Draft Order in Council laid before Parliament under section 109(4) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

The Government of Wales Act 2006 (Amendment) Order 2019

Made - - - - ***

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

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

Her Majesty, in exercise of the powers conferred by sections 109 and 157(2) of that Act(**b**), is pleased, by and with the advice of Her Privy Council, to order as follows:

Title and commencement

1.—(1) This Order may be cited as the Government of Wales Act 2006 (Amendment) Order 2019.

(2) It comes into force on the day after the day on which it is made.

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

2.—(1) Part 1 of Schedule 7B to the Government of Wales Act 2006 (general restrictions) is amended as follows.

(2) In paragraph 9(6), after paragraph (c), insert—

(**a**) 2006 c. 32. Section 109(4) was amended by section 69(1) of, and paragraphs 1, 3(1) and (3) of Part 1 of Schedule 6 to, the Wales Act 2017 (c. 4).

(**b**) Sections 109(1) and (5) were amended by section 69(1) of, and paragraphs 1, 3(1) and (respectively) (2) and (4) of Part 1 of Schedule 6 to, the Wales Act 2017.

"(d) an electoral registration officer (within the meaning of section 8 of the Representation of the People Act 1983(**a**))."

(3) In paragraph 10(2), after paragraph (l), insert—

"(m)an electoral registration officer (within the meaning of section 8 of the Representation of the People Act 1983)."

Welsh Ministers (Transfer of Functions) Order 2018

3.—(1) On the date on which this Order comes into force, ERO functions are to be treated as transferred to the Welsh Ministers by article 45 of, and Schedule 1 to, the 2018 Order (transfer of functions in relation to electoral legislation).

(2) Paragraph (3) of article 45 of the 2018 Order applies in relation to ERO functions as if the reference to the coming into force of that article were a reference to the coming into force of this Order.

(3) In this article—

"the 2018 Order" means the Welsh Ministers (Transfer of Functions) Order 2018(**b**);

"ERO functions" means functions—

(a) which were not transferred to the Welsh Ministers by article 45 of, and Schedule 1 to, the 2018 Order, but

(b) which would have been so transferred if the amendments made by article 2 of this Order had been in force on the date on which article 45 of the 2018 Order came into force.

Name
Clerk to the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends paragraphs 9 and 10 of Part 1 of Schedule 7B to the Government of Wales Act 2006 (c. 32) ("the 2006 Act"). The effect of the amendments is to disapply the restrictions contained in paragraphs 8 and 10 of that Schedule in relation to electoral registration officers.

Electoral registration officers are defined in section 8 of the Representation of the People Act 1983 (c. 2). They exercise functions in relation to, amongst other things, parliamentary elections, police and crime commissioner elections, local government elections and, in Wales, elections to the National Assembly for Wales. Parliamentary elections and police and crime commissioner elections are reserved matters under the 2006 Act (see paragraphs 20 and 42 of Schedule 7A to the 2006 Act).

Accordingly, because electoral registration officers in Wales exercise some of their functions in relation to reserved matters, they do not meet the criteria of a "devolved Welsh authority" (as defined under section 157A of the 2006 Act). As such, the National Assembly for Wales cannot make provisions of the kind referred to in paragraphs 8 and 10 of Schedule 7B to the 2006 Act in relation to electoral registration officers in Wales (in relation to their non-reserved functions) without the consent of a UK minister (see the definition of "appropriate Minister" in paragraph 8(5) of Schedule 7B to the 2006 Act).

(**a**) 1983 c. 2. Section 8 was amended by: section 66(6) and (8) of, and paragraph 68(1) of Schedule 16 to, and Schedule 18 to, the Local Government (Wales) Act 1994 (c. 19); section 11(4) of the Parliamentary Voting System and Constituencies Act 2011 (c. 1); and section 180(1) of, and paragraph 130(2) of Schedule 13 to, the Local Government etc. (Scotland) Act 1994 (c. 39).

(**b**) S. I. 2018/644.

These amendments allow the National Assembly for Wales to make provision in relation to electoral registration officers in Wales in relation to their non-reserved functions without the consent of a UK minister.

Article 3 of the Order provides for certain functions in relation to electoral registration officers in Wales to be treated as transferred to the Welsh Ministers under article 45 of the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644) ("the 2018 Order"). The functions to be treated as transferred are those which would have been transferred by article 45 of the 2018 Order if the amendments made by article 2 of this Order had been in force at the time the 2018 Order came into force.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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