



Ein cyf/Our ref: MA(L)FM/5106/16

Rt Hon Alun Cairns MP
Secretary of State for Wales
Wales Office
Gwydyr House
London
SW1A 2NP

5th July 2016

Dear Alun

Wales Bill Committee Stage (day 2)

Following the procedure adopted in respect of day 1 of the Committee's consideration of the Bill, I enclose some amendments which I hope may be considered on day 2.

You are already aware of my acute concern, which Kirsty and Leanne share, about the timetabling for this Bill. I appreciate that these are matters largely outside your control, but I do need to register how difficult it is to make a fully informed response to the Bill when the Committee days come forward so quickly one after another. I do not understand why matters have to be arranged in this way, especially as I understand the plan still to be that the "principal appointed day" for bringing the bulk of the provisions into force should be in April 2018; there really does not seem to be a need for this rushed process.

However, we are where we are, and as previously I have carefully considered what day two amendments it would be valuable, from a Welsh Government standpoint, to see debated, and I hope that there will be an opportunity for the House to consider them. As I did for day 1, I have enclosed both the texts of the proposed amendments and a short accompanying document explaining what each seeks to achieve. I look forward to seeing these amendments put down, and reading the ensuing debates.

I am copying this letter to Paul Flynn MP; Hywel Williams MP; and Mark Williams MP, at Westminster; to the Presiding Officer, and to Huw Irranca Davies AM, (Chair of the Constitutional and Legislative Affairs Committee); and to Leanne Wood AM, Dafydd Elis Thomas AM, Andrew RT Davies AM, Neil Hamilton AM and Kirsty Williams AM.

Yours sincerely

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

WELSH GOVERNMENT

PROPOSALS FOR AMENDMENTS TO THE WALES BILL

COMMITTEE STAGE – DAY TWO

July 2016

INTRODUCTION

The House of Commons gave the Wales Bill its Second Reading on 14 June 2016. Immediately following that Debate, the House approved a motion providing for two days of Committee consideration for the Bill (and one day for Report and Third Reading).

The Welsh Government has considerable concerns that the time allocated for House of Commons scrutiny of this very important Bill will not be sufficient to enable the House effectively to discharge its scrutiny responsibilities. This is particularly the case in respect of the provisions to be considered on the second day of Committee. We would, for example, have wanted to suggest many detailed amendments to Schedule 1 (the new Schedule 7A to be inserted into the 2006 Act), which sets out reservations to the Assembly's proposed legislative competence, but the allocation of just three hours for this and other important parts of the Bill makes that impossible.

We will continue our dialogue with the UK Government about these detailed provisions, in the hope that there will be time at Report stage for agreed amendments to be brought forward. In the meantime, we have proposed amendments that will enable the Committee, if it wishes, to debate some of the matters that the Welsh Government considers most critical to making the Bill fit for purpose. In doing so, we accept absolutely that it is for Members of Parliament to put down amendments to the Bill, and that the Welsh Government can have no formal role in that process. It must be for the Secretary of State, or individual MPs, to decide whether they wish formally to take our amendments forward for consideration in the House.

THE AMENDMENTS

The Welsh Government wishes to propose amendments to clause 3, and to several of the most significant reservations to legislative competence in Schedule 1 which it introduces into the Bill. We also propose amendments to clauses dealing with the following matters: "Reserved Trust Ports"; the Secretary of State's powers to intervene to prevent an Assembly Bill being submitted for Royal Assent; renewable energy incentive schemes; and the scope of the Secretary of State's powers to make consequential amendments orders following enactment of this Bill. We also propose a new clause on OFWAT accountability for inclusion in the Bill. In each case we provide a short explanation of the background to and purpose of the amendments; the texts of the amendments; and a draft of a Member's statement that might accompany them. Finally, we provide a text showing how each of the sets of amendments we have proposed would appear on the Statute Book if the amendments were adopted (whereas the new clause would, if agreed, simply be inserted at the appropriate place in the Bill as presented for Royal Assent).

Clause 3

The Bill as currently drafted would restrict the Assembly's legislative competence inappropriately. It would reverse the competence that the current Assembly has under the Government of Wales Act 2006 ("GOWA 2006").

This is because under GOWA 2006 there is provision, in section 108(5), that allows the Assembly to make what might be termed "ancillary" provision. At present, the Assembly has competence to legislate on matters that relate to one or more of the listed subjects in Part 1 of Schedule 7 to GOWA 2006. GOWA 2006 provides that the Assembly also currently has power to make provision about non-devolved matters if to do so is to make a devolved provision effective or to enforce it or if the provision is otherwise consequential or incidental on a devolved provision.

In the detailed consideration of the UK Government's draft Bill published for pre-legislative scrutiny last year the former Secretary of State made it clear that it was not the UK Government's intention to prevent the Assembly from making provision to enforce or to make effective devolved legislation.

However, the Bill before Parliament either seeks to prevent that or makes it unclear as to whether the Assembly will have the same ability as it currently does under GOWA 2006. Under the reserved powers model a provision of an Assembly Act will be outside competence if it relates to a reserved matter in Schedule 7A. There is no express equivalent of section 108(5) of GOWA 2006 in the Bill. A provision that relates to a reserved matter will be outside competence and not law even if the provision in question is confined to making legislation effective or to enforce it.

There is provision in paragraph 2 of Schedule 7B that provides for an exception from the prohibition on the Assembly from modifying "the law on" reserved matters. It provides that the additional restriction that prevents the Assembly from modifying the existing "law on" reserved matters is disapplied if the provision in question is for enforcing or making effective etc. a devolved provision. However, that exception in paragraph 2 of Schedule 7B will not be of assistance *if*, at the first hurdle, the Assembly cannot make effectiveness or enforcement provision because it relates to a reserved matter in Schedule 7A and is therefore outside competence.

Section 108(5) of GOWA 2006 was included because GOWA 2006 preserved the single legal jurisdiction of England and Wales and, therefore, preserved the concept that there is one body of law in that jurisdiction – i.e. the law of *England and Wales*. But GOWA 2006 provided for the Assembly to have power to make laws *applicable* in Wales that were different to the laws *applicable* in England. It was recognised that the Assembly would need ancillary powers to affect non-devolved matters but only to the extent that doing so was to make devolved law in Wales effective, to enforce it or for consequential or incidental reasons. This need still remains under the Wales Bill as the Bill seeks to preserve the single legal jurisdiction and in doing so it seeks to reserve to the centre (i.e. UK Parliament and UK Government) powers over matters

that the UK Government regards as central to the maintenance of the single jurisdiction – e.g. the courts, civil and criminal proceedings. There will be a need for the Assembly to make *ancillary* provision in those areas of law and justice that the UK Government by this Bill seeks to reserve to the centre otherwise the Assembly may not have the power it will need and which it will be appropriate for it to have to make its devolved laws fully effective or to ensure that they are enforced.

There is no need in Scotland for the Scottish Parliament to have an ancillary power such as is proposed here for the Assembly because Scotland is a separate legal jurisdiction with its own courts system. The same is now true under the Northern Ireland settlement. Wales in this regard is the odd nation out. Without even a **mere** ancillary power as is being sought by this amendment the Assembly's powers will be unduly fettered whereas the powers of the Scottish Parliament and the Northern Ireland Assembly are not.

Schedule 1: Reservations proposed for deletion from the Bill

Clause 3 introduces Schedules 1 and 2 into the Bill; if these are agreed (in whatever final form), they will become Schedules 7A and 7B of the Government of Wales Act 2006 (the 2006 Act"). The two Schedules set out reservations from and restrictions on the Assembly's legislative competence. The Welsh Government has a number of concerns about the detail of these Schedules, but given the time available to the Committee to consider them, we have proposed amendments (most of which would lead to particular ones being omitted from the Bill) to a few of the most important reservations.

- (i) Crime, public order, policing and anti-social behaviour (Reservations 37-41)

Consistent with the recommendations of the Silk Commission, the Welsh Government is proposing amendments that would omit reservations 37-40 and so devolve responsibility for Policing to the National Assembly. The lack of a strong Welsh policy perspective means that the priorities determined for policing for the whole of England and Wales under current arrangements cannot properly reflect distinctive Welsh circumstances. Furthermore, Policing is the only major public service not currently the responsibility of the devolved institutions in Wales, and this anomalous position means that the advantages of collaboration with the other "blue light services" (which has been strongly advocated in current government policy for England), as well as with other relevant public services, is made significantly more difficult. Evidence to Silk argued that devolution would create a better alignment between policies for tackling crime and its causes; would bring accountability for policy and funding into alignment; and would facilitate policing policies better attuned to the circumstances of Wales.

