23 to the Finance Act 2011 (data-gathering powers of HMRC), in paragraph 25(a) (relevant data-holders in relation to aggregates levy), omit “, Wales”.

*Commencement of devolved tax on aggregates subjected to commercial exploitation in Wales*

Section 99 and the amendments made by paragraphs 15 and 16 have effect in relation to aggregates subjected to commercial exploitation on or after a date appointed by regulations made by the Treasury.

*Status of officials of body that collects and manages devolved taxes*

(1) This paragraph applies where an Act of the Welsh Parliament establishes a body that is to be responsible for the collection and management of devolved taxes (whether or not the body is also to be responsible for local government finance or any other matter).

(2) In this paragraph “relevant official” means an officer or member of staff of the body mentioned in sub-paragraph (1) who has no functions other than functions relating to –

(a) the collection or management of devolved taxes, or

(b) local government finance.

(3) If an Act of the Welsh Parliament provides that service as a relevant official is service in the civil service of the State, that provision is treated as falling within the legislative competence of the Welsh Parliament.

5 (4) In the following sub-paragraphs “relevant civil servant” means a relevant official whose service is service in the civil service of the State by virtue of provision of the kind mentioned in sub-paragraph (3).

(5) The Welsh Ministers must pay the salaries and expenses of relevant civil servants.

10 (6) The Welsh Ministers must make payments to the Minister for the Civil Service, at such times as the Minister for the Civil Service may determine, of such amounts as may be so determined in respect of—

(a) the provision of pensions, allowances or gratuities by virtue of section 1 of the Superannuation Act 1972 or section 1 of the Public Service Pensions Act 2013 to or in respect of persons who are or have been relevant civil servants, and

15 (b) the expenses incurred in administering those pensions, allowances and gratuities.

(7) The Welsh Ministers may make payments towards the provision of pensions, allowances or gratuities to or in respect of any person who is or has been a relevant civil servant.

SCHEDULE 11  
(introduced by section 102(5))

WELSH LAW COMMISSION

*Commissioners' tenure*

- 5 1 (1) A Commissioner holds office for the period, and subject to the terms, determined by the Welsh Ministers.
- (2) A person may not be appointed as a Commissioner for more than five years at a time.
- (3) A Commissioner may resign by notice in writing to the Welsh Ministers.
- (4) The Welsh Ministers may dismiss a Commissioner if satisfied that—
- 10 (a) the Commissioner has without reasonable excuse failed to exercise Commissioner's functions for a continuous period of three months beginning not earlier than six months before the day of dismissal,
- (b) the Commissioner has been convicted of a criminal offence,
- (c) a bankruptcy order has been made against the Commissioner, or the  
15 Commissioner's estate has been sequestrated, or the Commissioner has made a composition or arrangement with, or granted a trust deed for, his or her creditors, or
- (d) the Commissioner is otherwise unable or unfit to exercise the functions of a Commissioner.
- 20 (5) A person who ceases to be a Commissioner otherwise than on being dismissed may be reappointed.

*Commissioners holding judicial office*

- 2 (1) A person who holds judicial office may be appointed as a Commissioner without relinquishing that office.
- 25 (2) But that person is not, unless the terms of the appointment provide otherwise, required to perform the duties of the judicial office while a Commissioner.

*Salary etc. of Commissioners not holding full-time judicial office*

- 3 The Commission must pay to or in respect of each Commissioner, other than a Commissioner who holds a full-time judicial office, any such—
- 30 (a) salary,
- (b) allowances,
- (c) fees, or
- (d) sums for the provision of pensions,
- as the Welsh Ministers may determine.

*Staff*

- 4 (1) The Commission may employ staff, but subject to the approval of the Welsh Ministers as to—
- 5 (a) numbers,
- (b) salary, and
- (c) other terms of employment.
- (2) The Commission may make arrangements for securing the provision to it of such assistance by persons employed in the civil service of the State as it considers appropriate for or in connection with the exercise of its functions.

*10 Financial provisions*

5 The Welsh Minister may make grants to the Commission.

6 (1) The Commission must—

- (a) keep proper accounts and proper financial records, and
- (b) prepare in respect of each financial year a statement of accounts.

