Draft Order laid before Parliament under section 95(5) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

The National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009

Made - - - - 2009

Coming into force in accordance with Article 1(2)

At the Court at Buckingham Palace, the day of 2009

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(**a**), a draft of this order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of sections 95(1) and (3) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:–

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Exceptions to Matters) Order 2009.

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

(3) In this Order "the 2006 Act" means the Government of Wales Act 2006.

Exceptions to matters in Part 1 of Schedule 5 to the 2006 Act

2.—(1) Section 94 of the 2006 Act is amended in accordance with paragraphs (2) to (4).

(2) In subsection (4)(a), after "Schedule 5" insert "and does not fall within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule (whether or not the exception is under a heading corresponding to the field which includes the matter)."

(**a**) 2006 c.32.

(3) In subsection (6)(a), after "restrictions in" insert "paragraphs 1 to 6 of".

(4) In subsection (7), after "Schedule 5" insert "(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)".

(5) In section 101(1)(a) of the 2006 Act, after "Schedule 5" insert "(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)".

(6) Schedule 5 to the 2006 Act is amended in accordance with paragraphs (7) to (12).

(7) In Part 1 of Schedule 5(**a**)—

(a) in matter 10.1 omit the words from "This does not include" to the end of that matter;

(b) omit the words and tables from "EXCEPTIONS TO MATTERS" to the end of that Part.

(8) For the heading of Part 2 of Schedule 5 substitute "EXCEPTIONS TO MATTERS AND GENERAL RESTRICTIONS".

(9) After the heading of Part 2 of Schedule 5 insert—

"Exceptions to matters

A1 These are the exceptions mentioned in section 94(4)(a) and (7)—

Highways and transport (field 10 of Part 1)

(1) Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.

(2) Regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used (apart from regulation relating to matter 10.1).

(3) Road traffic offences.

(4) Driver licensing.

(5) Driving instruction.

(6) Insurance of motor vehicles.

(7) Drivers' hours.

(8) Traffic regulation on special roads (apart from regulation relating to matter 10.1).

(9) Pedestrian crossings.

(10) Traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000 for purposes relating to matter 10.1).

(11) Speed limits.

(12) Public service vehicle operator licensing.

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

(a) does not relate to the carriage of goods,

(b) is not made in connection with a railway administration order, and

(c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport.

(**a**) Matter 10.1 was inserted by section 122 of the Local Transport Act 2008 (c.26). The words and tables from "EXCEPTIONS TO MATTERS" to the end of Part 1 of Schedule 5 were inserted by article 5 of the National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 (SI.2008/3132).

(14) Transport security.

(15) Shipping, apart from financial assistance for shipping services to, from or within Wales.

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

(17) Technical and safety standards of vessels.

(18) Harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for communications between places in Wales.

Social welfare (field 15 of Part 1)

(1) Child support.

(2) Child trust funds, apart from subscriptions to such funds by—

(a) a county council or county borough council in Wales, or

(b) the Welsh Ministers.

(3) Tax credits.

(4) Child benefit and guardian's allowance.

(5) Social security.

(6) Independent living funds.

(7) Motability.

(8) Vaccine damage payments.

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

(10) The Children's Commissioner established under the Children Act 2004.

(11) Family law and proceedings apart from—

(a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and

(b) Welsh family proceedings officers.

(12) Welfare foods.

General restrictions".

(10) For the heading of Part 3 of Schedule 5 substitute "EXCEPTIONS FROM GENERAL RESTRICTIONS IN PART 2".

(11) After the heading of Part 3 of Schedule 5, insert—

"*Interpretation*

6Z In this Part "general restrictions in Part 2" means paragraphs 1 to 6 of Part 2.".

(12) In Part 3 of Schedule 5, for "Part 2 does not" (in each place) substitute "The general restrictions in Part 2 do not".

Name

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends provisions of the Government of Wales Act 2006 ("the 2006 Act") relating to the legislative competence of the National Assembly for Wales.

The National Assembly for Wales may make laws known as Measures in relation to the matters set out in Part 1 of Schedule 5 to the 2006 Act, subject to general limitations on the exercise its legislative competence which apply by virtue of section 94 of, and Schedule 5 to, that Act. Article 2 of this Order amends section 94 of the 2006 Act and Parts 1 and 2 of Schedule 5 to that Act to make provision for exceptions that apply generally to matters in Part 1 of Schedule 5. The new generally applicable exceptions (inserted into Part 2 of Schedule 5 by this Order) replace the tables of exceptions in Part 1 of Schedule 5 in which exceptions are fixed to particular matters. It also makes consequential amendments to Part 3 of Schedule 5 and other provisions of the 2006 Act.

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

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

E4445 6/2009 194445T 19585