It is important however to understand what the Welsh Government's amendments would, and would not, lead to. Responsibility for counter-terrorism activity would not be devolved, as it would continue to be reserved by virtue of reservation 31. And the Assembly would only be able to legislate in respect of bodies such as the National Crime Agency and the British Transport Police with UK Ministers' consent, because these are "public authorities" within the meaning of paragraph 8 of the proposed new Schedule 7B, which will place restrictions on the Assembly's powers in respect of such bodies. So, and reflecting the Silk recommendation, what is envisaged is the devolution of responsibilities for predominantly local policing. This is consistent with other aspects of the Bill, which will give the Assembly significantly greater powers in respect of criminal law in Wales. But such devolution would also enable police services in Wales to work more closely alongside the other devolved public services, with greater opportunities to secure improved community safety and crime prevention.

We are also proposing an amendment to reservation 41, relating to Anti-Social Behaviour. As drafted, the Bill would represent a significant reduction on the Assembly's existing powers in this area, and our amendment would if accepted more closely reflect the current settlement.

(ii) Sale and supply of alcohol, and late night refreshment (Reservations 55-56)

The Welsh Government proposes the deletion of these Reservations.

Alcohol misuse is a major cause of preventable death and illness in Wales; it can lead to a number of health and social harms, particularly for a significant minority of people who drink to excess. Given these impacts and the direct link with devolved responsibilities for public health and the NHS, there is a pressing need to tackle alcohol misuse and the Assembly and Welsh Government must have the full range of tools at their disposal. Policies that control the way in which alcohol is sold and supplied are widely acknowledged to be amongst the most effective mechanisms for tackling alcohol related harms.

Regulating the availability of alcohol is an important way to reduce the harmful use of alcohol, particularly in tackling easy access to alcohol by vulnerable and high-risk groups. Licensing controls are an essential tool which must form part of the Welsh Government's strategy to tackle alcohol related harm.

These reservations place unnecessary and inappropriate constraints on action to tackle alcohol availability in Wales. Having the necessary powers would enable the Assembly and Welsh Government to take effective action to tackle alcohol related harms in Wales. These powers are devolved in Scotland and Northern Ireland and should equally be devolved in the case of Wales.

(iii) Water and Sewerage (Reservations 90-91)

The Welsh Government is seeking full devolution of water and sewerage to be aligned with the geographical boundary with England, as set out in the Silk Report and the UK Government's St David's Day Command Paper. A Joint Governments Water and Sewerage Devolution Programme Board was set up following the St David's Day paper to consider the alignment of legislative competence with the national border. The Programme focussed on any impact on consumers, and engaged with the regulator, consumer representatives, the water companies and both Governments. The work of the Programme has now concluded and the evidence confirms that these changes can be achieved with minimal impact on the consumers of water and sewerage services.

The Welsh Government amendment removes all reservations for water and sewerage and will align legislative competence with the national border.

(iv) Reserved Trust Ports (Reservation 119)

The Welsh Government proposes the deletion of this reservation.

The Welsh Government is seeking devolution of all trust ports, as set out in the Silk Report and the St David's Day Command paper. We do not accept the rationale for reserving Milford Haven, as set out in detail below. As currently drafted, reservation 119, also reserves "harbours not wholly in Wales", thereby excluding cross border harbours from the legislative competence of the National Assembly for Wales.

The reservation of cross border harbours is not acceptable to the Welsh Government, and if sufficient time for consideration had allowed, we would have preferred to table all of the required amendments at the committee stage. Accordingly, the amendment presented does not address this part of the reservation or relevant clauses. We intend to return to cross border harbours as part of the on-going dialogue between the Welsh Government and UK Government.

(v) Employment and Industrial Relations (Reservation 139)

The Welsh Government proposes an exception to this Reservation.

The devolved public service workforce (comprising those working in Wales public authorities or engaged in public services contracted out or otherwise procured by such authorities) is intrinsically inseparable from the services and functions of those authorities. The workforce is the main means by which authorities carry out their functions and provide services to the public. There is a well recognised link between good employment practices and industrial relations within authorities (and contractors) and the quality of the public services they provide to the public.

This amendment is therefore designed to ensure that the general reservation on employment and industrial relations does not undermine the Assembly's ability to legislate in respect of devolved public services and the devolved public service workforce. Without it, the general reservation potentially restricts our ability to legislate on these areas, which are core to the overall devolution settlement. The amendment would not undermine the shared framework and protections in respect of employment and industrial relations spanning the private and public sectors across the UK, but would allow the Assembly to augment these where appropriate to support the effective delivery of devolved public services.

(vi) Teachers' Pay and Conditions (Reservation 195)

The Welsh Government proposes that this reservation be deleted.

Education has been a devolved matter since the establishment of the Assembly, and this exception is an anomaly in comparison to the other devolution settlements, as confirmed by the Silk Commission. Teachers' pay and conditions are an integral part of the school system and closely interrelated to the devolved education function. Maintaining this reservation, and Minister of the Crown function, when the two education systems in England and Wales are diverging year on year makes it more difficult for the Welsh Government to deliver Welsh priorities, with the 'national' pay systems and structures set up to support a different employment model.

The UK Government's academisation programme, for example, does not require the same statutory compliance with the School Teachers' Pay & Conditions Document (STPCD) that is required for all maintained schools in Wales. Additionally, the freedom not to comply with the same professional registration standards to work in academies in England (i.e. Qualified Teacher Status - QTS) that does not operate in Welsh maintained schools, means that the School Teachers Review Body (STRB) report every year tends to reflect a different educational context. The relevance of the current process, driven by the fact that the Secretary of State's remit to the STRB does not reflect Welsh issues, is diminishing in relation to Wales.

The responsibility should transfer to Welsh Ministers to enable an effective workforce strategy that reflects the needs of Welsh schools. The transfer of functions should be accompanied by sufficient resources for the Welsh Government to fulfil its responsibilities, in accordance with inter-governmental principles.

Reserved Trust Ports

The Bill as drafted would enable the Assembly to legislate on ports and harbours and also transfers additional executive functions in respect of these from the Secretary of State to the Welsh Ministers. This is welcome and in line with recommendations of the Silk Commission, but the Bill also creates a specific category of “reserved trust ports”, about which the Assembly could not legislate and in respect of which the Welsh Ministers could not exercise any powers. The Wales Bill defines “reserved trust ports” in a way which means that only Milford Haven will be such a port.

The Welsh Government does not agree that Milford Haven should be reserved in this way. Silk made no recommendations to reserve any trust ports, and neither did the St David’s Day Command Paper. The Secretary of State was clear when giving evidence on the draft Bill to the Welsh Affairs Committee that the purpose of the clause was to reserve Milford Haven specifically due to its status as a strategic energy port, but the UK Government declined to cite energy security as a policy driver for investment in Milford Haven to support the sale of the Murco refinery in 2014. Aberdeen trust port could equally be seen as a strategic energy port, given the importance of North Sea oil to the UK, yet it was devolved to the Scottish Government.

The Welsh Government’s proposed amendments would therefore remove the concept of a “reserved trust port” from the Bill, so enabling the Assembly to have legislative competence in respect of all trust ports in Wales, including Milford Haven, as recommended by Silk; and Welsh Ministers’ powers would by virtue of these amendments extend to Milford Haven as they will to other harbours and ports in Wales.

Secretary of State’s Intervention Powers (cl.44)

Cl. 44 of the Bill would amend section 114 of the 2006 Act by adding to the grounds on which the Secretary of State can intervene to prevent the Presiding Officer from submitting an Assembly Bill for Royal Assent. Section 114 currently allows such intervention, inter alia, if the Secretary of State has reasonable grounds to believe that the Bill contains provisions which might have serious adverse impact on water resources, supply or quality in England; the Wales Bill adds to this by allowing intervention if the Bill might have serious adverse impact on sewerage services or systems in England.

Cl.44 of the Bill would also amend section 152 of the 2006 Act by adding to the grounds on which the Secretary of State can intervene where the Welsh Ministers exercise or do not exercise powers that might have serious adverse impact on water resources, supply or quality in England; the Wales Bill adds to this by allowing intervention where those powers might have serious adverse impact on sewerage services or systems in England.

In the Welsh Government's view the intervention power in respect of water should be replaced by a Memorandum of Understanding between the Welsh and UK Governments on how cross-border water issues should be managed. This was also the view of the Silk Commission, which recommended that "a formal intergovernmental protocol should be established in relation to cross-border [water] issues; and the Secretary of State's existing legislative and executive powers of intervention in relation to water should be removed in favour of mechanisms under the inter-governmental protocol".

It follows that the Welsh Government is opposed to the proposed extension by cl.44 of these intervention powers to sewerage, and also seeks to amend s.114 and s.152 of the 2006 Act to remove these intervention powers in relation to water. Our proposed amendments achieve both of those objectives.

Renewable Energy Incentive Schemes (cl.46)

Clause 46 would create a duty on the Secretary of State to consult Welsh Ministers before establishing or amending a renewable energy incentive scheme in Wales. A renewable energy incentive scheme is defined in cl.46(4) and includes Renewable Heat Incentive, Renewables Obligation, Feed in Tariff and Contracts for Difference(CfDs) "Strike Price". However, as drafted, the clause excludes the requirement for the Secretary of State to consult in relation to the creation of a levy to fund an incentive scheme.