15 (2) The statement of accounts must—

- (a) contain such information, and
- (b) be in such form,

as the Welsh Ministers direct.

20 (3) The Commission must send copies of the statement of accounts relating to a financial year to the Welsh Ministers within such period after the end of the financial year as the Welsh Ministers direct.

(4) In this paragraph “financial year” means—

- (a) the period beginning with the day on which section 102 comes into force and ending with the first 31st March which falls at least six months after that day, and
- 25 (b) each subsequent period of twelve months beginning with 1st April.

*Miscellaneous*

7 The exercise by the Commission of its functions is not affected by—

- (a) any vacancy among the Commissioners, or
- (b) any defect in the appointment of a Commissioner.

30 8 (1) The Commission is not to be regarded—

- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

(2) The Commission’s property is not to be regarded as property of, or held on behalf of, the Crown.

35 9 The Commission may do anything, apart from borrowing money, which it considers is—

- (a) appropriate for facilitating, or

(b) incidental or conducive to,  
the exercise of its functions.

10 The application of the seal of the Commission is to be authenticated by the signature of  
5 any Commissioner or member of staff of the Commission who has been authorised  
(whether generally or specially) for the purpose.

11 Any contract or instrument which, if entered into or executed by an individual, would  
not require to be under seal may be entered into or executed on behalf of the Commission  
by any person who has been authorised (whether generally or specially) for the purpose.

12 A document purporting to be—  
10 (a) duly executed by the Commission under its seal, or  
(b) signed on its behalf,  
is to be received in evidence and is, unless the contrary is proved, to be taken to be so  
executed or signed.

13 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies  
15 of which all members are disqualified), insert (at the appropriate place in alphabetical  
order)—

“The Welsh Law Commission.”

*Freedom of information*

20 14 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities),  
insert (at the appropriate place in alphabetical order)—

“The Welsh Law Commission.”

SCHEDULE 12  
(Introduced by section 115)

DEVOLUTION ISSUES

PART 1

PRELIMINARY

5

1 (1) In this Schedule “devolution issue” means—

- (a) a question whether a Welsh Act, or any provision of a Welsh Act enacted by the Welsh Parliament, was within the Parliament’s legislative competence when it was enacted,
- 10 (b) a question whether a Measure or an Act of the National Assembly for Wales, or any provision of a Measure or an Act of the National Assembly for Wales enacted by the Assembly, was within the Assembly’s legislative competence (under the Government of Wales Act 2006) when it was enacted,
- (c) a question whether any function (being a function which any person has purported, or is proposing, to exercise) is a function of the Welsh Ministers, the First Minister or the Counsel General,
- 15 (d) a question whether the purported or proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General is, or would be, within devolved competence,
- (e) a question whether the purported or proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General is, or would be, incompatible with any of the Convention rights or EU law,
- 20 (f) a question of whether a failure to act by the Welsh Ministers, the First Minister or the Counsel General is incompatible with any of the Convention rights or EU law,
- (g) any other question about whether a function is exercisable within devolved competence or in relation to Wales and any other question arising by virtue of this Act about reserved matters or deferred matters.
- 25

(2) In this Schedule “civil proceedings” means proceedings other than criminal proceedings.

2 A devolution issue is not to be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

30

PART 2

PROCEEDINGS IN WALES

*Application of Part 2*

35 3 This Part applies in relation to devolution issues in proceedings in Wales.

*Institution of proceedings*

- 4 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General or the Counsel General.
- 5 (2) The Counsel General may defend any such proceedings instituted by the Attorney General.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Notice of devolution issue*

- 10 5 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Counsel General (unless a party to the proceedings).
- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

*Reference of devolution issue to High Court or Court of Appeal*

15 6 A magistrates' court may refer any devolution issue which arises in civil proceedings before it to the High Court of Wales.

7 (1) A court may refer any devolution issue which arises in civil proceedings before it to the Court of Appeal of Wales.

(2) Sub-paragraph (1) does not apply –

20 (a) to a magistrates' court, the Court of Appeal of Wales or the Supreme Court, or

(b) to the High Court of Wales if the devolution issue arises in proceedings on a reference under paragraph 6.

8 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Court of Appeal of Wales; and any other tribunal may make such a reference.