The Welsh Government's amendments address two issues. First, we have a concern that the obligation merely to consult is insufficient in respect of this important matter. The Energy Act 2013 provides that the Secretary of State must consult the Welsh Ministers before making regulations in relation to Contracts for Difference, and also consult interested parties before issuing a Renewables Obligation closure order. However when the UK Government announced early closure of the RO scheme for onshore wind in 2015, there was no prior consultation with the Welsh Ministers; officials were given no early notification and only informed on the day of the announcement.

So we think it essential that the requirement is put on a firmer and clearer footing as part of establishing an appropriate devolution settlement for energy. The proposed amendment therefore provides that the Welsh Ministers' agreement must be sought to in relation to renewable energy incentive schemes in Wales either proposed or (in the case of existing schemes) proposed for amendment. We further propose the omission of cl. 46(3), which inappropriately limits the scope of the responsibility of the Secretary of State to engage constructively with the Welsh Ministers; we see no reason (and none is offered in the Explanatory Notes accompanying the Bill) why that engagement should not extend to consideration of matters relating to levies to fund renewable energy incentive schemes.

Secretary of State's order-making powers (cl.51)

Clause 51 of the Bill would provide the Secretary of State with order-making powers to make consequential provision following the enactment of the Wales Bill; this includes powers to amend, repeal, revoke or otherwise modify primary or secondary legislation as he considers appropriate. Affirmative procedure in both Houses of Parliament is provided for where amendment or repeal of primary legislation is envisaged in any such order (cl.51(6)), and primary legislation includes an Assembly Measure or Act (cl.51 (8)(b)), as well as Acts of Parliament. There is however no provision for Assembly approval of a draft order which would repeal or modify Assembly legislation. Furthermore, as the Bill is drafted, the Secretary of State could propose orders making modifications of the Acts of Parliament underpinning the Welsh devolution settlement without requiring the Assembly's consent (although Parliamentary consent would be needed), even though, if such modifications were contained in a Parliamentary Bill, the Assembly's consent would be required.

In the Welsh Government's view, that is wrong in principle. If the Secretary of State wishes to take powers by order to make amendments, up to and including repeal, to Assembly legislation, that should only be possible with the consent of the Assembly. And if orders are proposed which would make changes to the Parliamentary legislation establishing the Welsh devolution settlement, they too should require Assembly consent before they can be made. The amendments the Welsh Government has proposed would give effect to these important principles of respect for the devolved institutions.

New Clause, OFWAT accountability

The Welsh Government is seeking full devolution for water and sewerage and for that competence to be aligned with the national border. The Welsh Government's view is that Ofwat, the economic regulator, should be fully accountable to the National Assembly for Wales in respect of the functions it exercises in relation to Wales, especially as legislative competence in respect of water and sewerage will be fully devolved.

CI 50A(2) makes amendments to section 192B of the Water Industry Act 1991 to make it a requirement for Ofwat to produce a report to the Welsh Ministers and for that report to be laid before the National Assembly for Wales.

CI 50A(3) makes amendments to Schedule 1A of the Water Industry Act 1991. These amendments will require the appointment of Board member to be a joint appointment between the Secretary of State and the Welsh Ministers. The appointment process as set out in Schedule 1A will all be exercised jointly and these amendments seek to reflect the new arrangement that the Welsh Government

considers necessary as a consequence of full legislative competence for water and sewerage.

CI 50A(1) makes amendments to section 27 of the Water Industry Act 1991 to require the Secretary of State to seek the consent of the Welsh Ministers before giving general directions to Ofwat in respect of matters where functions are exercised by water and sewerage undertakers wholly or mainly in Wales or where licensed activities are carried out using the supply the system of a water or sewerage undertaker wholly or mainly in Wales. It is the Welsh Government's view that these changes are necessary so that Ofwat is fully accountable to the National Assembly for Wales and Welsh Ministers for those functions exercisable in relation to Wales.

**THE WELSH GOVERNMENT'S PROPOSED AMENDMENTS TO THE WALES BILL
(COMMITTEE STAGE, HOUSE OF COMMONS, DAY 2)**

1

- 5 Clause 3, page 2, line 28, after “7A)” insert “and is not ancillary to another provision (whether in the Act or another enactment) that does not relate to a reserved matter”

Member's explanatory statement

10 Clause 3 establishes the legislative competence of the National Assembly for Wales. This amendment makes clear that the Assembly has power to make provision touching upon reserved matters for the purpose of enforcing provisions in Assembly Acts that do not relate to reserved matters or otherwise making them effective.

2

- 15 Schedule 1, page 42, line 26, leave out sub-paragraphs (2) and (3)

Member's explanatory statement

20 This amendment is connected with amendment 1. Schedule 1 inserts a new Schedule 7A into the Government of Wales Act 2006 setting out the reserved matters that are to be outside the legislative competence of the Assembly. Paragraph 6 reserves courts, tribunals, civil and criminal procedure and other matters connected with the jurisdiction of England and Wales. Sub-paragraphs (2) and (3) create an exception for ancillary provision that would otherwise be caught by the reservation at paragraph 6(1)(a). It may be inferred from this that ancillary provision touching on the matters in paragraphs (b) to (f) would be outside competence. This amendment
25 seeks to allow such ancillary provision by removing the narrow exception in paragraph 6(2) and the related definition in paragraph 6(3), so that reliance can be placed on the general power to make ancillary provision made clear by the amendment to clause 3 proposed by amendment 1.

3

- 30 Schedule 2, page 77, line 17, at end insert –

“1A Paragraph 1 does not apply to a modification that is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters if it is a modification of the law on reserved matters in paragraph 6 or 7 of
35 Schedule 7A.”

Member's explanatory statement

40 Schedule 2 inserts a new Schedule 7B into the Government of Wales Act 2006 setting out restrictions on the Assembly's legislative competence. Paragraph 1(1) of that Schedule would prevent the Assembly from modifying the law on reserved matters, even if the provision in question were merely ancillary, but necessary or desirable for the purpose of enforcing a provision within competence. Paragraph 2(1) provides an exception for ancillary provision subject to a necessity test. Paragraphs 1 and 2 would remove part of the Assembly's current competence to make justice related ancillary provision and would expose provisions that remain on the
45 borderline of competence to the risk of legal challenge on the grounds that they have a greater effect on justice matters than was necessary to give effect to a related provision within competence.

5 This amendment provides an exception for ancillary provision about certain justice matters that is not subject to a necessity test. The intention is to ensure that the Assembly continues to enjoy the legislative competence it currently has to make provision about justice matters for the purpose of enforcing its legislation on subject matter that is not reserved and otherwise giving effect to such legislation.

4

Schedule 2, page 77, line 18, leave out “a” and insert “any other”

10 ***Member’s explanatory statement***

This amendment is consequential upon amendment 3.

15

5

Schedule 1, page 47, line 32, leave out from beginning to end of line 6 on page 48

Member’s explanatory statement

20 Section B5 of the proposed Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 reserved a number of matters related to the prevention, investigation and detection of crime and the maintenance of public order, including policing. This amendment omits the reservations.

6

25 Schedule 4, page 93, line 15, at end insert –

“A constable.”

Member’s explanatory statement

30 This amendment and amendments 7 and 8 are a consequence of amendment 5. They insert a number of offices relating to policing into the the list of “Wales public authorities” in the new Schedule 9A to be inserted into the Government of Wales Act 2006 by Schedule 4.

7

Schedule 4, page 93, line 39, at end insert –

35 “Her Majesty’s Inspectors of Constabulary.”

Member’s explanatory statement

See statement for amendment 6.

40

8

Schedule 4, page 94, line 23, at end insert –

“A police officer, other than a constable, in a force for a police area in Wales.

A police and crime commissioner for a police area in Wales.”

45 ***Member’s explanatory statement***

See statement for amendment 6.

9

5 Schedule 1, page 48, line 9, leave out “The subject-matter of Parts 1 to 6” and insert “Anti-social behaviour injunctions under Part 1”

Member’s explanatory statement

10 Paragraph 41 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 would reserve the subject-matter of Parts 1 to 6 of the Anti-Social Behaviour, Crime and Policing Act 2014 from the Assembly’s legislative competence. This would reserve matters currently within the legislative competence of the Assembly, like anti-social behaviour matters related to housing or nuisance. This amendment is intended to narrow the reservation to the system of anti-social behaviour injunctions provided for by Part 1 of the 2014 Act.

15

10

Schedule 1, page 49, leave out lines 24 to 29

Member’s explanatory statement

20 Paragraph 55 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 would reserve the licensing of the provision of entertainment and late night refreshment from the Assembly’s legislative competence. Paragraph 56 would reserve the sale and supply of alcohol. This amendment removes both reservations.

25

11

Schedule 1, page 55, leave out lines 5 to 23

Member’s explanatory statement

30 Section C15 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 would reserve certain water and sewerage matters from the Assembly’s legislative competence. This amendment removes the reservations in Section C15.

12

Schedule 1, page 64, line 44, at end insert—

35 “Terms and conditions of employment and industrial relations in Wales public authorities and services contracted out or otherwise procured by such authorities.”

Member’s explanatory statement

40 Section H1 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 would reserve employment rights and duties and industrial relations from Assembly’s legislative competence. This amendment provides an exception to ensure that the Assembly retains its legislative competence over terms and conditions of service for employees in devolved public services and industrial relations in such services.

45

13

Schedule 1, page 74, leave out lines 11 to 17

Member's explanatory statement

Section N9 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by Schedule 1 would reserve school teachers' pay and conditions. While the main executive functions of the Secretary of State to set teachers' pay and conditions are not currently devolved to the Welsh Ministers, the Assembly does have legislative competence over teachers' pay and conditions, subject to the need to obtain the consent of the Secretary of State for the removal or modification of the Secretary of State's functions on this topic. This amendment removes the reservations in Section N9.

14

Clause 44, page 34, line 38, leave out from "(1)," to end of line 40 and insert "omit paragraph (b)."

Member's explanatory statement

Section 114 of the Government of Wales Act 2006 provides the Secretary of State with a power to block an Assembly Bill if the Secretary of State has grounds to believe that it contains provisions that would have a serious adverse impact on water resources, water supply or water quality in England. Clause 44(1) of the Bill extends this power to cover sewerage services and systems in England. This amendment removes both the extension of the power in section 114 that would be introduced by clause 44(1) and the power in section 114 of the Government of Wales Act 2006 to block Assembly Bills in respect of water matters.

15

Clause 44, page 34, line 41, leave out subsection (2) and insert –

"() Omit section 152 of the Government of Wales Act 2006 (intervention in case of functions relating to water etc)."

Member's explanatory statement

Section 152 of the Government of Wales Act 2006 provides the Secretary of State with a power to intervene where it appears to the Secretary of State in a particular case that the exercise of (or failure to exercise) a devolved function might have an adverse impact on water resources, water supply or water quality in England. Clause 44(2) of the Bill extends this power to cover sewerage services and systems in England. This amendment removes both the extension of the power in section 152 that would be introduced by clause 44(2) and the power in section 152 of the Government of Wales Act 2006 to intervene in the exercise of devolved functions in respect of water matters.

16

To insert a new clause –

" Water Services Regulation Authority

(1) In section 27 of the Water Industry Act 1991 (general duty of the authority to keep matters under review) –

(a) in subsection (3), after "may" insert "subject to subsection (3A),";

(b) after subsection (3), insert –

“(3A) The Secretary of State must obtain the consent of the Welsh Ministers before giving general directions under subsection (3) connected with—

- (a) matters in relation to which functions are exercised by water or sewage undertakers whose area is wholly or mainly in Wales,
- (b) licensed activities carried out by water supply licensees that use the supply system of a water undertaker whose area is wholly or mainly in Wales, or
- (c) licensed activities carried on by sewerage licensees that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.”;

(c) in subsection (4), in both places where it appears, after “Secretary or State” insert “, the Welsh Ministers”.

(2) In section 192B of the Water Industry Act 1991 (annual and other reports)—

- (a) in subsection (1), after “Secretary of State” insert “and the Welsh Ministers”;
- (b) in subsection (2)(d), for “as the Assembly” substitute “,or activities in Wales, as the Welsh Ministers”;
- (c) in subsection (4), for “Assembly” substitute “Welsh Ministers”;
- (d) after subsection (5) insert—

“(5A) The Welsh Ministers shall—

- (a) lay a copy of each annual report before the Assembly; and
- (b) arrange for the report to be published in such manner as they consider appropriate.”;

(e) in subsection (7), omit “the Assembly,”.

(3) In Schedule 1A to the Water Industry Act 1991 (the Water Services Regulation Authority)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (1), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
 - (ii) in sub-paragraph (2), omit paragraph (a);
- (b) in paragraph 2(2), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
- (c) in paragraph 3—
 - (i) in sub-paragraph (2), paragraph (a), after “Secretary of State” insert “and the Welsh Ministers”;
 - (ii) in sub-paragraph (2), paragraph (b), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
 - (iii) omit sub-paragraph (3);
- (d) in paragraph 4—

- (i) in sub-paragraph (1) and (2), in each place where it appears, after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
- (ii) in sub-paragraph (3), for “determines” substitute “and the Welsh Ministers acting jointly determine” and at the end insert “and the Welsh Ministers acting jointly”;
- (e) in paragraph 9(3)(b), for “Assembly” substitute “Welsh Ministers”.

Member’s explanatory statement

This clause would amend the Water Industry Act 1991 to confer functions relating to the Water Services Regulation Authority (OFWAT) (which exercises functions in England and Wales) onto the Welsh Ministers and it would adjust the functions of the Secretary of State to better reflect the current devolution of water matters to Wales.

17

Schedule 2, page 82, line 44, at end insert—

- “() Paragraph 8(1)(a) and (c) does not apply in relation to the Water Services Regulation Authority.”

Member’s explanatory statement

Paragraph 8(1)(c) of the new Schedule 7B to the Government of Wales Act 2006 to be inserted by Schedule 2 to the Bill would prevent the Assembly from legislating to confer, impose, modify or remove functions specifically exercisable in relation to public authorities. Paragraph 9 of Schedule 7B provides for exceptions. This amendment would extend the existing exception for the Water Services Regulation Authority to include the matters that would otherwise be outside competence by virtue of paragraph 8(1)(c) of Schedule 7B.

18

Schedule 2, page 82, line 30, leave out paragraph (c)

Member’s explanatory statement

This amendment is consequential upon amendment 17.

19

Schedule 2, page 83, line 42, leave out paragraph (c)

Member’s explanatory statement

Paragraph 11(1)(c) of the new Schedule 7B to the Government of Wales Act 2006 to be inserted by Schedule 2 to the Bill would prevent the Assembly from legislating to remove or modify functions of a Minister of the Crown exercisable in relation to water and sewerage matters (including control of pollution) and matters relating to land drainage, flood risk management and coastal protection. This amendment removes the restriction.

20

Clause 46, page 35, line 33, leave out “consult” and insert “obtain the consent of”

Member’s explanatory statement

Clause 46 would require the Secretary of State to consult the Welsh Ministers before establishing or amending a renewable energy scheme as it relates to Wales. This amendment would require the Secretary of State to obtain the consent of the Welsh Ministers instead.

5 Clause 46, page 36, line 17, leave out subsection (2) 21

Member's explanatory statement

10 This amendment is consequential upon amendment 20 22

Clause 46, page 36, leave out lines 1 to 3

Member's explanatory statement

15 New section 148A(3) of the Government of Wales Act 2006 (as inserted by Clause 46) provides an exception to the consultation requirement for renewable energy schemes in respect of any levy in connection with such a scheme. This amendment is partly consequential upon amendment 19, but it would also mean that there would be a requirement for the Secretary of State to obtain the consent of the Welsh Ministers for any levy in connection with a renewable energy scheme as it relates to Wales. 20

23

Clause 28, page 23, line 32, leave out “, other than harbours that are reserved trust ports”

25 *Member's explanatory statement*

Clause 28 would transfer to the Welsh Ministers the Minister of the Crown harbours functions not already transferred to the Welsh Ministers, except functions relating to “reserved trust ports” (which are defined in clause 31). The only port in Wales that currently would fall within the definition is Milford Haven in Pembrokeshire. This amendment would remove the exception for reserved trust ports. 30

24

Clause 28, page 23, line 38, leave out subsection (4)

35 *Member's explanatory statement*

Clause 28(4) provides an exception to the general transfer of functions by clause 28 so that where a function relates to two or more harbours the function is transferred only to the extent that both or all of the harbours to which it relates are wholly in Wales and are not reserved trust ports. This amendment is partly consequential upon amendment 22, but it would also ensure that the Welsh Ministers retain functions where one harbour is in Wales and the other is not. 40

25

Clause 28, page 24, leave out line 6

45 *Member's explanatory statement*

This amendment is consequential upon amendment 23.

- 26
- Clause 29, page 24, line 13, leave out “, other than a reserved trust port,”
- Member’s explanatory statement*
 5 This amendment is consequential upon amendment 23.
- 27
- Clause 29, page 24, line 17, leave out “, other than reserved trust ports”
- 10 *Member’s explanatory statement*
 This amendment is consequential upon amendment 23.
- 28
- 15 Clause 29, page 24, line 21, leave out “or a reserved trust port”
- Member’s explanatory statement*
 This amendment is consequential upon amendment 23.
- 29
- 20 Clause 29, page 24, line 25, leave out “other than a reserved trust port”
- Member’s explanatory statement*
 This amendment is consequential upon amendment 23.
- 25
- 30
- Clause 29, page 24, line 26, leave out subsection (5)
- Member’s explanatory statement*
 This amendment is consequential upon amendment 22.
- 30
- 31
- Clause 29, page 24, line 31, leave out “other than a reserved trust port”
- Member’s explanatory statement*
 35 This amendment is consequential upon amendment 23.
- 32
- Clause 32, page 25, leave out lines 34 to 39 and insert –
- 40 ““(a) will be wholly or partly in England or in waters adjacent to
 England up to the seaward limits of the territorial sea, and”.”
- Member’s explanatory statement*
 This amendment is consequential upon amendment 23.
- 45
- 33
- Clause 32, page 25, line 41, leave out from beginning to end of line 3 on page 26 and insert –

“(a) the harbour facilities are wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, and”.