25 9 A court, other than the Court of Appeal of Wales or the Supreme Court, may refer any devolution issue which arises in criminal proceedings before it to –

(a) the High Court of Wales if the proceedings are summary proceedings, or

(b) the Court of Appeal of Wales if the proceedings are proceedings on indictment.

*References from Court of Appeal to Supreme Court*

30 10 The Court of Appeal of Wales may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7, 8 or 9) to the Supreme Court.

*Appeals from superior courts to Supreme Court*

35 11 An appeal against a determination of a devolution issue by the High Court of Wales or the Court of Appeal of Wales on a reference under paragraph 6, 7, 8 or 9 lies to the Supreme Court but only –

- (a) with permission of the court from which the appeal lies, or
- (b) failing such permission, with permission of the Supreme Court.

## PART 3

## PROCEEDINGS IN ENGLAND

5 *Application of Part 3*

12 This Part applies in relation to devolution issues in proceedings in England.

*Institution of proceedings*

- 13 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General.
- 10 (2) The Counsel General may defend any such proceedings instituted by the Attorney General.
- (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Notice of devolution issue*

- 15 14 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Counsel General (unless a party to the proceedings).
- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

20 *Reference of devolution issue to High Court or Court of Appeal*

- 15 A magistrates' court may refer any devolution issue which arises in civil proceedings before it to the High Court of England.
- 16 (1) A court may refer any devolution issue which arises in civil proceedings before it to the Court of Appeal of England.
- 25 (2) Sub-paragraph (1) does not apply –
- (a) to a magistrates' court, the Court of Appeal of England or the Supreme Court, or
  - (b) to the High Court of England if the devolution issue arises in proceedings on a reference under paragraph 15.
- 17 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Court of Appeal of England; and any other tribunal may make such a reference.
- 30 18 A court, other than the Court of Appeal of England or the Supreme Court, may refer any devolution issue which arises in criminal proceedings before it to –
- (a) the High Court of England if the proceedings are summary proceedings, or
  - 35 (b) the Court of Appeal of England if the proceedings are proceedings on indictment.

*References from Court of Appeal to Supreme Court*

19 The Court of Appeal of England may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 16, 17 or 18) to the Supreme Court.

*5 Appeals from superior courts to Supreme Court*

20 An appeal against a determination of a devolution issue by the High Court of England or the Court of Appeal of England on a reference under paragraph 15, 16, 17 or 18 lies to the Supreme Court but only –

- 10 (a) with permission of the court from which the appeal lies, or  
(b) failing such permission, with permission of the Supreme Court.

## PART 4

## PROCEEDINGS IN SCOTLAND

*Application of Part 4*

21 This Part applies in relation to devolution issues in proceedings in Scotland.

*15 Institution of proceedings*

22 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Scotland.

(2) The Counsel General may defend any such proceedings instituted by the Advocate General for Scotland.

20 (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Intimation of devolution issue*

23 (1) A court or tribunal must order intimation of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Scotland and the Counsel General (unless a party to the proceedings).

25 (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

*Reference of devolution issue to higher court*

24 A court, other than any court consisting of three or more judges of the Court of Session or  
30 the Supreme Court, may refer any devolution issue which arises in civil proceedings before it to the Inner House of the Court of Session.

25 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.

26 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

*References from superior courts to Supreme Court*

5 27 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 24 or 25) to the Supreme Court.

28 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference  
10 under paragraph 26) to the Supreme Court.

*Appeals from superior courts to Supreme Court*

29 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 24 or 25 lies to the Supreme Court.

30 An appeal against a determination of a devolution issue by –

15 (a) a court consisting of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 26), or

(b) a court consisting of three or more judges of the Court of Session from which there is no appeal to the Supreme Court apart from this paragraph,

20 lies to the Supreme Court, but only with permission of the court from which the appeal lies or, failing such permission, with permission of the Supreme Court.

PART 5

PROCEEDINGS IN NORTHERN IRELAND

*Application of Part 5*

31 This Part applies in relation to devolution issues in proceedings in Northern Ireland.

25 *Institution of proceedings*

32 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General for Northern Ireland.

(2) The Counsel General may defend any such proceedings instituted by the Advocate General for Northern Ireland.