- 5 ***Member’s explanatory statement***
This amendment is consequential upon amendment 23.
- 34
- 10 Clause 32, page 26, line 4, leave out subsection (4)
- Member’s explanatory statement***
This amendment is consequential upon amendment 23.
- 15 Schedule 1, page 59, line 21, leave out “Reserved trust ports and harbours” and insert “Harbours”
- 35
- Member’s explanatory statement***
Section E3 of the new Schedule 7A to be inserted into the Government of Wales Act 2006 by
20 Schedule 1 would reserve certain marine and waterway transport matters from the Assembly’s legislative competence. Paragraph 119 in that Section would reserve trust ports. This amendment removes this reservation.
- 36
- 25 Schedule 1, page 59, line 28, leave out “, reserved trust ports or”
- Member’s explanatory statement***
This amendment is consequential upon amendment 35
- 30 Schedule 1, page 59, line 37, leave out “that is not a reserved trust port”
- 37
- Member’s explanatory statement***
This amendment is consequential upon amendment 35
- 35 Schedule 1, page 60, leave out lines 4 and 5
- 38
- Member’s explanatory statement***
This amendment is consequential upon amendment 35
- 40 Page 25, leave out clause 31¹.
- 39
- 45 ***Member’s explanatory statement***
- 1 ¹ This amendment is not likely to be selected because there will be a vote in any event to decide whether or not the clause should stand as part of the Bill. It is included here to give a complete picture of the intended amendments and the reasons for them.

This amendment is consequential upon amendments 23 and 35

40

5 Clause 51, page 39, line 2, at end insert –

10 “() If a statutory instrument containing regulations under subsection (2) includes provision within devolved competence or provision modifying a devolution enactment, the Secretary of State must send a copy of the instrument or, if subsection (7A) applies, a draft of the instrument to the First Minister for Wales and the First Minister must lay it before the Assembly.”

Member’s explanatory statement

15 Clause 51 of the Bill introduces the minor and consequential amendments in Schedule 5 to the Bill and provides a power for the Secretary of State to make further consequential provision by regulations in connection with the Bill. This includes a power to amend Assembly Acts and Measures, which are usually enacted in Welsh and English with each language text having an equal legal status. This amendment and amendments 41, 42 and 43 are intended to apply appropriate Assembly procedures to regulations which make provision within the Assembly’s competence or which adjust the Welsh devolution settlement by modifying the Government of Wales Act 2006 or the Wales Act 2014. The amendments provide for regulations containing provisions of this kind that amend primary legislation to be subject to an affirmative Assembly procedure. And they provide for regulations containing provisions of the same kind which modify subordinate legislation to be subject to a negative Assembly procedure.

25

41

Clause 51, page 39, line 6, at the end insert –

30 “(7A) A statutory instrument containing regulations under subsection (2) that includes –
 (a) provision within devolved competence modifying any provision of primary legislation, or
 (b) provision modifying any devolution enactment in primary legislation,
 35 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Assembly.”

Member’s explanatory statement

See the statement for amendment 40.

42

40 Clause 51, page 39, line 9, leave out from “ Parliament” to end of line 10 and insert “or the Assembly, is subject to annulment in pursuance of a resolution of –

- (a) either House of Parliament, and
- (b) if it includes provision that would be within devolved competence or provision modifying a devolution enactment, the Assembly.”

Member's explanatory statement

See the statement for amendment 40.

43

5 Clause 51, page 39, line 2, at end insert—

“() In this section “devolution enactment” means a provision contained in—

(a) the Government of Wales Act 2006 or an instrument made under or having effect by virtue of that Act;

10 (b) the Wales Act 2014 or an instrument made under or having effect by virtue of that Act.

() For the purposes of this section—

(a) “modifying” includes amending, repealing and revoking;

15 (b) “within devolved competence” is to be read in accordance with subsections (7) and (8) of section 17, but no account is to be taken of the requirement to consult the appropriate Minister in paragraph 11(2) of Schedule 7B.”

Member's explanatory statement

20 See the statement for amendment 40.

THE WELSH GOVERNMENT'S PROPOSED AMENDMENTS TO THE WALES BILL
AS TRACKED CHANGES TO PROVISIONS OF THE BILL

(COMMITTEE STAGE, HOUSE OF COMMONS, DAY 2)

5 | 3 | **Legislative competence**

(1) For section 108 of the Government of Wales Act 2006 (legislative competence) substitute

—

“108A Legislative competence

- 10 (1) An Act of the Assembly is not law so far as any provision of the Act is outside the Assembly's legislative competence.
- (2) A provision is outside that competence so far as any of the following paragraphs apply —
- 15 (a) it extends otherwise than only to England and Wales;
- (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales;
- 20 (c) it relates to reserved matters (see Schedule 7A) **and is not ancillary to another provision (whether in the Act or another enactment) that does not relate to a reserved matter;**
- (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions;
- (e) it is incompatible with the Convention rights or with EU law.
- 25 (3) But subsection (2)(b) does not apply to a provision that —
- (a) is ancillary to a provision of any Act of the Assembly or Assembly Measure or to a devolved provision of an Act of Parliament, and
- 30 (b) has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision.
- 35 (4) For this purpose, a provision of an Act of Parliament is “devolved” if it would be within the Assembly's legislative competence if it were contained in an Act of the Assembly (ignoring paragraphs 8 to 11 of Schedule 7B).

(5) In determining what is necessary for the purposes of subsection (3), any power to make laws other than that of the Assembly is disregarded.

(6) The question whether a provision of an Act of the Assembly relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

(7) For the purposes of this Act a provision is ancillary to another provision if it—

(a) provides for the enforcement of the other provision or is otherwise appropriate for making that provision effective, or

(b) is otherwise incidental to, or consequential on, that provision.”

(2) For Schedule 7 to that Act (Acts of the Assembly) substitute—

(a) the Schedule 7A set out in Schedule 1 to this Act, and

(b) the Schedule 7B set out in Schedule 2 to this Act.

Harbours

28 Transfer of executive functions in relation to Welsh harbours

(1) The functions mentioned in subsection (2) are (so far as not already transferred under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)) transferred to the Welsh Ministers.

(2) The functions are functions exercisable by a Minister of the Crown under or by virtue of—

(a) section 21 of the Sea Fish Industry Act 1951 (fishery harbours);

(b) the following provisions of the Harbours Act 1964—

(i) sections 11 and 43(1) (loans for harbour works);

(ii) sections 14 to 17 and Schedule 3 (harbour revision orders, harbour authority appointment orders and harbour empowerment orders);

(iii) section 18 and Schedule 4 (harbour reorganisation schemes);

(iv) section 19 (compensation for loss of office etc in consequence of harbour orders and schemes);

(v) sections 30 and 31 (harbour charges and dues);

(vi) section 39(4) (extension of order-making power under section 21(8) of the Sea Fish Industry Act 1951);

(vii) sections 41 and 42 (provision of information, accounts etc);

(viii) section 60 (power to amend local Acts);

(c) the following provisions of the Docks and Harbours Act 1966—

(i) section 36 (provision of inland clearance depots);

(ii) sections 42 and 43 (further provision about harbour reorganisation schemes);

- (d) section 5(2) of the Ports (Finance) Act 1985 (orders amending local Acts etc);
- (e) the following provisions of the Pilotage Act 1987 –
- (i) section 1 (orders about competent harbour authorities);
 - (ii) section 8(3) (directions about pilotage exemption certificates);
 - (iii) section 10(6) (appeals in respect of pilotage charges);
 - (iv) section 12 (information and directions as to joint arrangements);
 - (v) section 13 (resolution of disputes between harbour authorities);
 - (vi) paragraph 4 of Schedule A1 (appeals in relation to decisions on authorisation of EEA pilots);
- (f) Part 1 of the Ports Act 1991, other than section 11(8);
- (g) any provision contained in a local Act (including an Act confirming a provisional order);

so far as exercisable in relation to harbours that are wholly in Wales, ~~other than harbours that are reserved trust ports.~~

- (3) In determining for the purposes of subsection (2)(b) whether a function is exercisable by a Minister of the Crown under or by virtue of a provision of the Harbours Act 1964, any order made under section 42A of that Act (delegation of functions) is to be ignored.