30 (3) This paragraph does not limit any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Notice of devolution issue*

33 (1) A court or tribunal must order notice of any devolution issue which arises in any proceedings before it to be given to the Advocate General for Northern Ireland and the  
35 Counsel General (unless a party to the proceedings).

- (2) A person to whom notice is given in pursuance of sub-paragraph (1) may take part as a party in the proceedings, so far as they relate to a devolution issue.

*Reference of devolution issue to Court of Appeal*

- 34 A court, other than the Court of Appeal in Northern Ireland or the Supreme Court, may  
5 refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.
- 35 A tribunal from which there is no appeal must refer any devolution issue which arises in proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference.

10 *References from Court of Appeal to Supreme Court*

- 36 The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 34 or 35) to the Supreme Court.

*Appeals from Court of Appeal to Supreme Court*

- 15 37 An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 34 or 35 lies to the Supreme Court but only –
- (a) with permission of the Court of Appeal in Northern Ireland, or
  - (b) failing such permission, with permission of the Supreme Court.

20

PART 6

GENERAL

*Direct references to Supreme Court*

- 38 The Counsel General, the Attorney General, the Lord Advocate, the Advocate General for  
25 Scotland, the Attorney General for Northern Ireland or the Advocate General for Northern Ireland may require any court or tribunal to refer to the Supreme Court any devolution issue which has arisen in any proceedings before it to which that person is a party.
- 39 (1) The Counsel General, the Attorney General, the Lord Advocate, the Advocate General for  
30 Scotland, the Attorney General for Northern Ireland or the Advocate General for Northern Ireland may refer to the Supreme Court any devolution issue which is not the subject of proceedings.
- (2) Where a reference is made under sub-paragraph (1) in relation to a devolution issue which relates to the proposed exercise of a function by the Welsh Ministers, the First Minister or the Counsel General –
- 35 (a) the person making the reference must notify the Counsel General of that fact, and

(b) the function must not be exercised by the Welsh Ministers, the First Minister or the Counsel General in the manner proposed during the period beginning with the receipt of the notification and ending with the reference being decided or otherwise disposed of.

5 (3) Proceedings relating to any possible failure by the Welsh Ministers, the First Minister or the Counsel General to comply with sub-paragraph (2)(b) may be instituted by the Attorney General (but this does not prejudice any right of any other person to institute proceedings).

#### *Costs*

10 40 (1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.

(2) In deciding any such question the court or tribunal may award the whole or part of the additional expense as costs or expenses to the party who incurred it (whatever the  
15 decision on the devolution issue).

(3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 5, 14, 23 or 33.

#### *Procedure of courts and tribunals*

20 41 Any power to make provision for regulating the procedure before any court or tribunal includes power to make provision for the purposes of this Schedule including, in particular, provision—

(a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred,

25 (b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule, and

(c) for determining the manner in which and the time within which any notice or intimation is to be given.

#### *References to be for decision*

30 42 Any function conferred by this Schedule to refer a devolution issue to a court is to be construed as a function of referring the issue to the court for decision.

SCHEDULE 13  
(introduced by section 134)

AMENDMENTS AND REPEALS

*General*

- 5 1 In any enactment or instrument a reference to the National Assembly for Wales (however expressed) is to be construed as a reference to the Welsh Parliament.

*Law Commissions Act 1965 (c. 22)*

- 2 (1) The Law Commissions Act 1965 is amended as follows.
- (2) In section 1 –
- 10 (a) in subsection (1) –
- (i) omit “and Wales”;
- (ii) for “Law Commission” substitute “English Law Commission (referred to in this Act as “the Law Commission”);
- (b) in subsection (1A), omit “and Wales”.
- 15 (3) In section 3 –
- (a) in subsection (1), omit paragraph (ea);
- (b) in subsection (4), after “other” insert “, the Law Commission of Wales”.
- (4) Omit section 3A(7).
- (5) Omit sections 3C and 3D.
- 20 (6) In section 5(4), omit “(except to the extent that those expenses are met by the Welsh Ministers)”.

*Taxes Management Act 1970 (c. 9)*

- 3 In section 7 of the Taxes Management Act 1970 (notice of liability to income tax and capital gains tax), in subsection (6), before “the dividend ordinary rate” insert “the Welsh
- 25 basic rate,”.

*Customs and Excise Management Act 1979 (c. 2)*

- 4 In section 1(1) of the Customs and Excise Management Act 1979, for “Government of Wales Act 2006” substitute “Government and Laws in Wales Act 2017”.

*Taxation of Chargeable Gains Act 1992 (c. 12)*

- 30 5 (1) The Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In section 4 (rates of capital gains tax), in subsections (4) and (5), before “or the dividend” insert “, the Welsh higher rate”.
- (3) In section 4A (section 4: special cases), in subsection (5), before “or the dividend” insert “, the Welsh higher rate”.

*Scotland Act 1998 (c. 46)*

6 In section 80D(4B) of the Scotland Act 1998, for “section 116E(4) of the Government of  
5 Wales Act 2006” substitute “paragraph 1 of Schedule 10 to the Government and Laws in  
Wales Act 2017”.

*Utilities Act 2000 (c. 27)*

7 (1) Section 8 of the Utilities Act 2000 is amended as follows.

(2) In subsection (2), after “Scotland” insert “or Wales”.

*Commissioners of Revenue and Customs Act 2005 (c. 11)*

10 8 (1) The Commissioners of Revenue and Customs Act 2005 is amended as follows

(2) In section 15(3), for “section 83 of the Government of Wales Act 2006” substitute “section  
107 of the Government and Laws in Wales Act 2017”.

(3) In section 18(2)(j), for “Government of Wales Act 2006” substitute “Government and  
Laws in Wales Act 2017”.

15 (4) In section 51(2B) , for “Government of Wales Act 2006” substitute “Government and  
Laws in Wales Act 2017”;

*Government of Wales Act 2006 (c. 32)*

9 (1) The Government of Wales Act 2006 (“the 2006 Act”) is repealed, except—

(a) section 64;

20 (b) sections 72 to 79;

(c) paragraphs 17 to 20 of Schedule 8.

(2) In section 64 of the 2006 Act, omit “(other than under section 62)”.

*Income Tax Act 2007 (c. 3)*

10 (1) Income Tax Act 2007 is amended as follows.

25 (2) In section 6 (the basic rate, higher rate and additional rate), in subsection (3), before  
paragraph (a) insert—

“(zb) section 6B (Welsh basic, higher and additional rates),”.

(3) Before section 7 insert—

**“6B The Welsh basic, higher and additional rates**

30 (1) The Welsh basic rate, the Welsh higher rate and the Welsh additional  
rate for a tax year are calculated as follows.

Step 1

Take the basic rate, higher rate or additional rate.

Step 2

Deduct 10 percentage points.

Step 3

Add the Welsh rate (if any) set by the Welsh Parliament for that year for the purpose of calculating the Welsh basic rate, the Welsh higher rate or the Welsh additional rate (as the case may be).

(2) For provision about the setting of the Welsh rates, Part 7 of the Government and Laws in Wales Act 2017.”

(4) In section 10 (income charged at the basic, higher and additional rates: individuals), in subsection (4), at the appropriate place, insert—

“section 11B (income charged at the Welsh basic, higher and additional rates),”.

(5) Before section 12 insert—

**11B Income charged at the Welsh basic, higher and additional rates**

(1) Income tax is charged at the Welsh basic rate on the income of a Welsh taxpayer which—

- (a) is non-savings income, and
- (b) would otherwise be charged at the basic rate.

(2) Income tax is charged at the Welsh higher rate on the income of a Welsh taxpayer which—

- (a) is non-savings income, and
- (b) would otherwise be charged at the higher rate.

(3) Income tax is charged at the Welsh additional rate on the income of a Welsh taxpayer which—

- (a) is non-savings income, and
- (b) would otherwise be charged at the additional rate.

(4) For the purposes of this section, “non-savings income” means income which is not savings income.

(5) This section is subject to—

section 13 (income charged at the dividend ordinary, upper and additional rates: individuals), and

any provisions of the Income Tax Acts (apart from section 10) which provide for income of an individual to be charged at different rates of income tax in some circumstances.

(6) Section 16 has effect for determining the extent to which the non-savings income of a Welsh taxpayer would otherwise be charged at the basic, higher or additional rate.”