~~(4) Where a function mentioned in subsection (2) relates to two or more harbours, that function is transferred to the Welsh Ministers only to the extent that both or all of the harbours to which it relates are wholly in Wales and are not reserved trust ports.~~

- (5) This section does not operate to transfer to the Welsh Ministers a function to the extent that, if exercised, it would result in a cross-border harbour being created.

- (6) Sections 33 to 35 make further provision about –

- (a) the exercise of some of the functions transferred by this section and by section 29 in relation to cross-border harbours, and
- (b) the exercise of certain functions relating to pilotage by the Secretary of State in relation to waters in Wales, and by the Welsh Ministers in relation to waters in England.

- (7) In this section –

“cross-border harbour” has the meaning given in section 33;

~~“reserved trust port” has the meaning given in section 31;~~

“Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act).

29 Transfer of executive functions: amendments of the Harbours Act 1964

- (1) The Harbours Act 1964 is amended as follows.
- (2) In section 17 (harbour orders: procedure), in subsection (2C), for the words from “fishery” to “National Assembly for Wales” substitute “harbour that is wholly in Wales, ~~other than a reserved trust port,~~ as references to the Welsh Ministers”.
- (3) In section 17E (harbour closure orders: devolution) –

(a) in subsection (1), for “fishery harbours in Wales” substitute “harbours that are wholly in Wales, ~~other than reserved trust ports~~”;

(b) after subsection (1) insert –

“(1A) Before making a closure order that transfers functions to a harbour authority for a harbour that is wholly or partly in England ~~or a reserved trust port~~, the Welsh Ministers must obtain the consent of the Secretary of State.”

(4) In section 40A (directions made by harbour authorities in respect of ships), in subsection (4)(a), for “fishery harbour in Wales” substitute “harbour that is wholly in Wales ~~other than a reserved trust port~~”.

~~(5) In section 57(1) (interpretation), at the appropriate place insert –~~

~~““reserved trust port” has the meaning given in section 31 of the Wales Act 2016;”.~~

(6) (6) In Schedule 3 (procedure for making harbour orders), in paragraph 25(6)(a), for subparagraph (ii) substitute –

“(ii) a harbour that is wholly in Wales ~~other than a reserved trust port, the Welsh Ministers~~”.

31 Reserved trust ports

~~(1) A harbour is a reserved trust port if, on the principal appointed day (within the meaning given by section 53), it is a harbour, dock, pier or boat slip that is owned or managed by a harbour authority that –~~

~~(a) is a relevant port authority within the meaning of Part 1 of the Ports Act 1991 (see section 1(3) of that Act), and (b) meets the annual turnover requirement.~~

~~(2) The annual turnover requirement is the turnover requirement set out in section 11 of the Ports Act 1991.~~

~~(3) Section 11 of that Act, in its application for the purposes of this section, has effect as if for subsection (1) there were substituted –~~

~~“(1) A relevant port authority meet the annual turnover requirement if the annual turnover of the authority’s port undertaking exceeded the turnover limit in the case of at least two of the last three accounting years of the authority for which accounts have been submitted under section 42(5) of the Harbours Act 1964.”~~

32 Development consent

(1) Section 24 of the Planning Act 2008 (development consent for construction or alteration of harbour facilities) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute –

“(a) will be –

~~(i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea,~~
~~or~~

~~(ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and will be, or will form part of, a reserved trust port, and”.~~

(3) In subsection (2), for paragraph (a) substitute—

“(a) the harbour facilities are—

~~(i) wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, or~~

~~(ii) wholly in Wales or in waters adjacent to Wales up to the seaward limits of the territorial sea and are, or form part of, a reserved trust port, and”.~~

~~(4) In subsection (6), after the definition of “container ship” insert—~~

~~““reserved trust port” has the meaning given in section 31 of the Wales Act 2016;”.~~

Miscellaneous

44 ~~Repeal of intervention powers in relation to water matters—etc~~ ~~sewerage services~~ ~~Intervention in case of serious adverse impact on~~¹

(1) In section 114 of the Government of Wales Act 2006 (power to intervene in relation to Assembly Bills), in subsection (1), ~~omit paragraph (b)~~ ~~after paragraph (b) insert—~~

~~“(ba) might have a serious adverse impact on sewerage services in England or sewerage systems in England,”.~~

(2) ~~In~~ ~~Omit~~ section 152 of the Government of Wales Act 2006 (intervention in case of functions relating to water etc)—

~~(a) in subsection (1) omit “or” at the end of paragraph (b) and after paragraph (c) insert—~~

~~“(d) sewerage services in England, or~~

~~(e) sewerage systems in England.”;~~

~~(b) in the heading, after “water” insert “or sewerage”.~~

46 Renewable energy incentive schemes

(1) After section 148 of the Government of Wales Act 2006 insert—

“Consultation with Welsh Ministers

148A Renewable² energy incentive schemes

(1) The Secretary of State must ~~obtain the consent of~~ ~~consult~~ the Welsh Ministers before—

(a) establishing a renewable energy incentive scheme that applies in Wales, or

¹ The heading could be amended as a printing change if the amendments to the section are accepted.

² This typographical error could be amended as a printing change.

(b) amending such a scheme as it relates to Wales.

(2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure.

~~(3) Subsection (1) does not require the Secretary of State to consult the Welsh Ministers about any levy in connection with a renewable energy incentive scheme.~~

(34) In this section a “renewable energy incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity or heat from sources of energy other than fossil fuel or nuclear fuel.

This includes provision made by or under the following so far as they relate to the generation of electricity or heat from sources of energy other than fossil fuel or nuclear fuel—

- (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
- (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for smallscale generation of electricity);
- (c) section 100 of that Act (renewable heat incentives);
- (d) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations).”

~~(2) Where, before the commencement of this section, the Secretary of State has consulted, or is consulting, the Welsh Ministers regarding a renewable energy incentive scheme within the meaning of section 148A of the Government of Wales Act 2006 (inserted by subsection (1) above), that consultation is to be treated as fulfilling the obligation in that section.~~

50A Water Services Regulation Authority

(1) In section 27 of the Water Industry Act 1991 (general duty of the authority to keep matters under review)—

- (a) in subsection (3), after “may” insert “subject to subsection (3A),”;
- (b) after subsection (3), insert—

“(3A) The Secretary of State must obtain the consent of the Welsh Ministers before giving general directions under subsection (3) connected with—

- (a) matters in relation to which functions are exercised by water or sewage undertakers whose area is wholly or mainly in Wales,
- (b) licensed activities carried out by water supply licensees that use the supply system of a water undertaker whose area is wholly or mainly in Wales, or

(c) licensed activities carried on by sewerage licensees that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.”;

(c) in subsection (4), in both places where it appears, after “Secretary or State” insert “, the Welsh Ministers”.

(2) In section 192B of the Water Industry Act 1991 (annual and other reports) –

(a) in subsection (1), after “Secretary of State” insert “and the Welsh Ministers”;

(b) in subsection (2)(d), for “as the Assembly” substitute “or activities in Wales as the Welsh Ministers”;

(c) in subsection (4), for “Assembly” substitute “Welsh Ministers”;

(d) after subsection (5) insert –

“(5A) The Welsh Ministers shall –

(a) lay a copy of each annual report before the Assembly; and

(b) arrange for the report to be published in such manner as they consider appropriate.”

(e) in subsection (7), omit “the Assembly”.

(3) In Schedule 1A to the Water Industry Act 1991 (the Water Services Regulation Authority) –

(a) in paragraph 1 –

(i) in sub-paragraph (1), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;

(ii) in sub-paragraph (2), omit paragraph (a).

(b) in paragraph 2(2), after “Secretary of State” insert “and the Welsh Ministers acting jointly”.

(c) in paragraph 3 –

(i) in sub-paragraph (2), paragraph (a), after “Secretary of State” insert “and the Welsh Ministers”;

(ii) in sub-paragraph (2), paragraph (b), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;

(iii) omit sub-paragraph (3);

(d) in paragraph 4 –

(i) in sub-paragraph (1) and (2), in each place where it appears, after “Secretary of State” insert “and the Welsh Ministers acting jointly”;

(ii) in sub-paragraph (3), for “determines” substitute “and the Welsh Ministers acting jointly determine” and at the end insert “and the Welsh Ministers acting jointly”;

(e) in paragraph 9(3)(b), for “Assembly” substitute “Welsh Ministers”.

51 Consequential provision

(1) Schedule 5 contains minor and consequential amendments.