(6) In section 13 (income charged at the dividend ordinary, upper and additional rates)—

- (a) in subsection (1)(b), before “and” insert “or the Welsh basic rate,”,
- (b) in subsection (2)(b), before “and” insert “or the Welsh higher rate,”,
- (c) in subsection (2A)(b), before “and” insert “or the Welsh additional rate,”,

(d) in subsection (3), at the end of the words in parentheses, insert “or 11B”, and

(e) in subsection (4), at the end insert “or the Welsh basic, higher or additional rate”.

(7) In section 16 (savings and dividend income to be treated as highest part of total income), in subsection (1), after paragraph (za) insert—

5 “(zb) the rate at which income tax would be charged on the non-savings income of a Welsh taxpayer apart from section 11B,”.

(8) In section 809H (charge on nominated income of long-term UK resident), after subsection (3A) insert—

10 “(3B) If the individual is a Welsh taxpayer for the relevant tax year, the individual is to be treated for the purpose of calculating income tax charged by virtue of subsection (2) as if the individual were not a Welsh taxpayer for that year.”

(9) In section 828B (conditions to be met for exemption where individual resident but not domiciled in the UK), in subsection (5), before “or the starting rate” insert “, the Welsh basic rate”.

15

(10) In section 989 (definitions for the purposes of the Income Tax Acts), at the appropriate place, insert—

““Welsh additional rate” means the rate of income tax of that name calculated in accordance with section 6B,”,

20

““Welsh basic rate” means the rate of income tax of that name calculated in accordance with section 6B,”,

““Welsh higher rate” means the rate of income tax of that name calculated in accordance with section 6B,”,

25

““Welsh taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Government of Wales Act 2006”.

(11) In Schedule 4 (index of defined expressions), at the appropriate place, insert—

“Welsh additional rate section 6B (as applied by section 989)”

“Welsh basic rate section 6B (as applied by section 989)”

“Welsh higher rate section 6B (as applied by section 989)”

30

“Welsh taxpayer section 989”.

*National Assembly for Wales Commissioner for Standards Measure 2009 (nawm 4)*

11 The National Assembly for Wales Commissioner for Standards Measure 2009 is repealed.

*National Assembly for Wales Remuneration Measure 2009 (nawm 4)*

12 The National Assembly for Wales Remuneration Measure 2010 is repealed.

35 *Postal Services Act 2011 (c. 5)*

13 (1) Section 51 of the Postal Services Act 2011 is amended as follows.

(2) In subsection (2)(ca), after “Scotland” insert “or Wales”.

*Wales Act 2014 (c. 29)*

14 In the Wales Act 2014 ,omit –

- (a) sections 1 and 2;
- (b) section 3(1) and (2);
- 5 (c) in section 4, subsections (2) and (3) and, in subsection (4), “(except GOWA 2006 - as to which see subsections (2) and (3))”;
- (d) sections 5 and 6;
- (e) section 7(14);
- (f) sections 8 to 10;
- 10 (g) sections 12 to 15;
- (h) sections 17 to 23;
- (i) section 25;
- (j) Schedule 1.

SCHEDULE 14  
(introduced by section 138)

TRANSITIONAL PROVISIONS

*Measures and Acts of the National Assembly for Wales*

- 5 1 The repeal of Part 3 and Part 4 of the Government of Wales Act 2006 (c.32) (“the 2006 Act” by Schedule 13 does not affect the continuing operation on and after the day on which the repeal comes into force of—
- (a) any Act of the National Assembly for Wales enacted before that day, or
  - (b) any Measure of the National Assembly for Wales enacted before that day,
- 10 in so far as the Act or Measure, or any provision of the Act or Measure, was within the Assembly’s legislative competence when enacted.

*References to Welsh Assembly Government*

- 2 Despite the repeal of the Wales Act 2014, unless the context requires otherwise, in any enactment, instrument or other document passed or made before 17 February 2015—
- 15 (a) any reference to the Welsh Assembly Government is to be read as, or as including, a reference to the Welsh Government, and
  - (b) any reference to Llywodraeth Cynulliad Cymru is to be read as, or as including, a reference to Llywodraeth Cymru.