- (2) The Secretary of State may by regulations make such consequential provision in connection with any provision of this Act as the Secretary of State considers appropriate.
- (3) Regulations under subsection (2) may amend, repeal, revoke or otherwise modify –
- (a) an enactment contained in primary legislation, or
 - (b) an instrument made under an enactment contained in primary legislation.
- (4) Regulations under subsection (2) may make –
- (a) different provision for different purposes or cases;
 - (b) provision generally or for specific cases;
 - (c) provision subject to exceptions;
 - (d) provision for the delegation of functions;
 - (e) transitional or saving provision.
- (5) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (6) If a statutory instrument containing regulations under subsection (2) includes provision within devolved competence or provision modifying a devolution enactment, the Secretary of State must send a copy of the instrument or, if subsection (8) applies, a draft of the instrument to the First Minister for Wales and the First Minister must lay it before the Assembly.
- (7) A statutory instrument containing regulations under subsection (2) that includes provision amending or repealing any provision of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) A statutory instrument containing regulations under subsection (2) that includes –
- (a) provision within devolved competence modifying any provision of primary legislation, or
 - (b) provision modifying any devolution enactment in primary legislation,
- may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Assembly.
- (9) Any other statutory instrument containing regulations under subsection (2), if made without a draft having been approved by a resolution of each House of Parliament or the Assembly, is subject to annulment in pursuance of a resolution of –
- (a) either House of Parliament, and
 - (b) if it includes provision that would be within devolved competence or provision modifying a devolution enactment, the Assembly.
- (10) In this section “primary legislation” means –
- (a) an Act of Parliament;
 - (b) a Measure or Act of the National Assembly for Wales.
- (11) In this section “devolution enactment” means a provision contained in –
- (a) the Government of Wales Act 2006 or an instrument made under or having effect by virtue of that Act;

(b) the Wales Act 2014 or an instrument made under or having effect by virtue of that Act.

(12) For the purposes of this section –

(a) “modifying” includes amending, repealing and revoking;

(b) “within devolved competence” is to be read in accordance with subsections (7) and (8) of section 17, but no account is to be taken of the requirement to consult the appropriate Minister in paragraph 11(2) of Schedule 7B.

AMENDMENTS TO SCHEDULE 1 OF THE WALES BILL INSERTING THE NEW SCHEDULE 7A INTO THE GOVERNMENT OF WALES ACT

10 *Single legal jurisdiction of England and Wales*

6 (1) The following are reserved matters –

(a) courts (including, in particular, their creation and jurisdiction);

(b) judges (including, in particular, their appointment and remuneration);

(c) civil or criminal proceedings (including, in particular, bail, costs, custody pending trial, disclosure, enforcement of orders of courts, evidence, sentencing, limitation of actions, procedure, prosecutors and remedies);

(d) pardons for criminal offences;

(e) private international law;

(f) judicial review of administrative action.

(See also paragraphs 3 and 4 of Schedule 7B (restrictions on modifying private law and criminal law).)

~~(2) Sub-paragraph (1)(a) does not reserve –~~

~~(a) conferring or imposing a particular devolved function on a court in civil proceedings, or~~

~~(b) modifying or removing a particular devolved function of a court in civil proceedings,~~

~~where doing so is ancillary to a provision of an Act of the Assembly or an Assembly Measure.~~

~~(3) A function is a “devolved function” if it –~~

~~(a) involves deciding an appeal from a decision that relates to a matter which is not a reserved matter, or an application for an order that relates to such a matter, but~~

~~(b) is not a function of, or connected with, deciding an appeal from another court or from a tribunal to which paragraph 7 applies.~~

(4) Sub-paragraph (1) does not reserve the provision of advisory and support services in respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question.

Section B5

B5 Crime, public order and policing

~~37 The prevention, detection and investigation of crime.~~

~~38 The maintenance of public order.~~

~~39 Policing.~~

~~40 Police and crime commissioners.~~

5 *Exception*

~~— Powers of entry, search and seizure relating to the detection or investigation of an offence of a kind provision for the creation of which is within the Assembly's legislative competence.~~

Section B6

10

B6 Anti-social behaviour

41 ~~Anti-social behaviour injunctions under Part 1~~ ~~The subject-matter of Parts 1 to 6~~ of the Anti-social Behaviour, Crime and Policing Act 2014.

42 Dangerous dogs and dogs dangerously out of control.

15

Section B16

B16 Entertainment and late night refreshment.

54 Classification of films and video recordings (including video games).

20

~~55 Licensing of —~~

~~— (a) the provision of entertainment, and~~

~~— (a) late night refreshment.~~

~~Section B17~~

25

~~B17 Alcohol~~

~~56 The sale and supply of alcohol.~~

~~Section C15~~

~~C15 Water and sewerage~~

30

~~90 Appointment and regulation of a water or sewerage undertaker whose area is not wholly or mainly in Wales.~~

~~91 Licensing and regulation of a water supply or sewerage licensee.~~

Exceptions

~~Regulation of a water supply licensee in relation to licensed activities that use the supply system of a water undertaker whose area is wholly or mainly in Wales.~~

~~Regulation of a sewerage licensee in relation to licensed activities that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.~~

Interpretation

~~“Sewerage licensee” and “water supply licensee” have the same meaning as in the Water Industry Act 1991.~~

~~“Supply system of a water undertaker” has the meaning given in section 17B of that Act.~~

~~“Sewerage system of a sewerage undertaker” has the meaning given in section 17BA of that Act.~~

Section E3

E3 Marine and waterway transport etc

117 Navigational rights and freedoms.

118 Shipping and technical and safety standards of vessels that are not ships (whether or not capable of navigation), including the subject-matter of—

(a) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),

(b) the Dangerous Vessels Act 1985, and

(c) the Merchant Shipping Act 1995.

119 ~~Reserved trust ports and harbours~~ Harbours not wholly in Wales.

120 Pilotage other than devolved pilotage.

121 Coastguard services and maritime search and rescue.

122 Hovercraft.

Exceptions

The reference to navigational rights and freedoms does not reserve the regulation of works that may obstruct or endanger navigation apart from works in relation to, or for constructing, ~~reserved trust ports or~~ harbours not wholly in Wales.

Financial assistance for shipping services to, from or within Wales.

Regulation of the carriage of animals on vessels for the purposes of protecting human, animal or plant health, animal welfare or the environment.

The subject-matter of the Fire and Rescue Services Act 2004.

Interpretation

“Devolved pilotage” means pilotage that —

(a) relates to a harbour wholly in Wales ~~that is not a reserved trust port~~, and

(b) is provided in a pilotage jurisdiction that does not extend beyond Wales.

“Pilotage jurisdiction” means an area in relation to which the duty of a competent harbour authority under section 2(1) of the Pilotage Act 1987 is exercisable.

~~“Reserved trust port” has the meaning given by section 31 of the Wales Act 2016.~~

5

Section H1

H1 Employment and industrial relations

- 139 Employment rights and duties and industrial relations, including the subject-matter of –
- (a) the Employers’ Liability (Compulsory Insurance) Act 1969,
 - (b) the Employment Agencies Act 1973,
 - 10 (c) the Pneumoconiosis etc (Workers’ Compensation) Act 1979,
 - (d) the Trade Union and Labour Relations (Consolidation) Act 1992,
 - (e) the Employment Tribunals Act 1996,
 - (f) the Employment Rights Act 1996,
 - (g) the National Minimum Wage Act 1998,
 - 15 (h) the Working Time Regulations 1998 (S.I. 1998/1833),
 - (i) the Employment Relations Act 1999,
 - (j) the Transnational Information and Consultation of Employees Regulations 1999 (S.I. 1999/3323),
 - (k) the Employment Act 2002,
 - 20 (l) the Gangmasters (Licensing) Act 2004,
 - (m) the Employment Relations Act 2004,
 - (n) the Work and Families Act 2006,
 - (o) the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),
 - 25 (p) the Agency Workers Regulations 2010 (S.I. 2010/93), and
 - (q) Part 2 of the Enterprise and Regulatory Reform Act 2013.

Exception

The subject-matter of the Agricultural Sector (Wales) Act 2014.

~~Terms and conditions of employment and industrial relations in Wales public authorities and services contracted out or otherwise procured by such authorities.~~

30

~~Section N9~~

~~N9 School teachers’ pay and conditions~~

35 ~~195 — Remuneration and conditions of employment of school teachers.~~

Interpretation

~~“Conditions of employment” means the conditions of employment referred to in section 122(1)(b) of the Education Act 2002.~~

~~“School teachers” has the same meaning as in section 122 of that Act.~~

5

AMENDMENTS TO SCHEDULE 2 OF THE WALES BILL INSERTING THE NEW SCHEDULE 7B
INTO THE GOVERNMENT OF WALES ACT

PART 1

GENERAL RESTRICTIONS

10 *The law on reserved matters*

1 (1) A provision of an Act of the Assembly cannot make modifications of, or confer power by subordinate legislation to make modifications of, the law on reserved matters.

(2) “The law on reserved matters” means—

15 (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of Parliament or subordinate legislation under an Act of 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 Parliament” does not include this Act.

20 1A Paragraph 1 does not apply to a modification that is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters if it is a modification of the law on reserved matters in paragraph 6 or 7 of Schedule 7A.

2 (1) Paragraph 1 does not apply to any other modification that—

25 (a) is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters, and

(b) has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision.

30 (2) In determining what is necessary for the purposes of this paragraph, any power to make laws other than the power of the Assembly is disregarded.

Ministers of the Crown, government departments and other reserved authorities

8 (1) A provision of an Act of the Assembly cannot—

35 (a) confer or impose, or confer power by subordinate legislation to confer or impose, any function on a reserved authority,

(b) make modifications of, or confer power by subordinate legislation to make modifications of, the constitution of a reserved authority, including modifications relating to its assets and liabilities and its funding and receipts, or

(c) confer, impose, modify or remove, or confer power by subordinate legislation to confer, impose, modify or remove, functions specifically exercisable in relation to a reserved authority,

unless the appropriate Minister consents to the provision.

(2) Sub-paragraph (1) is subject to the exceptions in paragraph 9.

(3) In this paragraph “reserved authority” means –

(a) a Minister of the Crown or government department;

(b) any other public authority apart from a Wales public authority.

(4) In this paragraph “public authority” means a body, office or holder of an office that has functions of a public nature.

(5) In this paragraph the “appropriate Minister” means –

(a) where the authority in question is Her Majesty’s Revenue and Customs, the Treasury;

(b) otherwise, the Secretary of State.

(1) This paragraph contains exceptions to paragraph 8.

(2) Paragraph 8(1)(a) does not apply in relation to –

(a) the Electoral Commission;

(b) the Food Standards Agency;

~~(c) the Water Services Regulation Authority.~~

(3) Paragraph 8(1)(a) does not apply to the conferral or imposition on the traffic commissioners of a function relating to –

(a) the registration of local bus services, or

(b) the application and enforcement of traffic regulation conditions in relation to those services.

(4) Paragraph 8(1)(a) does not apply to –

(a) the conferral or imposition on a court of a devolved function (within the meaning of paragraph 6 of Schedule 7A);

(b) the conferral or imposition on a tribunal of a function involving, or connected with, making a decision in relation to a matter that is not a reserved matter.

(5) Paragraph 8(1)(b) and (c) does not apply in relation to a devolved tribunal within the meaning of paragraph 7(2) of Schedule 7A.

~~(6) Paragraph 8(1)(a) and (c) does not apply in relation to the Water Services Regulation Authority.~~

(7) Paragraph 8(1) does not apply in relation to –

(a) a water or sewerage undertaker;

(b) the Consumer Council for Water;

(c) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality).

10 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by
5 subordinate legislation to remove or modify, any function of a public authority other than a Wales public authority, unless the appropriate Minister consents to the provision.

(2) This paragraph does not apply in relation to—

(a) a Minister of the Crown (as to which, see paragraph 11);

(b) the Electoral Commission;

10 (c) the Food Standards Agency;

(d) the Water Services Regulation Authority;

(e) a water or sewerage undertaker;

(f) the Consumer Council for Water;

15 (g) the Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality).

(3) This paragraph does not apply to the removal or modification of a function of the traffic commissioners relating to—

(a) the registration of local bus services, or

20 (b) the application and enforcement of traffic regulation conditions in relation to those services.

(4) This paragraph does not apply to—

(a) the removal or modification of a devolved function (within the meaning of paragraph 6 of Schedule 7A) of a court;

25 (b) the removal or modification of a function of a tribunal involving, or connected with, making a decision in relation to a matter that is not a reserved matter.

(5) In this paragraph “public authority” and “appropriate Minister” have the same meaning as in paragraph 8.

30 11 (1) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify—

(a) any function of a Minister of the Crown that relates to a qualified devolved function,

(b) any function of a Minister of the Crown exercisable in relation to the Welsh language,

35 ~~(c) any function of a Minister of the Crown exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection,~~

40 (d) any function of a Minister of the Crown under the Marine and Coastal Access Act 2009 or the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518), or

(e) any power of the Secretary of State under section 6 of the Railways Act 2005 (financial assistance relating to railway services etc),

unless the appropriate Minister consents to the provision.

5 (2) A provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown not falling within subparagraph (1) unless the Welsh Ministers have consulted the appropriate Minister about the provision.

(3) In this paragraph “qualified devolved function” means a function that –

10 (a) is conferred or imposed on or transferred to the Welsh Ministers, the First Minister or the Counsel General by any Act (whenever passed) or by an instrument made under any Act (whenever made), and

(b) is to any extent exercisable –

(i) concurrently or jointly with a Minister of the Crown, or

15 (ii) only with the consent or agreement of, or after consultation with, a Minister of the Crown.

(4) For the purposes of sub-paragraph (1)(a) –

(a) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(i) are the qualified devolved functions so far as exercisable by the Minister;

20 (b) the functions of a Minister of the Crown that “relate to” qualified devolved functions within sub-paragraph (3)(b)(ii) are those concerning consent or agreement to, or consultation about, the exercise of the qualified devolved functions.

(5) In this paragraph “appropriate Minister” has the same meaning as in paragraph 8.

SCHEDULE 4

Section 4

NEW SCHEDULE 9A TO THE GOVERNMENT OF WALES ACT 2006

This Schedule sets out the new Schedule 9A to the Government of Wales Act 2006, to be inserted after Schedule 9 to that Act—

“SCHEDULE 9A *Section 157A*
WALES PUBLIC AUTHORITIES

The Adjudication Panel for Wales or Panel Dyfarnu Cymru.

An admission appeal panel, constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998, for schools in Wales.

The Advisory Panel on Substance Misuse or Panel Cyngori ar Gamddefnyddio Sylweddau.

The Agricultural Advisory Panel for Wales or Panel Cyngori ar Amaethyddiaeth Cymru.

The Agricultural Land Tribunal for Wales or Dribiwnlys Tir Amaethyddol Cymru.

The All-Wales Medicines Strategy Group or Grŵp Strategaeth Meddyginiaethau Cymru Gyfan.

The Arts Council for Wales or Cyngor Celfyddydau Cymru.

The Assembly Commission or Comisiwn y Cynulliad.

The Auditor General for Wales or Archwilydd Cyffredinol Cymru.

The Board of Community Health Councils in Wales or Bwrdd Cyngorau Iechyd Cymuned Cymru.

The Children’s Commissioner for Wales or Comisiynydd Plant Cymru.

The Commissioner for Older People in Wales or Comisiynydd Pobl Hyn Cymru.

A Community Health Council in Wales.

A constable.

The Counsel General or Cwnsler Cyffredinol.

A county council, county borough council or community council in Wales.

The Education Workforce Council or Cyngor y Gweithlu Addysg.

An exclusion appeal panel, constituted in accordance with regulations under section 52 of the Education Act 2002, for schools in Wales.

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.

The First Minister or Prif Weinidog.

The Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau’r Dyfodol Cymru.

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

5 The governing body of an institution in Wales within the higher education sector (within the meaning of section 91(5) of that Act).

Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

Her Majesty's Inspectors of Constabulary.

10 The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru.

Hybu Cig Cymru or Meat Promotion Wales.

The Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol.

15 A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.

The Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru.

20 A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

The Mental Health Review Tribunal for Wales.

The National Library of Wales or Llyfrgell Genedlaethol Cymru.

The National Museum of Wales or Amgueddfa Genedlaethol Cymru.

25 A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.

The Natural Resources Body for Wales or Corff Adnoddau Naturiol Cymru.

An NHS Trust established under section 18 of the National Health Service (Wales) Act 2006.

30 A panel constituted under regulation 9 of the Independent Review of Determinations (Adoption) (Wales) Regulations 2006.

A panel established under regulation 21 of the Social Services Complaints Procedure (Wales) Regulations 2005.

A police officer, other than a constable, in a force for a police area in Wales.

A police and crime commissioner for a police area in Wales.

35 The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

Qualifications Wales or Cymwysterau Cymru.

A regulated institution within the meaning of the Higher Education (Wales) Act 2015 (ignoring section 26 of that Act) other than the Open University.

40 The Residential Property Tribunal Wales or Tribiwnlys Eiddo Preswyl yng Nghymru.

The Royal Commission on the Ancient and Historical Monuments of Wales or Comisiwn Brenhinol Henebion Cymru.

Social Care Wales or Gofal Cymdeithasol Cymru.

The Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru.

A Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006.

The Sports Council for Wales or Cyngor Chwaraeon Cymru.

A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004.

A tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27).

The Valuation Tribunal for Wales or Tribiwnlys Prisiau Cymru.

The Wales Audit Office or Swyddfa Archwilio Cymru.

The Welsh Dental Committee or Pwyllgor Deintyddol Cymru.

The Welsh Language Commissioner or Comisiynydd y Gymraeg.

The Welsh Language Tribunal or Tribiwnlys y Gymraeg.

The Welsh Medical Committee or Pwyllgor Meddygol Cymru.

The Welsh Ministers or Gweinidogion Cymru.

The Welsh Nursing and Midwifery Committee or Pwyllgor Nyrsio a Bydwreigiaeth Cymru.

The Welsh Optometric Committee or Pwyllgor Optegol Cymru.

The Welsh Pharmaceutical Committee or Pwyllgor Fferyllol Cymru.”